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(11 MAY 2004)

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Nil.

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Nil.

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Minutes of the Ordinary Meeting of Council of the Town of Vincent held at the Administration and Civic Centre, 244 Vincent Street, Leederville, on Tuesday 11 May 2004, commencing at 6.05pm.

1. DECLARATION OF OPENING

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

2. APOLOGIES/MEMBERS ON APPROVED LEAVE OF ABSENCE

(a) Apologies:

Nil.

(b) Present:

Mayor Nick Catania, JP	Presiding Member
Cr Simon Chester	North Ward
Cr Caroline Cohen	South Ward
Cr Helen Doran-Wu	North Ward
Cr Steed Farrell	North Ward
Cr Basil Franchina	North Ward (until 8.55pm)
Cr Ian Ker (Deputy Mayor)	South Ward
Cr Sally Lake	South Ward
Cr Maddalena Torre	South Ward
John Giorgi, JP	Chief Executive Officer
Rob Boardman	Executive Manager, Environmental & Development Services
Mike Rootsey	Executive Manager, Corporate Services
Rick Lotznicher	Executive Manager, Technical Services
Annie Smith	Executive Assistant (Minutes Secretary)
Megan Turner	Customer Service Officer (Employee of the Month Award Recipient) (until 6.41pm)
Matt Zis	Journalist – Guardian (from 6.08pm until 9.00pm)
Mark Fletcher	Journalist – Voice News (until 9.00pm)
Michael Henderson	Partner, Minter Ellison Solicitors (from 9.00pm)
Martin Matthews	Associate, Minter Ellison Solicitors (from 9.00pm)

Approximately 26 Members of the Public

(c) Members on Leave of Absence:

Nil.

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

1. Mr Paul Kotsoglo of Planning Solutions – Item 10.1.2 – Thanked those Councillors that were able to make the time to visit the site. Has taken on board suggestions made by Elected Members and officers. Stated that his client does not intend to seek and increase the number of people attending the hotel so it would not result in additional demands for carparking. Requested Council consider the matter and grant approval as what is proposed will improve the visual amenity and the acoustic amenity of site. Advised that they have letters of support from nearby neighbours.

Requested Council approval without the additional carparking requirements.

2. Mr Mark Slatter of 21 Longford Place, Karrinyup – Item 10.1.1 – Thanked the officers in their support of the application and also the Elected Members who returned their calls to discuss concerns raised at a previous Council meeting. Stated that the original floor plan has been amended and has addressed the setback concerns for Unit 2. Stated that the limestone retaining wall will have minimum impact on the adjoining property and believes that it will enhance the entire boundary. Stated that the adjoining owner has no objections to the application. Requested that Council vote in favour of the proposal.
3. Mr Blane Brackenridge, Architect – Item 10.1.4 – Requested that condition (xi) be removed. Stated that the current design generally complies with the 6m setbacks, the living areas are setback 6m and the bedroom areas are setback nearly 9m resulting in the balconies protruding approx 2.5m into the setback area and if an average was taken across the façade of the building, the building would actually comply with the 6m setback. Stated that if the proposed setbacks are not approved it would result in a 22m wide flat façade. Also stated that the existing design will reduce the bulk and scale of the building and will reduce overlooking.
4. Ms Melissa Kovacs of PO 161, Leederville – Item 10.1.13 – Believes that there is precedence for approval for demolition. Advised of a number of demolitions in the immediate area. Believes there is no aesthetic or historic value and the property is in very poor condition. Stated that it has been a lengthy process to get to this stage and has resulted in frustration, loss of time and more costs. Submitted plans for the Council.
5. Ms Foon Kha from 12 Crampton Elbow, Murdoch – Item 10.1.3 - Objects to the heritage listing guidelines as the properties along those streets are in poor condition and will be expensive to maintain if the original materials are required. Acknowledged the amendments that have been made to date. Does not believe that adequate lighting has been addressed. Referred to land value, development and possible subsidies from the government. Believes ratepayers should be given the choice to heritage list their properties or not.
6. Ms Linda French of 7 Moir Street, Perth – Item 10.1.3 – Supports the heritage listing of the area with the exclusion of the internal environment. Believes that it will increase the value of the property. Advised that she has also noticed that there have been a number of vehicles traveling down the street the wrong way.
7. Mr David Anthony of 25 Rural Street, North Fremantle – Item 10.1.4 – Advised that there have been no objections from any of the neighbours and that it is the second time that the officers have supported the application. Believes Council has a responsibility to build attractive buildings instead bland, large and unimpressive buildings. Also believes that the proposal will improve the existing appearance of the building and result in an attractive and aesthetically pleasing building. Stated that balconies, when positioned correctly, increase the eco-design of the building.

8. Mr Dean Elek-roser of 377 Bulwer Street, West Perth – Item 10.1.2 – Requested that Council refuse the application. Stated he has concerns with the parking along Bulwer Street. Believes that the suggestion of further parking at the rear of the Italian Club ignores the fact that parking space there is needed for the patrons and users of the Italian Club and Dorien Gardens. Also believes that the introduction of the service will encourage more patrons and cause more parking problems and more anti-social behaviour. Is concerned that there is nothing stopping the introduction of loud music.
9. Mr Stuart McDonald of 348 Bulwer Street, West Perth – Item 10.1.2 – Objected to the proposal and requested Council refuse the application on the basis of increased noise and disturbance and the failure to provide adequate parking. Referred to previous applications to the Liquor Licensing Board for increased trading. Provided photographs for the Council's consideration. Asked Council to consider the quality of life of local ratepayers and reject the application.

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

(b) RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

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 27 April 2004

"Moved Cr Lake, Seconded Cr Ker

That the Minutes of the Ordinary Meeting of Council held on 27 April 2004 be confirmed as a true and correct record subject to the following amendments:

(a) Raised by Cr Lake

(1) *Public Question – comments by Mr Glen Bursan be amended to include the following paragraphs:*

"Stated the height as viewed by the alleged complainant is about 2.55m because my block is 1.56m lower than the so called complainant's block and it is alleged that it is the complainant's responsibility to retain their own soil." and

"My studio is only 4.11m above the ground level and 2.55m above the so called aggrieved neighbour's and cannot be a habitable dwelling."

- (2) *Item 10.1.2 – amendment Moved by Cr Cohen and Seconded by Cr Torre be amended as follows:*

"Moved Cr Cohen, Seconded Cr Torre

That clause (ii) be amended as follows:

"(ii) the Council NOTES that the Town's Policies relating to Street Setbacks, Vehicular Access, and Vehicle Access to Dwellings Via a Right-Of-Way, are currently being reviewed; and AUTHORISES the Chief Executive Officer to consider factors including, but not limited to;

- (a) the size of the rear outdoor living area;*
- (b) existing structures;*
- (c) trees and vegetation in the rear of the property; and*
- (d) the level difference between the rear of the property and the adjacent right of way;*
- (e) ~~equity of access and physical disability; and~~*
- (f) ~~safety issues that may impede~~*
in the review of these Policies.

Discussion ensued.

Subclauses (e) and (f) as follows were added at the request of Cr Torre with the consent of Cr Cohen:

"(e) equity of access and physical disability; and

(f) safety issues that may impede"

Cr Chester asked the Mayor if the amendment could be split so as to consider subclauses (e) and (f) individually as he did not support subclause (f).

The Presiding Member advised that the amendment would be split to allow for individual consideration of subclauses (e) and (f).

The original amendment was put.

AMENDMENT CARRIED (9-0)

Subclause (e) was put

"(e) equity of access and physical ability, and"

AMENDMENT CARRIED (9-0)

Subclause (f) was put

"(f) safety issues that may impede."

AMENDMENT CARRIED (6-3)

<u>For</u>	<u>Against</u>
Mayor Catania	Cr Chester
Cr Cohen	Cr Doran-Wu
Cr Farrell	Cr Lake
Cr Franchina	
Cr Ker	
Cr Torre	

CARRIED AS AMENDED
BY AN ABSOLUTE MAJORITY (98-01)

<u>For</u>	<u>Against</u>
<u>Mayor Catania</u>	<u>Cr Lake</u>
<u>Cr Chester</u>	
<u>Cr Cohen</u>	
<u>Cr Doran-Wu</u>	
<u>Cr Farrell</u>	
<u>Cr Franchina</u>	
<u>Cr Ker</u>	
<u>Cr Torre"</u>	

(b) Advised by Chief Executive Officer

Item 10.3.3 – that the word "Concept" be added after the words "Asian Theme" in the amendment to Clause (i)(a) Moved by Cr Chester and Seconded by Cr Doran-Wu.

Cr Cohen departed the Chamber at 6.35pm.

CARRIED (8-0)

6.2 Special Meeting of Council held on 5 May 2004

Moved Cr Lake, Seconded Cr Ker

That the Minutes of the Special Meeting of Council held on 5 May 2004 be confirmed as a true and correct record.

CARRIED (8-0)

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

7. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

Cr Cohen returned to the Chamber at 6.37pm.

7.1 Employee of the Month Awards for the Town of Vincent for May 2004

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 May 2004, the award is presented to Megan Turner, Customer Service Officer with the Town's Customer Service Centre.

Megan's nomination was put forward by the Chief Executive Officer, John Giorgi, after receiving a letter of appreciation for Megan and the Town's Customer Service Centre. The letter was from Cos and Davina Farinola of Chelmsford Road, North Perth who wrote as follows;

"This letter is to advise you of the outstanding service that was provided by Megan Turner to both my wife and I on Friday 30 April 2004.

Megan was faced with a situation that could have quite easily prevented settlement of our house due to the misplacement of building plans. But instead of mindless bureaucratic handballing, Megan showed compassion, professionalism and a genuine willingness to help which eventually led her to find the missing documents in the adjoining lots file.

Megan should be recognised and rewarded for her efforts as it was obvious to both my wife and I that, even though she was performing far beyond what is required of her work role, the service she provided was the norm rather than the exception.

Please pass on this letter to Megan and her colleagues and thank her once again for her exemplary help."

Well done Megan - Keep up the good work!!

7.2 Announcement Under Section 3.12(2) of the Local Government Act 1995 to Amend its Local Law

It is 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 include Newcastle Street, between Loftus Street and Carr Place, Leederville as a fee paying kerbside parking facility.

This amendment will enable the Town to charge an hourly and daily parking fee in the kerbside parking bays in Newcastle Street, Leederville.

7.3 Announcement Under Subdivision 2 of Part 3 of the Local Government Act 1995 to Make a Local Law and Under the Powers Conferred by the Health Act 1911 and all other Powers Enabling it

It is advised that the Town of Vincent has reviewed its Local Law Relating to Health and hereby gives Public Notice that it intends to repeal the Town of Vincent Health Local Laws 1997, gazetted on 4 March 1998 and adopt new Town of Vincent Health Local Laws Relating to Eating Houses and General Health Matters respectively.

For information;

1. Town of Vincent Health (Eating Houses) Local Law 2004

The intent is to separate the eating house component from the general health Local Law provisions. This will facilitate impending changes to National and State food laws and update the legislation to reflect current food industry practices.

2. Town of Vincent Health Local Law 2004

The intent is to update the Town's existing Local Health Legislation by;

- (a) adopting a new local law consistent with the recent Parliamentary Joint Standing Committee on delegated legislation;
- (b) including the Honourable Minister for Health's wish to amend existing Health Local Laws by amending "*Local Government*" with "*Council*";
- (c) amending potentially unreasonable wording in relation to rodent control, and by amending the liability clause.

In addition, it has become necessary to;

- (a) delete the skin penetration provisions from the existing Local Laws as State regulations have since been promulgated;
- (b) repeal the Schedule of Fees with a Clause that allows Council to consider new fees upon the review by the Honourable Minister for Health.

8. DECLARATION OF INTERESTS

- 8.1 Mayor Catania declared a financial interest in Item 10.3.1 – Investment Report. His interest being that he is the Chairperson of the North Perth Community Bank and also a shareholder.
- 8.2 Cr Doran-Wu declared a proximity interest in Item 10.1.6 – No 4 (Lot 8) Galwey Street, Dual Frontage with Tennyson Street, Leederville – Proposed Partial Demolition of and Alterations and Additions to Existing Single House. Her interest being that her husband owns property in close proximity.
- 8.3 Cr Franchina declared a proximity interest in Item 10.4.3 – Members Equity Stadium – Legal Documentation and Outstanding Issues – Progress Report. His interest being that his daughter owns property in close proximity.

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

Nil.

10. REPORTS

The Agenda Items were categorised as follows:

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

Items 10.1.2, 10.1.1, 10.1.4, 10.1.13 and 10.1.3

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:**

Items 10.1.5, 10.1.14, 10.2.2, 10.3.3, 10.4.1, 10.4.4 and 10.4.6

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

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

Cr Ker	Item 10.1.11
Cr Lake	Items 10.3.3 and 10.3.4
Cr Chester	Items 10.1.7, 10.1.8, 10.1.14, 10.2.1 and 10.4.5
Cr Torre	Nil
Cr Doran-Wu	Nil
Cr Farrell	Nil
Cr Cohen	Item 10.1.6
Cr Franchina	Item 10.1.12
Mayor Catania	Nil

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

10.4 **Items which members/officers have declared a financial or proximity interest and the following was advised:**

Items 10.3.1, 10.1.6 and 10.4.3

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

Items 10.1.9, 10.1.10, 10.2.3, 10.3.2 and 10.4.2

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

Item 10.4.3

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 10.1.9, 10.1.10, 10.2.3, 10.3.2 and 10.4.2

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

Items 10.1.2, 10.1.1, 10.1.4, 10.1.13 and 10.1.3

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

Moved Cr Torre, Seconded Cr Lake

That the following unopposed items be moved en bloc;

Items 10.1.9, 10.1.10, 10.2.3, 10.3.2 and 10.4.2.

CARRIED (9-0)

10.1.9 No. 224 (Lot 20) Carr Place, Leederville - Proposed Change of Use from Office to Shop (Take Away Food Outlet) and Associated Alterations

Ward:	South	Date:	3 May 2004
Precinct:	Oxford Centre, P4	File Ref:	PRO 0097; 00/33/2144
Attachments:	001		
Reporting Officer(s):	P Mastrodomenico		
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 M Brajak on behalf of the owner Kalison Enterprises Pty Ltd for proposed change of use from office to shop (take away food outlet) and associated alterations at No. 224 (Lot 20) Carr Place, Leederville, and as shown on plans stamp-dated 18 March 2004, subject to:

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements, including toilet facilities for people with disabilities;*
- (ii) 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;*
- (iii) a road and verge security bond and /or bank guarantee of \$550 shall be lodge prior to the issue of a Building License and be held until all works have been completed and/or any damage to existing Towns 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;*
- (iv) 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;*
- (v) doors and windows and adjacent floor areas fronting Carr Place shall maintain an active and interactive relationship with this street;*
- (vi) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (vii) prior to the issue of the Building Licence or first occupation of the development, whichever occurs first, the applicant/owner shall pay a cash-in-lieu contribution of \$5375 for the equivalent value of 2.15 car parking spaces, based on the cost of \$2500 per bay as set out in the Town's 2003/2004 Budget; and*
- (viii) 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. Details of the design and layout of the bicycle parking facilities shall be submitted and approved prior to the installation of such facilities;*

to the satisfaction of the Chief Executive Officer.

COUNCIL DECISION ITEM 10.1.9

Moved Cr Torre, Seconded Cr Lake

That the recommendation be adopted.

CARRIED (9-0)

LANDOWNER: Kalison Enterprises Pty Ltd
APPLICANT: M Brajak
ZONING: Metropolitan Region Scheme: Urban
Town Planning Scheme No.1: District Centre

EXISTING LAND USE: Eating House

COMPLIANCE:

Use Class	Shop
Use Classification	"P"
Lot Area	536 square metres

Requirement	Required	Proposed
Car parking *	9.32 car bays	Nil

* Refer to "Comments - Car Parking"

SITE HISTORY:

The subject property fronts Carr Place, with the five car parking bays to the rear of the property.

DETAILS:

Approval is sought for a proposed change of use from office to shop (juice bar) and associated alterations.

The applicant provides the following information:

"Recharge Food and Juice will service the community by providing healthy, low fat and nutritious food and juice that is fast, delicious and good for you..... Recharge Food and Juice expects to employ three staff at any one time."

The development proposes 29.775 square metres of general shop space (4.71 square metres of queuing area and 25.065 square metres of seating area). An existing shop is located to the west of the proposed shop, which has a gross floor area of 54.32 square metres, and a warehouse is located to the rear with a gross floor area of 98.4 square metres. Five (5) car parking bays have been shown at the rear of the building with access directly off the right of way.

CONSULTATION/ADVERTISING:

No submissions were received during the advertising period.

LEGAL/POLICY:

Town Planning Scheme No.1, and associated policies.

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The proposed change of use utilises the existing office for the use of a shop (take away food outlet). The use of the building as a shop (take away food outlet - juice bar) is considered to have a negligible impact on the surrounding properties.

Car Parking

Clause 10 of the Town's Parking and Access Policy allows for car parking requirements to be adjusted in certain circumstances. In this instance, the following adjustments are applicable, including the adjustment criteria and reduction factors.

Commercial Car Parking Requirements:

Car parking requirement (nearest whole number)	
Shop (take away food outlet) - 1 car bay per 2.5 square metres of queuing area (4.71 square metres)	1.88 car bays
Shop (take away food outlet) - 1 car bay per 4.5 square metres of seating area (25.065 square metres)	5.57 car bays
Shop (retail) - 1 car bay per 15 square metres of gross floor area (existing 54.32 square metres)	3.62 car bays
Warehouse - 1 car bay for 200 square metres of gross floor area (existing 98.4 square metres)	3.0 car bays
Total car parking required before adjustment factor	14 car bays
Apply the adjustment factors.	(0.55)
<ul style="list-style-type: none"> ▪ 0.85 (within 400 metres of a bus stop) ▪ 0.80 (within 400 metres of a railway station) ▪ 0.90 (within 400 metres from car park with excess of 50 bays) ▪ 0.90 (proposed development is within a district centre zone) 	7.7 car bays
Minus the car parking provided on site.	5 car bays
Minus the existing shortfall on-site: 1 bay multiplied by current adjustment factor ie 1 bays x 0.55 = 0.55 car bay*	2.15 car bays
Resultant shortfall	2.15 car bays

* The Town's records indicate that the existing shortfall applying to the site is 1 car bay, which is based on the current approved use for an office (at the subject site - unit 2) at one bay per 50 square metres of gross floor area.

The car parking provision for the development complies with the Town's Policy relating to Parking and Access as there is a 2.15 car bay shortfall for the proposed development. As such, a cash in lieu contribution condition has been applied accordingly.

Bicycle Parking

The Town's Parking and Access Policy requires the provision of bicycle parking facilities for all commercial properties. The Town's Parking and Access Policy states that one bicycle parking space (class 3) per 50 square metres of gross floor area is required for visitors/shoppers. As such, one class 3 bicycle parking facility for workers/visitors is required to be provided in this instance.

Hours of Operation

The applicant has advised the Town that the shop will operate during the following times; 11.00am to 10.00pm Monday to Sunday. This is not expected to affect the amenity of the surrounding area.

Summary

Given the above information and that the subject property is located within an immediate area which currently accommodates commercial development, the proposed use is not considered to have an undue detrimental impact on the amenity and streetscape of this area.

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

10.1.10 No. 73 (Lot 1) Smith Street, Corner Broome Street, Highgate – Change of Use from Single House and Local Shop to Single House and Office Building and Associated Alterations

Ward:	South	Date:	5 May 2004
Precinct:	Forrest, P14	File Ref:	PRO 0661; 00/33/2125
Attachments:	001		
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, the Council APPROVES the application submitted by J Chindarsi Architect on behalf of the owner A J Patrick for change of use from single house and local shop to single house and office building and associated alterations at No.73 (Lot 1) Smith Street, corner Broome Street, Highgate, and as shown on the plans stamp dated 9 March 2004, 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) 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*
- (iv) a road and verge security bond or bank guarantee of \$220 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services. An application for the refund of the security bond or bank guarantee must be made in writing;*

to the satisfaction of the Chief Executive Officer.

COUNCIL DECISION ITEM 10.1.10

Moved Cr Torre, Seconded Cr Lake

That the recommendation be adopted.

CARRIED (9-0)

LANDOWNER: A J Patrick
APPLICANT: J Chindarsi Architect
ZONING: Metropolitan Region Scheme: Urban
Town Planning Scheme No.1: Residential R80
EXISTING LAND USE: Local Shop, Residential

COMPLIANCE:

Requirements	Required	Provided
Density	(1) Single House	(1) Single House
Plot Ratio	N/A	N/A
Car Parking	2.7 car bays for residential and office together (before adjustment factors taken into account)	2 car bays for residential component

Use Class	Office Building, Single House
Use Classification	'SA'; 'P'
Lot Area	311 square metres

SITE HISTORY:

The Council, at its Ordinary Meeting held on 12 October 1995, resolved to grant conditional approval for an extension to the local shop.

DETAILS:

The applicant/owner is seeking Planning Approval for a change of use from single house and shop to single house and office building. The proposal initially involved a new canopy to replace the existing and stone cladding to existing wall on the Broome Street facade. The applicant has since decided not to proceed with these changes as noted by the applicant on the plans.

CONSULTATION/ADVERTISING:

The proposal was advertised for 21 days as part of the "SA" advertising requirements with no written submissions received in that time.

LEGAL/POLICY:

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

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The proposal involves internal changes to accommodate a professional office use and minor alterations. Initially, there were going to be changes to the external façade of the building with the replacing of the canopy and new stone cladding, however, this has been deleted from the application as notated on the plans.

The proposal involves an air conditioning unit to be mounted on the east side of the building on wall brackets. This does not involve major structural modification to the original existing façade or any portion of the building. The proposed location of the air conditioner is on the east wall discretely tucked away from full view.

Car Parking

The R Codes require that the residential component of the mixed use development provide 2 car bays for the exclusive use of the occupants of that residence. In this instance, there is parking for two vehicles provided for the residence by way of a garage which is accessed from Broome Street.

There is a remaining shortfall of 0.7 car bay for the commercial use. The Town's Policy relating to Parking and Access allows for adjustment factors to be taken into account as follows:

Car parking requirement (nearest whole number) -Office (Proposal) - 35 square metres requires 0.7 bay	1 car bay
Apply the adjustment factors. <ul style="list-style-type: none"> ▪ 0.85 (within 800 metres of a rail station) ▪ 0.80 (the proposed development contains a mix of uses, where at least 45 per cent of the gross floor area is residential) 	(0.68) 0.68 car bay
Minus the car parking provided on site	0 car bay
Minus the most recently approved on site car parking shortfall.	1 car bay
Resultant surplus	0.32 car bay

The outcome of the car parking calculation in accordance with the Town's Policy relating to Parking and Access, is a surplus of 0.32 car bay. Therefore, the proposal is found to be in compliance with car parking requirements for this particular site.

There are no other non-compliances related to this proposal, therefore, on the above basis, the proposal is considered acceptable, subject to standard and appropriate conditions.

10.2.3 Major Plant & Equipment Replacement Program

Ward:	Both	Date:	5 May 2004
Precinct:	All	File Ref:	TES0222
Attachments:	001:		
Reporting Officer(s):	J van den Bok		
Checked/Endorsed by:	R Lotznicher	Amended by:	

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the report on the updated Major Plant and Equipment Replacement Program;*
- (ii) *ADOPTS the revised Major Plant and Equipment Program as shown in Attachment 10.2.3 and lists the appropriate funding for consideration in the 2004/05 draft budget; and*
- (iii) *RECEIVES further reports on the program when revisions are required.*

COUNCIL DECISION ITEM 10.2.3

Moved Cr Torre, Seconded Cr Lake

That the recommendation be adopted.

CARRIED (9-0)

BACKGROUND:

At the Ordinary Meeting of Council held on 25 July 2000, the Council adopted a fifteen (15) year Major Plant and Equipment Replacement Program and approved the allocation of funds in subsequent budgets to provide for the replacement of major plant and equipment as outlined in the program.

The program is revised on a regular basis due to fluctuating costs in the automotive and engineering markets, condition of the item, future work requirements and the actual estimated 'useful' life of each respective item of plant.

DETAILS:

Currently listed for replacement in the 2004/05 financial year is one (1) side loader rubbish truck. The five (5) year changeover period for this type of vehicle, given its high level of use, is in accordance with industry standards for this item of plant.

A single axle truck with 'hiab' crane will also be changed over during 2004/05. While the six (6) single axle trucks operated by Parks and Engineering Services were originally intended to be traded every seven (7) years, the changeovers have been spread out due to the good condition of the vehicles and to lessen the impact on the Plant and Equipment Reserve Fund.

It was proposed to replace two (2) large engineering trailers in 2004/05, however, these items will be reviewed over the forthcoming months. The existing trailer/water tank is in good condition and its 'useful' life has been extended accordingly.

Engineering Services are currently considering the future of its Skid Steer loader and therefore a new trailer may not be required.

CONSULTATION/ADVERTISING:

Three (3) written quotations will be requested where items fall below \$50,000. For items in excess of \$50,000, public tenders will be called and advertised for a minimum fourteen (14) days in accordance with the Local Government (Function and General) Regulation 1996 - Part 4 (15).

LEGAL/POLICY:

Nil

STRATEGIC IMPLICATIONS:

Although not directly affiliated with a key result area, this would fall in the general category in the Town's Strategic Plan 2002-2008 Key Result Area 1.4 - Maintain and enhance the Town's infrastructure to provide a safe, healthy sustainable and functional environment.

FINANCIAL/BUDGET IMPLICATIONS:

The funding for the Major Plant and Equipment Replacement Program is sourced from both the Waste Management Reserve Fund and the Plant and Equipment Reserve Fund.

COMMENTS:

As outlined in previous reports regarding Major Plant and Equipment, the Program is reviewed on an annual basis and the use of plant and equipment monitored to ensure that items are utilised to their full potential.

It is therefore recommended that the Council approves the revised Major Plant and Equipment Program and lists the appropriate funding for the items listed in the 2004/05 draft budget.

10.3.2 Authorisation of Expenditure for the Period 01 April - 29 April 2004

Ward:	-	Date:	03 May 2004
Precinct:	-	File Ref:	FIN0005
Attachments:	001		
Reporting Officer(s):	M Orchard		
Checked/Endorsed by:	N Russell	Amended by:	

OFFICER RECOMMENDATION:

That the Council CONFIRMS the;

- (i) *Schedule of Accounts for the period 1 April – 29 April 2004 and the list of payments;*
- (ii) *direct lodgement of payroll payments to the personal bank account of employees;*
- (iii) *direct lodgement of PAYG taxes to the Australian Taxation Office;*
- (iv) *direct lodgement of Child Support to the Australian Taxation Office;*
- (v) *direct lodgement of creditors payments to the individual bank accounts of creditors; and*
- (vi) *direct lodgement of Superannuation to Local Government and City of Perth superannuation plans;*

as shown in Appendix 10.3.2.

COUNCIL DECISION ITEM 10.3.2

Moved Cr Torre, Seconded Cr Lake

That the recommendation be adopted.

CARRIED (9-0)

DECLARATION OF INTEREST

Members/ Officers	Voucher	Extent of Interest
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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:

FUND	CHEQUE NUMBERS/ PAY PERIOD	AMOUNT
Municipal Account		
Town of Vincent Advance Account	EFT	\$822,718.99
	EFT	\$606,762.09
	EFT	\$600,000.00
Total Municipal Account		\$2,029,481.08
Advance Account		
Automatic Cheques	46091, 47168-47297, 47298-47434	\$451,860.05
Manual Cheques		\$0.00
Transfer of Creditors by EFT Batch 230, 233, 235, 237-239		\$925,153.64
Transfer of PAYG Tax by EFT	April 2004	\$140,814.85
Transfer of GST by EFT	April 2004	0
Transfer of Child Support by EFT	April 2004	\$491.54
Transfer of Superannuation by EFT City of Perth	April 2004	\$12,439.13
Local Government	April 2004	\$33,720.36
Total Advance Account		\$1,564,479.57
Transfer of Payroll by EFT	April 2004	\$458,605.83
Bank Charges & Other Direct Debits		
Bank Charges – CBA		\$4,586.08
Lease Fees		\$967.01
Corporate MasterCards		\$2,610.15
Australia Post Lease Equipment		0
2 Way Rental		\$479.27
Loan Repayment		0
B/Park ATM Cash Agreement		0
Total Bank Charges & Other Direct Debits		\$8,642.51
Less GST effect on Advance Account		\$8,230.77
Total Payments		\$4,069,439.76

STRATEGIC IMPLICATIONS:

Strategic Plan 2003-2008 – Key Result Area 4.2 – Governance and Management

“Deliver services in ways that accord with the expectations of the community, whilst maintaining statutory compliance.”

ADVERTISING/CONSULTATION:

Nil.

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.

10.4.2 Control of Foxes - Policy

Ward:	Both	Date:	3 May 2004
Precinct:	All	File Ref:	ENS0026
Attachments:	001 002		
Reporting Officer(s):	B McCahon, J MacLean		
Checked/Endorsed by:	R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That the Council:

- (i) *RECEIVES the report on Fox control and related issues;*
- (ii) *ADOPTS the Policy on the Prevention of the Loss of Domestic Fowl and Other Domestic Pets from Indigenous and Introduced Predators and Guidelines, attached at Appendix 10.4.2;*
- (iii) *NOTES THAT:*
 - (a) *it is not responsible for trapping or eradication of foxes;*
 - (b) *an information sheet, for distribution to the public, providing advice on possible strategies that may be adopted to minimise the loss of domestic fowl to fox predation will be prepared; and*
 - (c) *the Town will continue participation in the newly formed Fox Control Action Group, to ensure currency in information and strategies.*

COUNCIL DECISION ITEM 10.4.2

Moved Cr Torre, Seconded Cr Lake

That the recommendation be adopted.

CARRIED (9-0)

BACKGROUND:

In response to a number of complaints from residents that foxes were killing chickens in a number of areas of the Town, a Notice of Motion by Councillor Cohen, was approved by the Council on 7 October 2003, as follows:

"That the Town of Vincent, in consultation with other Local Governments in the Perth Metropolitan area and in conjunction with the Department of Conservation and Land Management (CALM), the Department of Agriculture and any other appropriate Agencies;

- (i) *formulates a policy on the control of foxes and other non-indigenous species of predators, within the Town;*
- (ii) *determines appropriate procedures to deal with foxes and other non-indigenous species of predators, which kill domestic fowl or indigenous fauna; and*
- (iii) *further considers a report at the Ordinary Meeting of Council to be held on 16 December 2003."*

It has subsequently been established that the Town of Cambridge, and Cities of Fremantle, Bayswater and Stirling have experienced similar problems and the Rangers in these Local Governments have formed an Action Group to look into possible strategies for the control of foxes. However, despite extensive research about fox habitats, trends and ways to capture and euthanase foxes, by far the most effective way to prevent attacks in the metropolitan region, is to ensure that the cages that are used to keep chickens, meet minimum standards. Over the past few years, fox traps have been set in a number of Western Australian Metropolitan Local Government areas, but the success rate is extremely low and the animals that have been trapped have been sick, injured or very young.

The Town of Vincent Health Local Law requires chicken cages to be constructed with concrete floors, to prevent predators, such as foxes from burrowing under the mesh walls. In every case, where chickens were taken, the foxes dug beneath the mesh walls to gain access to the cage, where they could capture and kill the chickens, because they were unable to escape.

The relevant parts of Clause 75 of the Town of Vincent Health Local Law states:

"Conditions on Keeping Poultry

75. *A person who keeps poultry or permits poultry to be kept shall ensure that -*

- (b) all poultry is kept in a properly constructed and securely fastened structure or enclosure provided with a smooth concrete floor at least 50mm thick and laid with a fall of 1 in 50 to the front;"*

Predation of domestic fowl and Native fauna in the Town of Vincent mainly occurs in the areas around Banks Reserve in East Perth and Smiths Lake/Charles Veryard Reserve in North Perth. It has been suggested that the foxes make use of storm water drains to move from place to place and this makes it extremely difficult to find their dens.

General information on foxes has been attached at Appendix 10.4.2A of this report.

DETAILS:

Approximately 50 domestic fowl have been killed in the Town since September 2003. All of the attacks have occurred at night, in the backyards of local residences and on every occasion, the dead fowl were either, not in an enclosure at all, or were in poorly constructed coops. These attacks all had the same *modus operandi*, with fowl being decapitated and the body left relatively untouched. On several occasions eight to twelve chickens were killed on one attack, with the heads being taken. Later in the year, perhaps when the young were still being fed by the adult foxes, one or two whole bodies were also taken, with the rest left beheaded.

The Department of Conservation and Land Management (C.A.L.M.) and the Department of Agriculture were contacted and given details of the attacks. Both departments concluded that a fox was the most likely predator responsible for the killings and both departments also advised that they would not be involved in any action to deal with them, because their jurisdiction does not relate to the metropolitan area. They indicated that their jurisdiction was restricted to rural areas, State and National Parks. The Department of Agriculture advised that they would be happy to provide relevant information on foxes and fox control methods.

A number of strategies were considered by the Town and these have been outlined, with the disadvantages listed at Appendix 10.4.2B of this report.

ACTION TAKEN TO DATE:

Contact has been made with the R.S.P.C.A, Department of Agriculture and Department of Conservation and Land Management, to obtain advice on possible strategies to deal with the threat. The R.S.P.C.A advised that they do not deal with foxes at all and C.A.L.M advised that they only have a mandate to deal with foxes in National Parks and State Forests, so could not provide any assistance in a rural environment. The Department of Agriculture advised that, while they were happy to pass on information regarding foxes, they would not become involved in dealing with foxes, in the metropolitan area.

The New South Wales National Parks and Wildlife Services, a State Government Department, operate a fox control programme, in the Sydney area and a copy of their fox control programme has been accessed. The programme involves the use of 1080 baiting, pursuant to an agreement with 22 semi-rural Local Governments, for an extensive public education and advertising programme to be undertaken. A permit has been given to the New South Wales National Parks and Wildlife Services, to lay baits in national park areas, within 150 meters of habitation. However, given that this programme operates in semi-rural areas, it would not be acceptable in the Town of Vincent.

In view of the above, the only practicable strategy, open to the Town of Vincent, would be to set traps, but this requires specialist training and specialised equipment. It should be noted that trapping also has a very limited success rate and is very time consuming and expensive. Where traps are set and catch domestic animals such as cats or dogs, these animals may panic and injure themselves, thereby creating public outrage.

In an attempt to catch the fox(es) responsible for the death of chickens in the North Perth area, it was arranged with one of the complainants to have a trap (a steam-cleaned dog trap) set up in their back yard. The trap was set up, using information and recommendations from the Department of Agriculture, but, in the two months that the trap was in situ, only two (2) feral cats were captured. The trap has since been removed, because both the Town's Rangers and the residents believed that the trap was not effective.

The Town has had no further reports of attacks since January 2004.

Although it is acknowledged that there is a worsening fox problem, which may result in the continued loss of domestic fowl and, more importantly, native fauna, the options open to the Council are limited. It is therefore recommended that the Town does not become actively involved in trying to deal with the fox problem, but provides advice and information to members of the public, to enable them to resolve the situation.

Fox traps are available for purchase, at around \$100.00 each and training in their use would be expensive, with an underpinning understanding that the success rates for capture are very low.

CONSULTATION/ADVERTISING:

If adopted, it will be necessary to advertise the proposed Policy on the Prevention of the Loss of Domestic Fowl and Other Domestic Pets from Indigenous and Introduced Predators.

LEGAL/POLICY:

There are no adverse legal implications associated with this report.

STRATEGIC IMPLICATIONS:

This report is in keeping with the Objectives at KRA1 of the Strategic Plan 2003 – 2008, *“To enhance and preserve the richness of our natural environment, our built environment and our heritage”* and *“To create a better environment for our community”* Action Plan 1.1.

FINANCIAL/BUDGET IMPLICATIONS:

Other than a suggested purchase of a fox-trap and a relevant training course for authorised officers, there are no financial implications associated with this report. The cost of this would be in the region of \$400.00.

COMMENTS:

The Town of Vincent, while acknowledging that a fox-problem may exist, should not accept responsibility for dealing with that problem. Foxes are extremely resourceful and adaptable and, even if it was possible, it would be very costly and time-consuming to eradicate these predators.

It is not unreasonable to expect that residents and ratepayers would accept responsibility for the safety of their own domestic fowl.

10.1.2 Further Report - Nos. 331-367 (Lots 3,4,11 and 21) Bulwer Street, West Perth –Proposed Development of Beer Garden for the Hyde Park Hotel

Ward:	South	Date:	3 May 2004
Precinct:	Hyde Park, P12	File Ref:	PRO 0539; 00/33/1770
Attachments:	001		
Reporting Officer(s):	R Rasiah		
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 REFUSES the application submitted by Hillam Architects on behalf of the owner P Higgins, for the proposed development of a beer garden for the Hyde Park Hotel at Nos.331-367 (Lots 3,4,11 and 21) Bulwer Street, corner Fitzgerald and Lawley Streets, West Perth, as shown on the plans stamp-dated 4 August 2003, for the following reasons:

- (i) the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
- (ii) the non-compliance with the Hyde Park Precinct Policy and carpark requirements of the Town's Policy relating to Parking and Access; and*
- (iii) consideration of the objections received.*

COUNCIL DECISION ITEM 10.1.2

Moved Cr Doran-Wu, Seconded Cr Torre

That the recommendation be adopted.

Debate ensued.

Moved Cr Ker, Seconded Cr Doran-Wu

That the Item be DEFERRED to allow for an alternative recommendation to be prepared with the appropriate conditions.

CARRIED (8-1)

<u>For</u>	<u>Against</u>
Mayor Catania	Cr Lake
Cr Chester	
Cr Cohen	
Cr Doran-Wu	
Cr Farrell	
Cr Franchina	
Cr Ker	
Cr Torre	

FURTHER REPORT:

The above proposal was deferred at the Ordinary Meeting of Council on 23 March 2004, at the request of the applicant. The property owner through their Planning Consultants, requested the Town's Officers on 28 April 2004 to present the above development proposal to the Ordinary Meeting of Council on 11 May 2004 for reconsideration. The Planning Consultants have further advised that no additional information is being presented. In addition, there has been no further consultation between the Town's Officers and the owner/applicants with regard to the above proposal.

The Town is also in the process of reviewing its carparking requirements for "hotel" and the issue of "cash-in-lieu for carparking", which was the subject of a Notice of Motion at the Ordinary Meeting of Council held on 27 April 2004. Both matters are scheduled to be reported to an Ordinary Meeting of Council in June 2004.

In light of the above, the previous Officer Recommendation for refusal remains the same.

The following is a verbatim copy of the minutes of the Item placed before the Council at its Ordinary Meeting held on 23 March 2004:

"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 REFUSES the application submitted by Hillam Architects on behalf of the owner P Higgins, for the proposed development of a beer garden for the Hyde Park Hotel at Nos.331-367 (Lots 3,4,11 and 21) Bulwer Street corner Fitzgerald and Lawley Streets, West Perth, as shown on the plans stamp-dated 4 August 2003, for the following reasons:

- (i) the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
- (ii) the non-compliance with the Hyde Park Precinct Policy and carpark requirements of the Town's Policy relating to Parking and Access; and*
- (iii) consideration of the objections received.*

COUNCIL DECISION ITEM 10.1.11

Moved Cr Lake, Seconded Cr Cohen

That Item be DEFERRED as requested by the applicant.

CARRIED (6-0)

(Cr Ker on approved leave of absence. Crs Farrell and Torre were apologies for the Meeting.)

<i>LANDOWNER:</i>	<i>P Higgins</i>
<i>APPLICANT:</i>	<i>Hillam Architects</i>
<i>ZONING:</i>	<i>Metropolitan Region Scheme - Urban</i>
	<i>Town Planning Scheme No. 1 - Commercial</i>
<i>EXISTING LAND USE:</i>	<i>Hotel</i>

COMPLIANCE:

<i>Requirements</i>	<i>Proposed</i>	<i>Required</i>
<i>Car parking</i>	<i>124+12.93 (previous approved shortfall)= 136.93 carbays</i>	<i>139.62 + 12.93 (previous shortfall) =152.55 carbays</i>

<i>Use Class</i>	<i>Hotel</i>
<i>Use Classification</i>	<i>"SA"</i>
<i>Lot Area</i>	<i>4987 square metres</i>

SITE HISTORY:

The Hyde Park Hotel is a long established business on the subject property, which has undergone various internal and external modifications since its establishment. The most recent Planning Approval was granted at the Ordinary Meeting of Council held on 23 May 2000 for proposed additions and alterations to existing hotel.

DETAILS:

The applicant seeks approval for the conversion of the current service area into a beer garden.

Details of the proposal (attached) have been provided by the owner of the subject site and are summarised as follows:

- It is proposed that an area is created to provide chairs, tables and some limited standing room for patrons;*
- Drink service to the beer-garden will still be from the current bar area and drinks will not be served outside the designated area. There will be no alcohol served in the beer garden;*
- The proposed hours of operation would be the same at Fitzie's Bar which are:
Monday to Thursday- 9am until midnight
Friday and Saturday- 10am until 1am
Sunday- 10am until 10pm;*
- The area is intended to accommodate a numbers. There will be no increase in the number of patrons permitted under the Hotel's existing Liquor Licence;*
- The only staff component would be for staff collecting glasses and generally tidying the area as there will be no bar service in the area;*
- Background radio style music is proposed in the beer garden;*
- There will be no live entertainment in the area which would require the use of amplifiers and associated equipment;*
- Sliding gates are to be provided to further secure the site; and*
- There are seven (7) bedrooms upstairs, six (6) are single bed rooms and one (1) being a double room. The occupancy rate is low with only a maximum of three (3) rooms being occupied. The rooms are not available to the public and are used by friends and relatives of the owners. The rooms do not form part of the commercial operation of the hotel, and as such should not be taken into account for calculating carparking purposes.*

CONSULTATION/ADVERTISING:

The proposal was initially advertised for 21 days as part of the "SA" advertising requirements. Three (3) submissions were received during the advertising period.

Furthermore, a petition with 15 signatures was tabled at the Ordinary Meeting of Council held on 24 February 2004. The petition was signed by local residents and objected to the subject development application.

The owners have further submitted site plans signed by the 2 adjoining landowners and 2 occupiers supporting the above proposal.

The main points raised in the submissions and the petition are as follows:

- *Difficult for residents to find on-street parking for themselves;*
- *Patrons parking blocking resident driveways;*
- *Difficulty in exiting/entering property due to number of vehicles parked on the streets;*
- *Potential for patrons to spill out of the proposed beer garden and start drinking in the carpark and in the streets. Plans submitted do not indicate how patrons will be prevented from leaving the designated beer garden;*

- *Increase in noise level, which currently includes abusive language from patrons which would be a disturbance to residents. There are already problems with patrons coming and going to the Hyde Park Hotel. Complaints have been lodged with the owners of the Hyde Park Hotel about noise levels in the past. At the Liquor Licensing Tribunal on 9 May 2003, the Owner of the Hyde Park Hotel was informed of the noise complaints coming from the Hotel;*
- *Inadequate staffing levels. The staff employed would be only for collecting glasses and general tidying;*
- *The current background radio style music may be changed at a latter date to include live entertainment; and*
- *Council approval should not be granted until approval is given by Liquor Licensing. Concerned that if approved, the conditions imposed will not be adhered to based on past experience.*

In response to the above issues, the owners/applicants have submitted a detailed written submission (attached) which is summarised as follows:

- *The proposal does not seek to increase the number of patrons permitted under the Hotel's existing liquor licence;*
- *The three closest adjoining residential landowners have consented to the proposed development;*
- *Overspill of carparking is not an issue as the number of patrons using the hotel will not increase. Use of the existing carpark by non-patrons of the hotel is an issue Council needs to address by rationalising public car parking in the area;*
- *A sliding gate of robust construction will allow for complete control of accesses and egress to the beer garden. Antisocial behaviour from patrons drinking in the car park and/or in nearby streets is not a relevant consideration;*
- *The prime role of the beer garden is to provide a space for smokers to congregate without leaving the Hyde Park Hotel premises. The beer garden is over 60 metres from the nearest residential property and will be screened from view by the security gate;*
- *It is emphasised no live music will be performed in the proposed beer garden. Council can condition this appropriately if they wish;*
- *The proposed beer garden will replace an existing storage yard to the rear of the hotel. Currently, the yard is visually unattractive and detracts from the overall amenity of the area;*
- *The beer garden will be enclosed on three sides, with a sliding gate along the remaining side to prevent patrons "spilling out" into the carpark;*

- *The proposed beer garden will provide an area for patrons to smoke, rather than leaving the hotel premises to smoke outside on abutting residential streets;*
- *The beer garden is necessary for the Hyde Park Hotel to effectively compete with nearby competitors such as Oxford Hotel, Leederville Hotel and the Queens Tavern which all provide beer gardens;*
- *Nearby commercial land uses and sporting clubs are currently using the Hyde Park Hotel car park for parking. It is inequitable and inappropriate to impose additional car parking requirements on the proponent;*
- *The existing provision of 124 parking bays on-site adequately meets parking demands generated by the hotel's operation. It is physically impossible to provide additional bays over and above the existing, adequate car parking provision;*
- *Imposition of a cash in lieu scenario for the carbay shortfall will destroy the economic viability of the proposed beer garden;*
- *It is inequitable to use the proposed development to retrospectively recalculate the car parking requirements for the subject site;*
- *Parking requirements should be calculated based on the number of patrons permitted within the subject site;*
- *There are public car parking areas in the immediate vicinity, including 125 bays to the rear of the Italian Club and in excess of 25 bays on the verge area of Lawley Street;*
- *The proponent proposes to provide secure bicycle parking facilities in an appropriate location at the rear of the hotel; and*
- *Council is requested to exercise its discretion under Town Planning Scheme No.1 to approve the above proposal without the need to provide for additional carparking, in the interest of orderly and proper planning.*

LEGAL/POLICY:

Town Planning Scheme No. 1 and associated Policies.

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

Commercial Car Parking Requirements

<i>Requirements as per Parking and Access Policy</i>	<i>Required No. of Carbays</i>
<i>Hotel: 1 carbay per 4.5 square metres gross public assembly area (existing 821 square metres).</i>	<i>182.4 carbays</i>
<i>Hotel: 1 carbay per 4.5 square metres gross public assembly area (proposed 95 square metres)</i>	<i>21.11 carbays</i>
<i>Hotel: 1 space per bedroom or 1 space per 3 beds provided, whichever is greater (7 bedrooms)</i>	<i>7</i>
	<i>(Total carbays-210.51)</i>
<i>Total carparking required before adjustment factor (nearest whole number)</i>	<i>211 carbays</i>
<i>Apply the parking adjustment factors:</i>	<i>(0.723)</i>
<i>▪ 0.85 (within 400 metres of a bus stop)</i>	

<i>Requirements as per Parking and Access Policy</i>	<i>Required No. of Carbays</i>
▪ <i>0.85 (within 400 metres of one or more public car parks in excess of 75 spaces)</i>	<i>152.55 carbays</i>
<i>Carparking provided on-site for commercial component</i>	<i>124 carbays</i>
<i>Carparking shortfall applying to site</i>	<i>12.93 carbays</i>
<i>Resultant shortfall</i>	<i>15.62 carbays</i>

The hotel rooms have been taken into account for carparking purposes as it is a requirement under the Town's Parking and Access Policy 3.7.1, as the rooms at anytime can potentially be rented out to the public.

From the above Carparking Table, it can be seen that the current shortfall applying to the site is further increased as a result of the above beer garden extensions. The owners of the Hyde Park Hotel have also clearly stated that cash in lieu is not economically feasible in this instance.

Even after applying the adjustment factors as per Policy 3.7.1 "Parking and Access", there is still a deficit in carparking provided on-site.

Furthermore in the Hyde Park Precinct Policy, in the "Commercial" zone, "adequate car parking is to be provided on-site to ensure that unreasonable parking does not spill into adjacent residential streets."

Bicycle Parking Facilities:

<i>Requirements</i>	<i>Required</i>	<i>Provided</i>
<i>Hotel 1 space per 25 (existing 821) square metres floor area for employees/resident (class 1 or 2); and 1 space per 100 (proposed 95) square metres, lounge, beer garden for employees/resident (class 1 or 2).</i>	<i>32 space 1 space</i>	<i>Bicycle parking is to be provided for, while not shown on plans</i>
<i>Hotel 1 space per 25 (existing 821) square metres gross floor area for visitor/shopper (class 3); and</i>	<i>32spaces</i>	
<i>1 space per 100 (proposed 95) square metres of lounge, beer garden (class 3).</i>	<i>1 space</i>	

As the increase is for the beer garden of 95 square metres, it is considered reasonable that the bicycle parking requirements be applied to this area and not to the existing floor area of the hotel. As such, one (1) class 1 or 2 and one (1) class 3 bicycle parking facility is required in this instance. The owners/applicants have agreed to provide the required bicycle parking facilities.

Noise

Town's Health Services does not support amplified music/live entertainment externally in the beer garden (only acoustic instruments). If the application was supported, an appropriate condition could be included on the approval to ensure the beer garden is not used for live entertainment.

The noise levels associated with patrons entering and leaving the premises is a Police/security/anti-social behaviour matter.

Comments in response to the owners/applicant's submission

As per the Town's Policy 3.7.1 regarding Parking and Access, parking requirements are calculated based on the floor area of a development. Fundamentally, the beer garden is proposing to increase the floor area of the hotel by 95 square metres therefore additional parking is required.

The proponents argument that no additional parking is required as the number of patrons permitted in the hotel will not be increased is not a valid planning concern, as parking requirements are calculated based on the floor area of a development. The applicant has stated in the submission they are not prepared to consider making a cash-in- lieu payment to the Town for the 15.62 parking bay shortfall. It is to be noted that recent changes to the Health (Public Buildings) Regulations 1992 allows for the maximum number of persons that may be accommodated in a public building being reduced from 1 square metre per person to 0.85 square metre per person. It is to be further noted that there is no absolute guarantee that the owners of the Hyde Park Hotel will not apply for an increase in patron numbers in the future, as they have indicated that the Hotel industry is a highly competitive environment.

Verge Parking along Lawley Street is not a formal public parking area. The verge is landscaped with no hardstand parking embayments provided. The verge area therefore can not be used in calculations for parking requirements for the hotel.

The applicants have also claimed that patrons from the nearby Italian Club and the Dorrien Gardens Soccer Ground have also contributed to the carparking issues in the area. Whilst this may be the case, however it is the proposed increase in floor area within the Hyde Park Hotel that needs to be determined.

One of the main issues raised by residents in the petition and submissions to Council is the existing parking difficulties along residential streets adjoining the hotel. Parking for the hotel should predominant be contained within the site with overspill onto surrounding residential streets minimised. Approval of the beer gardens with a parking shortfall is not considered to be consistent with the orderly and proper planning and the preservation of the amenities of the locality.

In light of the above and consideration of the submissions received, it is recommended the application be refused for the reasons outlined in the Officer Recommendation."

10.1.1 Further Report - No. 10 (Lot 1) Haynes Street, Corner Sydney Street, North Perth - Proposed Demolition of Existing Single House and Construction of Two (2) Two-Storey Single Houses

Ward:	North	Date:	30 April 2004
Precinct:	North Perth, P8	File Ref:	PRO2691; 00/33/2058
Attachments:	002 001		
Reporting Officer(s):	V Lee, N Edgecombe		
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 M Slatter on behalf of the owners M and D Slatter and Blueprint Project Management, for proposed demolition of existing single house and construction of two, two-storey single houses at No. 10 (Lot 1) Haynes Street, corner Sydney Street, North Perth, and as shown on plans stamp dated 15 March 2004 (proposed unit 2) and 29 April 2004 (proposed unit 1), subject to:

- (i) no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to Haynes Street and Sydney Street shall be a maximum height of 1.2 metres above the adjacent footpath level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency. Any portion of solid fence along the secondary street for proposed unit 1, should incorporate a minimum of two significant design features to break up the visual bulk of the wall;*
- (ii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iii) the construction of crossovers shall be in accordance with the Town's specifications;*
- (iv) a road and verge security deposit bond and/or bank guarantee of \$1100 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*
- (v) details of all street trees adjacent to the subject property shall be submitted with the Building Licence application;*
- (vi) street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s);*

- (vii) *compliance with all relevant Building, Engineering and Environmental Health requirements;*
- (viii) *standard visual truncations, in accordance with the Town's Policies and/or to the satisfaction to the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular access ways to ensure that the safety of pedestrians and other road users is not compromised;*
- (ix) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (x) *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;*
- (xi) *a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Haynes Street and Sydney Street verges 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);*
- (xii) *the windows to bedrooms 2 and 3 on the first floor on the western elevation of proposed unit 2 shall be screened with a permanent obscure material and be non operable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows operable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be a major opening as defined in the Residential Design Codes 2002; and*
- (xiii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the deletion of the window to the walk-in-robe of proposed unit 2 on the southern elevation, or shown on the floor plan and made compliant with the requirements of the Residential Design Codes;*

to the satisfaction of the Chief Executive Officer.

Moved Cr Lake, Seconded Cr Cohen

That the recommendation be adopted subject to clause (xi) being amended to read as follows:

- "(xi) *a detailed landscaping plan, including a ~~schedule of plant species~~ list of plants and the landscaping and reticulation of the Haynes Street and Sydney Street verges 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);"*

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 M Slatter on behalf of the owners M and D Slatter and Blueprint Project Management, for proposed demolition of existing single house and construction of two, two-storey single houses at No. 10 (Lot 1) Haynes Street, corner Sydney Street, North Perth, and as shown on plans stamp dated 15 March 2004 (proposed unit 2) and 29 April 2004 (proposed unit 1), subject to:

- (i) no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to Haynes Street and Sydney Street shall be a maximum height of 1.2 metres above the adjacent footpath level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency. Any portion of solid fence along the secondary street for proposed unit 1, should incorporate a minimum of two significant design features to break up the visual bulk of the wall;*
- (ii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iii) the construction of crossovers shall be in accordance with the Town's specifications;*
- (iv) a road and verge security deposit bond and/or bank guarantee of \$1100 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*
- (v) details of all street trees adjacent to the subject property shall be submitted with the Building Licence application;*
- (vi) street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s);*
- (vii) compliance with all relevant Building, Engineering and Environmental Health requirements;*
- (viii) standard visual truncations, in accordance with the Town's Policies and/or to the satisfaction to the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular access ways to ensure that the safety of pedestrians and other road users is not compromised;*
- (ix) a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*

- (x) *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;*
- (xi) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Haynes Street and Sydney Street verges 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);*
- (xii) *the windows to bedrooms 2 and 3 on the first floor on the western elevation of proposed unit 2 shall be screened with a permanent obscure material and be non openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be a major opening as defined in the Residential Design Codes 2002; and*
- (xiii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the deletion of the window to the walk-in-robe of proposed unit 2 on the southern elevation, or shown on the floor plan and made compliant with the requirements of the Residential Design Codes;*

to the satisfaction of the Chief Executive Officer.

FURTHER REPORT:

Additional information to the Compliance Table is as follows:

Requirements	Required	Proposed *
Density	One (1) dwelling at current zoning of R20, however 2 green title lots were conditionally approved by the Western Australian Planning Commission on 29 July 2003 at R30/40 density.	2 single dwellings proposed. 10000 / 660 x 2 = R30.3, which is based on the whole site as the titles have still not been issued for the two individual lots to be created. The density is still R30.3 for each of the 2 green title lots to be created as the proposed lot sizes are 330 square metres each. Density Bonus is therefore 51.5 percent.

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

Requirements	Required	Proposed
Plot Ratio	N/A	N/A

FURTHER REPORT:

The Council at its Ordinary Meeting held on 13 April 2004 received a report relating to proposed demolition of existing single house and construction of two (2) two-storey single houses at No. 10 (Lot 1) Haynes Street, corner Sydney Street, North Perth. Council resolved to defer its consideration of the application to allow Officers to provide further information on the orientation of the properties.

The applicant has liaised with the Town's Officers and several Elected Members with regard to the concerns over the orientation of proposed unit 1.

This has resulted in revised plans stamp-dated 29 April 2004, being prepared relocating the main pedestrian access to unit 1, being a porch and entry statement, to face Sydney Street, which is the nominated primary street.

The applicant also provided the following written statements:

"We have amended the Floor Plan to address an area of concern raise at Council Meeting 13/04/04 by swapping the Front Entry to face the nominated Primary Street (Sydney Street) in lieu of originally facing Haynes Street. We made this decision after lengthy discussions with both Planning Officers and those Councillors who returned our call. Even through we believe this change has somewhat compromised our design, we felt it necessary to attempt to erase any concerns raised."

The revised plans also proposed some internal changes to the layout of the dwelling but do not change the "footprint" of the building.

The proposed dwelling therefore identifies Sydney Street as the primary street and main pedestrian access is from this street. Visually, the elevation to Sydney Street complies with the setback requirements of the Residential Design Codes and the Town's Policy relating to the Eton Locality. The vehicular access is proposed from Haynes Street, which is considered to be the secondary street in this instance.

In light of the above, it is recommended that the application be approved, subject to the conditions previously recommended in the Officer Recommendation at the Ordinary Meeting of Council on 13 April 2004.

The following is a verbatim copy of the Minutes of the Item placed before the Council at its Ordinary Meeting held on 13 April 2004:

"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 M Slatter on behalf of the owners M and D Slatter and Blueprint Project Management, for proposed demolition of existing single house and construction of two two-storey single houses at No. 10 (Lot 1) Haynes Street, corner Sydney Street, North Perth, and as shown on plans stamp dated 15 March 2004, subject to:

- (i) *no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to Haynes Street and Sydney Street shall be a maximum height of 1.2 metres above the adjacent footpath level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency. Any portion of solid fence along the secondary street for proposed unit 1, should incorporate a minimum of two significant design features to break up the visual bulk of the wall;*
- (ii) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iii) *the construction of crossovers shall be in accordance with the Town's specifications;*
- (iv) *a road and verge security deposit bond and/or bank guarantee of \$1100 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*
- (v) *details of all street trees adjacent to the subject property shall be submitted with the Building Licence application;*
- (vi) *street trees will only be removed with the written consent of the Town's Parks Services Section. All removal and replacement costs shall be borne by the applicant/owner(s);*
- (vii) *compliance with all relevant Building, Engineering and Environmental Health requirements;*
- (viii) *standard visual truncations, in accordance with the Town's Policies and/or to the satisfaction to the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular access ways to ensure that the safety of pedestrians and other road users is not compromised;*
- (ix) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (x) *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;*
- (xi) *a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Haynes Street and Sydney Street verges 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);*
- (xii) *the windows to Bedrooms 2 and 3 on the first floor on the western elevation of proposed unit 2 shall be screened with a permanent obscure material and be non openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be a major opening as defined in the Residential Design Codes 2002; and*

(xiii) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the deletion of the window to the walk-in-robe of proposed unit 2 on the southern elevation, or shown on the floor plan and made compliance with the requirements of the Residential Design Codes;

to the satisfaction of the Chief Executive Officer.

Moved Cr Farrell, Seconded Cr Torre

That the recommendation be adopted.

COUNCIL DECISION ITEM 10.1.15

Moved Cr Ker, Seconded Cr Lake

That the Item be DEFERRED for the Officers to provide further information on the orientation of the properties.

CARRIED (7-2)

<u>For</u>	<u>Against</u>
Cr Chester	Mayor Catania
Cr Cohen	Cr Torre
Cr Doran-Wu	
Cr Farrell	
Cr Franchina	
Cr Ker	
Cr Lake	

LANDOWNER:	M and D Slatter and Blueprint Project Management
APPLICANT:	M Slatter
ZONING:	Metropolitan Region Scheme - Urban Town Planning Scheme No. 1 - Residential R 20
EXISTING LAND USE:	Single House
COMPLIANCE:	

Requirements	Required	Proposed
Unit 2 Building Height	6 metres to the top of any wall from natural ground level.	Due to slope over the lot, and the height of the existing retaining wall, the highest wall is 6.8 metres.
Town's Policy relating to the Eton Locality	General Height limit of two storeys can be considered provided that the second storey is setback a minimum of 6 metres from the street.	Second storey setback 4.039 metres, balcony setback 3.019 metres.
Overlooking	Windows to bedrooms to be setback 4.5 metres from a boundary or appropriately screened to a height of 1.6 metres above the finished first floor level.	Windows to bedrooms 2 and 3 of proposed unit 2 shown with sill height of 1.5 metres from the finished first floor level.

<i>Requirements</i>	<i>Required</i>	<i>Proposed</i>
	<i>Windows to habitable rooms with finished floor level greater than 500 millimetres from the natural ground level to be screened in accordance with the R Codes.</i>	<i>Window to kitchen on ground floor, with finished floor level of Unit 2 greater than 500 millimetres from natural ground level, not shown as being screened.</i>
<i>Site Works</i>	<i>Retaining walls over 500 millimetres to be set back from boundaries</i>	<i>Unit 2 extends length of existing retaining wall on boundary up to 1.5 metres high.</i>
<i>Density</i>	<i>1 Single House</i>	<i>2 Single Houses</i>
<i>Plot Ratio</i>	<i>N/A</i>	<i>N/A</i>

<i>Use Class</i>	<i>Single House</i>
<i>Use Classification</i>	<i>"P"</i>
<i>Lot Area</i>	<i>660 square metres</i>

SITE HISTORY:

24 June 2003 The Town at its Ordinary Meeting recommended conditional approval to the Western Australian Planning Commission for the subdivision of the subject site into two lots.

29 July 2003 The Western Australian Planning Commission conditionally approved the subdivision of the subject site into two lots subject to one of the conditions requiring that the applicant obtain development approval for the development of houses on the proposed lots.

DETAILS:

The proposal involves the demolition of the existing single house and the construction of two, two-storey single houses.

The applicant submitted revised plans on 15 March 2004 to address non-compliance with the Building Height requirements of the Residential Design Codes (R Codes) for proposed unit 1. Accordingly, unit 1 now complies with the requirements of the R Codes and the Town's Policies.

The applicant is seeking the Council's support for variations to height and setback for proposed unit 2.

CONSULTATION/ADVERTISING:

The proposal was advertised for a two week period. No submissions were received during this period.

LEGAL/POLICY:

Town Planning Scheme No. 1 and associated Policies and the Residential Design Codes (R Codes).

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

Demolition

A detailed Heritage Assessment is contained in an attachment to this report.

The subject dwelling at No. 10 (Lot 1) Haynes Street, North Perth is a single storey brick and tile residence, which has been changed to meet the needs of continued use as a dwelling over time. Extensive additions and alterations to the original floor plan and internal features have considerably diminished the intent of the original design and overall form of the dwelling.

The place is not rare and is considered to be of little aesthetic, historic, scientific and social value. The subject dwelling contributes to the streetscape in terms of traditional setbacks, however the place has little cultural heritage significance, and does not meet the minimum criteria for entry into the Town's Municipal Heritage Inventory.

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

Density

The Western Australian Planning Commission granted approval for the subdivision of the lot into two lots in July 2003, when the zoning of the land was Residential R30/R40. Accordingly, the application is based on the approved subdivision plan.

Building Height

The applicant has provided the following response to justify the variation to the R Codes.

"The area in question is a 2m section of the proposed residence in the south/west corner of the block. For the remainder of the western boundary the maximum building height is well within the maximum required in the 'R' Codes. This is due to an existing concrete retaining wall which runs along the majority of the boundary. The proposed extension to this retaining wall is 3m which would be at the same height.

Under performance criteria clause 3.7.11 part 1, the impact of the 2nd storey is negligible due to the fact that the second storey in question is the dead side of the house. Thus, daylight to major openings, habitable rooms and views of significance to the adjoining property are not affected."

The proposal complies with the privacy requirements of the R Codes and no undue privacy problems are created by this variation to wall height.

The proposal complies with the overshadowing requirements of the R Codes and no undue overshadowing is created by this variation to wall height.

The significant existing retaining on this lot is noted, and the extension of the retaining wall along the western boundary is relatively minor. As no objection has been received from the affected neighbour, this variation is considered supportable.

Setbacks

Proposed unit 2 is created at the northern, rear of a corner site. Therefore it is relatively square in shape. In recent months, the Town's Officers have generally supported reduced front setbacks for such corner lots, with a minimum setback of 3 metres to a balcony and 4 metres to the upper floor, in lieu of 6 metre setback as required by the Town's Locality Statement Policy.

In this instance, the proposed setback of unit 2 is considered supportable and is not considered to have an undue impact on the streetscape.

The southern elevation of unit 2 also shows a window in the walk-in-robe, which is not shown on the floor plan. Prior to the issue of the Building Licence, this window is to be deleted from the elevation or correctly shown on the floor plan and made compliant with the requirement of the R Codes.

Overlooking

In order to comply with the privacy requirements of the R Codes, the windows on the western elevation to bedrooms 2 and 3 of proposed unit 2 are to be appropriately screened.

The window to the kitchen on the ground floor of proposed unit 2 is located on top of the proposed retaining wall, which is an extension of the existing retaining wall. This window will effectively be screened by a boundary fence located on top of the existing and proposed retaining wall. Accordingly, there is not considered to be undue overlooking from this window.

Summary

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

10.1.4 No. 576 (Lot 3, Strata Lots 1 to 24) William Street, Corner Forrest Street and Alma Road, Mount Lawley - Proposed Alterations and Additions to Existing Multiple Dwellings - Reconsideration of Setback Condition

Ward:	South	Date:	3 May 2004
Precinct:	Norfolk, P10	File Ref:	PRO2549; 00/33/2176
Attachments:	001 002		
Reporting Officer(s):	P Mastrodomenico		
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 BY AN ABSOLUTE MAJORITY the application submitted by the owner Nonathy Pty Ltd, for proposed approved alterations and additions to existing multiple dwellings on No.576 (Lot 3, Strata Lots 1 to 24) William Street, corner Forrest Street and Alma Road, Mount Lawley, and as shown on the plans stamp dated 5 April 2004, 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) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (iii) a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the William Street, Alma Road and Forrest Street verge adjacent to the subject property, and the retention of the existing on-site mature Cape Lilac tree on the eastern side and the "20 metres" high tree on the north-western side of the development, 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). The retention of these two mature trees shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's policies;*
- (iv) prior to the first occupation of the development four (4) visitors car parking bays, 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;*
- (v) 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;*

"the Town of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the residential units/dwellings. This is because at the time the planning application for the development was submitted to the Town, the developer claimed that the on-site parking provided would adequately meet the current and future parking demands of the development";

- (vi) *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;*
- (vii) *a road and verge security bond or bank guarantee of \$ 1100 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*
- (viii) *standard visual truncations, in accordance with the Town's Policies and to the satisfaction of the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*
- (ix) *no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services Section. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s); and*
- (x) *no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to Alma Road and Forrest Street shall be a maximum height of 1.2 metres above the adjacent footpath level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*

to the satisfaction of the Chief Executive Officer.

Moved Cr Chester, Seconded Cr Ker

That the recommendation be adopted subject to a new clause (xi) being added as follows:

- "(xi) prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the following:*
- (a) the setback from Alma Road to the balconies being 6 metres; and*
 - (b) the applicant articulate the Alma Street building frontage to significantly reduce its impact on the Alma Street streetscape.*

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

Debate ensued.

Moved Cr Lake, Seconded Cr Torre

That clause (xi) be deleted.

AMENDMENT LOST (4-5)

<u>For</u>	<u>Against</u>
Mayor Catania	Cr Chester
Cr Cohen	Cr Doran-Wu
Cr Lake	Cr Farrell
Cr Torre	Cr Franchina
	Cr Ker

Moved Cr Torre, Seconded Cr

That the figure "6" in clause (xi)(a) be replaced with the figures "3.5" and clause (xi)(b) be deleted.

Mayor Catania, Chief Executive the Executive Manager Environmental and Development Services conferred about the relevancy of the proposed amendment.

Mayor Catania ruled that he would accept the proposed amendment.

AMENDMENT LAPSED FOR WANT OF A SECONDER

Debate ensued.

MOTION CARRIED BY AN ABSOLUTE MAJORITY (6-3)

<u>For</u>	<u>Against</u>
Cr Cohen	Mayor Catania
Cr Doran-Wu	Cr Chester
Cr Farrell	Cr Torre
Cr Franchina	
Cr Ker	
Cr Lake	

COUNCIL DECISION ITEM 10.1.4

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES BY AN ABSOLUTE MAJORITY the application submitted by the owner Nonathy Pty Ltd, for proposed approved alterations and additions to existing multiple dwellings on No.576 (Lot 3, Strata Lots 1 to 24) William Street, corner Forrest Street and Alma Road, Mount Lawley, and as shown on the plans stamp dated 5 April 2004, 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) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (iii) a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the William Street, Alma Road and Forrest Street verge adjacent to the subject property, and the retention of the existing on-site mature Cape Lilac tree on the eastern side and the "20 metres" high tree on the north-western side of the development, 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). The retention of these two mature trees shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's policies;*

(iv) *prior to the first occupation of the development four (4) visitors car parking bays, 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;*

(v) *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;*

"the Town of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the residential units/dwellings. This is because at the time the planning application for the development was submitted to the Town, the developer claimed that the on-site parking provided would adequately meet the current and future parking demands of the development";

(vi) *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;*

(vii) *a road and verge security bond or bank guarantee of \$ 1100 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*

(viii) *standard visual truncations, in accordance with the Town's Policies and to the satisfaction of the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*

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

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

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

(a) *the setback from Alma Road to the balconies being 6 metres; and*

- (b) *the applicant articulate the Alma Street building frontage to significantly reduce its impact on the Alma Street streetscape.*

The revised plans 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.

FURTHER REPORT:

Additional information to the Compliance Table is as follows:

Requirements	Required	Proposed
Density	12 multiple dwellings (24 single bedroom multiple dwellings existing) R60	24 single bedroom multiple dwellings R118.3 (existing development) 100 per cent density bonus

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

The plot ratio details have already been provided in this Report.

LANDOWNER: Nonathy Pty Ltd
APPLICANT: Nonathy Pty Ltd
ZONING: Metropolitan Region Scheme: Urban
Town Planning Scheme No 1: Residential R60
EXISTING LAND USE: Multiple Dwellings

COMPLIANCE:

Use Class	Multiple Dwelling
Use Classification	"P"
Lot Area	2028 square metres

Requirements	Required	Proposed
Setbacks - Alma Road	6.0 metres	3.5 metres to balcony (6.2 metres to main building wall)
William Street	6.0 metres	4.0 metres
Plot Ratio	0.7 (1416.6 square metres)	1.08 (2196 square metres)
Car Parking	42 car bays	36 bays
Density	12 Multiple Dwellings (24 single bedroom multiple dwellings existing)	24 multiple dwellings
Street Walls and Fences	Portion above 1.2 metres above adjacent footpath level to be visually permeable , with a minimum of 50 per cent transparency	Sections incorporate solid walls to 1.8 metres high.

SITE HISTORY:

The subject site is located along William Street and has dual frontage to Alma Road and Forrest Street. The existing development accommodates 24 single bedroom multiple dwellings.

The Council, at its Ordinary Meeting held on 10 February 2004, conditionally approved an application for proposed alterations and additions to existing multiple dwellings.

DETAILS:

The proposal is identical to the proposal conditionally approved by the Council on 10 February 2004. Approval is sought for the reconsideration and deletion of the following condition, which was applied to the previously approved alterations and additions to the existing multiple dwellings:

"(xi) prior to the issue of a Building Licence, amended plans shall be submitted demonstrating the setback from Alma Road to the balconies being 6 metres. The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies."

CONSULTATION/ADVERTISING:

The proposal was not advertised as it is identical to a proposal advertised in the past twelve months.

LEGAL/POLICY:

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

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

Street Setbacks

The applicant has provided the following information in support of the application:

"We request a re-consideration of Condition 11, that it be removed from our Development Approval. The Development Approval requires the building to be setback 6 metres from Alma Road. Generally the building does comply with this condition, as all internal habitable spaces do not encroach this 6m setback - in fact the bedroom wings are setback 8.7m from the boundary. As it is only the balconies not complying with the condition, we ask therefore that an average setback be applied to Alma Road, as we believe that this location of the balconies will be more beneficial to everybody for the reasons outlined below."

1. *If we are to comply with the 6m setback, balconies would then be located in the pockets between the bedroom and living area. This would create a flat or box-like façade 22.7m wide (compared to 12.5m) and consequently appear more aggressive to the passer-by, compared to the current stepped façade. (see figure 1)*
2. *Building Bulk is reduced by recessing the bedroom wings 2.7m behind the setback line ie. 8.7m from the Alma Road boundary. (see figure 2)*
3. *The impact of the building from William Street will be greatly reduced by stepping back the building, and keeping it well out of the pocket in the Alma and William Street corner. (see figure 3)*
4. *The stepping back of the building eliminates wasted space or the communal no-mans-land created if the building was to "fill" the Alma/William Street corner. This space will then be available to plant large trees to screen the building. (see figure 4)*
5. *Overlooking will be reduced by locating balconies central to the building line. This directs the view over the rooftops of buildings (orientated east/west) south along William Street, rather than over front and back yards of these buildings, if the balconies were positioned on each side.*
6. *Balconies do not form part of building bulk. The building bulk is set back 6m from Alma Road as required. Balconies will be cantilevered with predominantly glass balustrades appearing to float, giving an impression of lightness. (see figure 5)*
7. *It will be more aesthetically pleasing to keep the balconies the same as the north side of the building. Two different balcony designs will be detrimental to the building and its location."*

The Town's Policies requires upper level front setbacks to be a minimum of 6.0 metres from the boundary. The variation to the upper floor setbacks is generally supported in this instance as the above applicants comments are concurred with, the proposal seeks to enhance the existing 24 single bedroom 1960's brick flats and the incursion into the 6.0 metres setback area is not considered to unduly affect the amenity and streetscape of the area.

Other Matters

The other matters relating to the proposed development have been addressed in the report, Item 10.1.2, to the Ordinary Meeting of Council held on 10 February 2004.

Summary

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

10.1.13 No. 9 (Lot 4106) Ellesmere Street, North Perth - Proposed Demolition of Existing Single House

Ward:	North	Date:	3 May 2004
Precinct:	North Perth, P8	File Ref:	PRO2646; 00/33/2194
Attachments:	001		
Reporting Officer(s):	H Eames		
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 REFUSES the application submitted by J Kovacs on behalf of the owner International Equity Lender Pty Ltd., for the proposed demolition of the existing single house at No.9 (Lot 4106) Ellesmere Street, North Perth, as shown on the plans stamp-dated 30 April 2004, for the following reasons:

- (i) the proposal is not consistent with the orderly and proper planning and the preservation of the amenities of the locality by virtue of the demolition of the existing dwelling; and*
- (ii) the existing place has cultural heritage significance in terms of its historic, aesthetic and rarity values.*

COUNCIL DECISION ITEM 10.1.13

Moved Cr Torre, Seconded Cr Cohen

That the recommendation be adopted.

Debate ensued.

LOST (3-6)

<u>For</u>	<u>Against</u>
Cr Chester	Mayor Catania
Cr Doran-Wu	Cr Cohen
Cr Farrell	Cr Franchina
	Cr Ker
	Cr Lake
	Cr Torre

Reasons:

1. Existing precedence.
2. No original heritage listing.
3. Proposal consistent with the proper and orderly planning of the locality.
4. Conditions in the alternative recommendation requires that a development proposal for the redevelopment of the subject property shall be submitted and approved by the Town prior to the demolition licence being issued.

Moved Cr Cohen, Seconded Cr Torre

ALTERNATIVE RECOMMENDATION:

That;

in accordance with the provisions of the Metropolitan Region Scheme and the Town of Vincent Town Planning Scheme No.1, the Council APPROVES the application submitted by Kovacs on behalf of the owner International Equity Lender Pty Ltd., for the proposed demolition of the existing single house at No.9 (Lot 4106) Ellesmere Street, North Perth, and as shown on the plans stamp-dated 30 April 2004, subject to;

- (i) a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (ii) an archival documented record of the place including photographs (internal, external and streetscape elevations), floor plans and elevations for the Town's Historical Archive Collection shall be submitted and approved prior to the issue of a Demolition Licence;*
- (iii) a development proposal for the redevelopment of the subject property shall be submitted to and approved by the Town prior to the issue of a Demolition Licence;*
- (iv) support of the demolition application is not to be construed as support of the Planning Approval/Building Licence application for the redevelopment proposal for the subject property;*
- (v) demolition of the existing dwelling may make the property ineligible for any development bonuses under the provisions of the Town of Vincent Town Planning Scheme No.1 and associated Policies for the retention of existing dwellings valued by the community;*
- (vi) any redevelopment on the site shall be sympathetic to the scale and rhythm of the streetscape in line with the provisions of the Town of Vincent Town Planning Scheme No.1 and associated Policies; and*
- (vii) compliance with all relevant Environmental Health, Engineering and Building requirements;*

to the satisfaction of the Chief Executive Officer.

CARRIED (6-3)

<u>For</u>	<u>Against</u>
Mayor Catania	Cr Chester
Cr Cohen	Cr Doran-Wu
Cr Franchina	Cr Farrell
Cr Ker	
Cr Lake	
Cr Torre	

LANDOWNER:	International Equity Lender Pty Ltd
APPLICANT:	J Kovacs
ZONING:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1: Residential R20

EXISTING LAND USE: Single House

COMPLIANCE:

Use Class	Single House
Use Classification	"P"
Lot Area	827 square metres

SITE HISTORY:

The site has an existing 1940 dwelling. The property is within the Eton Locality.

DETAILS:

The subject proposal involves the demolition of the existing house.

The applicant previously submitted an application for demolition of the subject property which was refused at the Ordinary Meeting of Council held on 13 April 2004. The applicant has submitted a new application for demolition as they wish Council to reconsider the matter in light of other decisions made in the vicinity of the subject property.

CONSULTATION/ADVERTISING:

Applications for the proposed demolition of existing dwellings are not required to be advertised.

LEGAL/POLICY:

Town Planning Scheme No.1 and associated Policies, and the Residential Design Codes (R-Codes).

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

A detailed Heritage Assessment is included as an attachment to this report.

The existing structure at No.9 (Lot 4106) Ellesmere Street, North Perth is a brick and tile dwelling built in 1940 by the Worker's Homes Board (WHB). The dwelling was one of a collection built by the WHB in Ellesmere, Eton and Selden Streets. The introduction of two-storey redevelopment in recent years in some sections has altered the original streetscape.

The place has been assessed in accordance with the Town's Policy relating to Heritage Management – Municipal Heritage Inventory. The place has been found to have local cultural significance for the following reasons.

The place, being a modest brick and tile dwelling built in accordance with the Worker's Homes Board regulations and intentions, has *considerable historic value*. It is demonstrative of the last phase of government housing development in North Perth just prior to the Second World War, a phase of development that would be altered significantly in the following years as a result of the Second World War, and the physical and ideological implications this historic event had on the design and construction of domestic architecture.

The place has *considerable aesthetic value* for its contribution to overall aesthetic qualities of the landscape, being the relatively intact Worker's Homes Board development along Selden and Eton Streets between 1937 and 1940.

The place is a fine representation of a Worker's Homes Board dwelling constructed at the start of the Second World War, illustrating the principle characteristics that define Worker's Homes Board dwellings in terms of the political ideology and design philosophy of the time.

On the basis of this information, it is recommended that the application for demolition of the existing dwelling be refused.

**10.1.3 Further Report - Planning and Building Policy - Amendment No. 9
Relating to Appendix No. 6 Brookman and Moir Street Development
Guidelines**

Ward:	South	Date:	30 April 2004
Precinct:	Hyde Park, P12	File Ref:	PLA0150
Attachments:	001 002		
Reporting Officer(s):	C Mooney, H Eames		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the final amended version of the Policy relating to Brookman and Moir Streets Development Guidelines as shown in Appendix 10.1.3 (a) resulting from the advertised version having been reviewed and regard to the written submissions received during the formal advertising period as outlined in Appendix 10.1.3 (b), in accordance with Clauses 47 (4), and (5) (a) of the Town's Town Planning Scheme No. 1;*
- (ii) *ADOPTS the final amended version of the Policy relating to Brookman and Moir Streets Development Guidelines as shown in Appendix 10.1.3 (a); and*
- (iii) *AUTHORISES the Chief Executive Officer to advertise the final amended version of the Policy relating to Brookman and Moir Street Development Guidelines as shown in Appendix 10.1.3(a), in accordance with Clause 47 (6) of Town's Town Planning Scheme No. 1.*

Moved Cr Lake, Seconded Cr Ker

That the recommendation be adopted.

Crs Farrell and Torre departed the Chamber at 7.55pm.

Moved Cr Lake, Seconded Cr Ker

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

- "(i) *RECEIVES the final amended version of the Policy relating to Brookman and Moir Streets Development Guidelines as shown in Appendix 10.1.3 (a) resulting from the advertised version having been reviewed and regard to the written submissions received during the formal advertising period as outlined in Appendix 10.1.3 (b), in accordance with Clauses 47 (4), and (5) (a) of the Town's Town Planning Scheme No. 1 subject to reconfiguring paragraphs 3 and 4 on Page 4 of Appendix 10.1.3(a) to read as follows;*

"While it is acknowledged that many internal features have been altered and extended under the skillion roof additions, many of these changes have improved the basic levels of amenity of the houses and living standards.

The level of change to the front rooms of the houses has been somewhat limited. The remaining original planning and fabric of these rooms should be retained and conserved and adapted only as much as is necessary and as little as possible."

Debate ensued.

Crs Farrell and Torre returned to the Chamber at 7.57pm.

Cr Cohen acknowledged the hard work of the officers.

Cr Chester thanked Crs Cohen and Lake for their efforts in finalising the draft Guidelines.

AMENDMENT CARRIED (9-0)

MOTION AS AMENDED CARRIED (9-0)

COUNCIL DECISION ITEM 10.1.3

That the Council;

- (i) ***RECEIVES the final amended version of the Policy relating to Brookman and Moir Streets Development Guidelines as shown in Appendix 10.1.3 (a) resulting from the advertised version having been reviewed and regard to the written submissions received during the formal advertising period as outlined in Appendix 10.1.3 (b), in accordance with Clauses 47 (4), and (5) (a) of the Town's Town Planning Scheme No. 1 subject to reconfiguring paragraphs 3 and 4 on Page 4 of Appendix 10.1.3(a) to read as follows;***

"While it is acknowledged that many internal features have been altered and extended under the skillion roof additions, many of these changes have improved the basic levels of amenity of the houses and living standards.

The level of change to the front rooms of the houses has been somewhat limited. The remaining original planning and fabric of these rooms should be retained and conserved and adapted only as much as is necessary and as little as possible."

- (ii) ***ADOPTS the final amended version of the Policy relating to Brookman and Moir Streets Development Guidelines as shown in Appendix 10.1.3 (a); and***
- (iii) ***AUTHORISES the Chief Executive Officer to advertise the final amended version of the Policy relating to Brookman and Moir Street Development Guidelines as shown in Appendix 10.1.3(a), in accordance with Clause 47 (6) of Town's Town Planning Scheme No. 1.***

FURTHER REPORT:

The Council at its Ordinary Meeting held on 23 March 2004 considered Item 10.1.2 relating to Appendix No.6 Brookman and Moir Streets Development Guidelines, and resolved the following:

"That the Item be DEFERRED to allow all Elected Members to consider proposed changes to the guidelines."

The Town's Officers subsequently prepared a further amended version of the Guidelines incorporating selected and appropriate comments by Elected Members, inclusive of various matters discussed at subsequent meetings between Councillors Sally Lake and Caroline Cohen held on 29 March and 1 April 2004, respectively.

Consequently the Town's Officers sent a memorandum with the amended version to all Elected Members on 5 April 2004, to comment on the proposed further amended version of the Guidelines. Comments were asked to be provided to the Town's Officers by 13 April 2004. As a result, a response was received from the Mayor who requested to be briefed on the further amended guidelines, by the Town's Officers.

Additionally, the Town's Officers sent further written advice on 2 April 2004 to all effected landowners, advising that the above matter was deferred at Council's Ordinary Meeting held on 23 March 2004 and that they would be further notified when the matter would be presented to Council for determination.

Further Comments

As previously stated, heritage assets such as the Brookman and Moir Streets Precinct are of immense importance. The Brookman and Moir Streets Development Guidelines will provide a crucial role for the guidance of heritage management within the Precinct. The Guidelines have undergone significant revision in light of various requests by Elected Members, inclusive of comments received during the extensive consultation periods with the immediate community. Given this, it is considered that this final further amended version has incorporated these concerns, whilst trying to balance professional heritage conservation advice and principles.

With respect to comments made in the Further Report and the above, it is recommended that the Council adopt the Officer Recommendation, as previously stated, and the accompanying further amended version of the Guidelines.

The following is a verbatim copy of the Minutes of the item presented before the Council at its Ordinary Meeting held on 23 March 2004:

"OFFICER RECOMMENDATION:

That the Council;

- (i) RECEIVES the final amended version of the Policy relating to Brookman and Moir Streets Development Guidelines as shown in Appendix 10.1.2 (a) resulting from the advertised version having been reviewed and regard to the written submissions received during the formal advertising period as outlined in Appendix 10.1.2 (b), in accordance with Clauses 47 (4), and (5) (a) of the Town's Town Planning Scheme No. 1;*
- (ii) ADOPTS the final amended version of the Policy relating to Brookman and Moir Streets Development Guidelines as shown in Appendix 10.1.2 (a); and*
- (iii) AUTHORISES the Chief Executive Officer to advertise the final amended version of the Policy relating to Brookman and Moir Street Development Guidelines as shown in Appendix 10.1.2(a), in accordance with Clause 47 (6) of Town's Town Planning Scheme No. 1.*

COUNCIL DECISION ITEM 10.1.2

Moved Cr Lake, Seconded Cr Cohen

That the recommendation be adopted.

Debate ensued.

Moved Cr Lake, Seconded Cr Cohen

That the Item be DEFERRED to allow all Elected Members to consider proposed changes to the guidelines.

CARRIED (6-0)

(Cr Ker on approved leave of absence. Crs Farrell and Torre were apologies for the Meeting.)

FURTHER REPORT:

The Council at its Ordinary Meeting held on 24 February 2004 considered Item 10.1.21 relating to Appendix No.6 Brookman and Moir Streets Development Guidelines, and resolved the following:

"That the Item be DEFERRED to the Ordinary Meeting of Council to be held on 9 March 2004 to allow concerned residents to comment on the proposed Guidelines."

The Town's Officers sent written advice on 26 February 2004 to all effected landowners, which included the Agenda Report, amended Draft Policy and Summary of Submissions, that was presented to Council at its Ordinary Meeting held on 24 February 2004.

During the additional comment period, two comments were received by email correspondence, similar to that received by Elected Members. The following are verbatim copies of the correspondence:

- *"A quick note of support for the Residential Design Guidelines for Moir/Brookman St – good effort by the staff. A couple of minor details have slipped through though. The inner houses of the precinct (even nos Moir and odd Nos Brookman) have no ROW and their back gardens face each other. Building garages (no car access anyway) or studios here would not be appropriate as they would abut directly against a neighbours fence. I would recommend no double storey extensions be allowed."*
- *"Section 3: ALTERATIONS AND ADDITIONS: "Significant original external features must be retained... original roof lines...". Changes to Section 4: ROOFS now conflicts with this in stating it is "Discretionary" for roof pitches visible from the street to match existing roof pitches- surely this aspect of roofing "Essential".*

Figure 3: PRINCIPLES OF EXTENSIONS: This sketch illustrates: "MANDATORY - RETAIN STRUCTURE CONSERVE MAXIMUM ORIGINAL FABRIC" applying to the five (5) front rooms and the corridor of the house. Changes to Section 17: INTERNAL PLANNING now conflicts in stating: "The front three rooms and corridor of the house... are required to be retained..."

Sections 18, 19, 19, 20 are entirely new and have not been subject to any public consultation.

There are now two section 19's OPEN SPACE and PREVENTION OF OVERDEVELOPMENT. As these four (4) new clauses have not be advertised, there is no demonstration of public support for these significant new clauses.

Section 19: OPEN SPACE: As this clause is "Essential" and Sections 2 clarifies "Essential" as "controls (that) are not flexible", then the Councils recent approval, a few weeks ago, of the extensions to 22 Brookman Street would not have been possible,

despite planning officer recommendation for approval at the time. Maintaining the required level of open space on a 300m² block, will always be difficult. Is this clause appropriate under this circumstance?

Section 19: PREVENTION OF OVERDEVELOPMENT.

There is no clarification as to what is "Essential" or "Discretionary" or quantification as to the extent/coverage of the discretionary controls being introduced under this paragraph.

The stated aim of the guidelines in the officers 24 February 2004 Agenda report (Page 101 Summary) is to "provide a degree of certainty for the community and property owners, as well as to protect the heritage value of the precinct...."

How do these conflicting paragraphs and un-quantified discretionary controls achieve this aim???

Councillors should not be falsely under the impression that the approval of the plans for 22 Brookman Street represents an indication of injection of capital into the street, with the current guidelines in place. 22 Brookman Street is now FOR SALE, and the plans are available to show buyers that options are available to develop despite the extensive guidelines.

Councillors are invited to consider the Moir / Brookman Street Development Guidelines as in the same light as prospective buyers for 22 Brookman Street would.

Having done this, do you agree with the statements addressing LAND VALUE and DEVELOPMENT on page 100 of the Agenda for the 24th February 2004 Council meeting???

"The impact of the heritage guidelines is considered not to unduly effect property values. Generally the high profile nature of such a rare early 1900's estate could be considered to favour land values due to its uniqueness"

When and I purchased our house 10 years ago, the guidelines consisted of a single A4 page (double sided), and required retention of the streetscape, which we value highly, At this time I would have agreed with the above comment.

Now the guidelines are 17 pages long, far more onerous and I would not know where to start in trying to quantify what Section 19 means to a prospective buyer. There is no way I can agree with the report comments on the LAND VALUE and DEVELOPMENT impact of these guidelines.

Please consider these thoughts when the Moir / Brookman Street Development Guidelines come to Council again for approval."

With regard to the section 19 "Open Space", the provision has been written such that the outdoor living area requirement and performance criteria of the Residential Design Codes are attained. The current density coding is R25, whereby 50 per cent of the site is required as open space with a minimum outdoor living area of 24 square metres. Section 19 acknowledges that ""As most dwellings in the precinct would not achieve the required percentage of open space on these lots due to historical development, it is essential that an outdoor living area is required." Hence, the performance criteria of the Residential Design Codes would be used to achieve a satisfactory area(s) of open space.

In regard to the section four "Roofs", corrections have been made to clarify discrepancies.

With respect to section 19 "Prevention of Overdevelopment", this is considered as a statement of intent for the overall development of individual properties and in effect the whole precinct, as a guiding provision to ensure that assessment of all planning applications has reference to preventing congestion upon the built environment.

The provision for "Internal Planning" implicitly states the intent of the guidelines within the internal zone. The "Principles of Extension" section 23, demonstrates and highlights the mandatory retention of the external original fabric inclusive of roof form, and is to be read in conjunction with the text. The title has been changed for ease of interpretation.

In terms of the size of the proposed new Guidelines, it is noted that they have evolved from the original Design Guidelines developed by the City of Perth in 1991 and updated in accordance with current advances in heritage management and theories, in addition to those relating to urban planning and the built environment. Clearly, such advances should be employed in providing clear and concise advice on areas of significance, such as those of the Brookman and Moir Streets Precinct.

The draft amended Guidelines have been further amended and clarified, which are in the attached documents.

Further Comments

The importance of heritage assets such as the Brookman and Moir Streets Precinct is one that provides a crucial contribution to community local identity and distinctiveness. Heritage management through the context of the guidelines is vitally important, not only to ensure our responsibility to future generations but also as a means of presenting the Town's commitment to an evolving urban environment.

The Brookman and Moir Streets Development Guidelines success depends on the area not being compromised by overdevelopment, emotive interpretations and misguided advice as recently seen within the local media. Assessment of individual property developments will be through the Guidelines and all relevant Policies of the Town. The applicant is required to provide justification as to why permission should be granted on any variation or discretionary matter. Applicants are advised to contact the Town's Officers prior to submitting a development application, to discuss planning concerns.

In light of the above, it is recommended that Council adopt the above recommendation, as previously stated.

The following is a verbatim copy of the Minutes of the item presented before the Council at its Ordinary Meeting held on 24 February 2004.

" OFFICER RECOMMENDATION:

That the Council;

- (i) RECEIVES the final amended version of the Policy relating to Brookman and Moir Streets Development Guidelines as shown in Appendix 10.1.21(a) resulting from the advertised version having been reviewed and regard to the written submissions received during the formal advertising period as outlined in Appendix 10.1.21(b), in accordance with Clauses 47 (4), and (5) (a) of the Town's Town Planning Scheme No. 1;*
- (ii) ADOPTS the final amended version of the Policy relating to Brookman and Moir Street Development Guidelines as shown in Appendix 10.1.21(a) of the Town's Town Planning Scheme No. 1; and*

- (iii) *AUTHORISES the Chief Executive Officer to advertise the final amended version of the Policy relating to Brookman and Moir Street Development Guidelines as shown in Appendix 10.1.21(a), in accordance with Clause 47 (6) of Town's Town Planning Scheme No. 1.*

Moved Cr Lake, Seconded Cr Farrell

That the recommendation be adopted subject to a new clause (iv) as follows:

- "(iv) *AMENDS the amended version of the Policy relating to relating to Brookman and Moir Streets Development Guidelines as shown in Appendix 10.1.21(a), by amending clause 4) Roofs; prior to clauses (i), (ii) and (iii) above, being actioned:*

- i) ~~Essential: Discretionary: Essential:~~*

Roof Pitches visible from the street should match the existing roof pitches.

- ii) ~~Discretionary:~~*

Where replacement roofing is required, it ~~must~~ should be Z600 Custom Orb profile sheeting laid in short lengths, with rolled-top ridges, timber barge caps (not metal), with Ogee gutters and circular down pipes. Zincolume is not considered acceptable. Television aerials, air conditioning and other fittings may be roof-mounted, but must not be visible from the public domain. Carports will not be permitted.

- ii) ~~Discretionary:~~*

Colorbond finishes may be permitted to roofs.

- iii) ~~ii) Encouraged:~~*

The reconstruction of missing gable fretwork, finials and other details to match authentic existing examples. Western Red Cedar is the best timber for this work.

- iv) ~~iii) iv) Advice:~~*

Deep red and deep green are the two colours advised to be used as roof colours. Roof colours should match with the neighbouring attached dwelling, due to the historical nature of giving two semi-detached dwellings the appearance of a more substantial residence."

Debate ensued.

Moved Cr Lake, Seconded Cr Chester

That the word "of" in clause 15(ii) of the Policy relating to Brookman and Moir Streets Development Guidelines as shown in Appendix 10.1.21(a) be replaced with the word "or".

AMENDMENT CARRIED (7-0)

(Crs Cohen and Ker on approved leave of absence.)

COUNCIL DECISION ITEM 10.1.21

Moved Cr Lake, Seconded Cr Farrell

That the Item be DEFERRED to the Ordinary Meeting of Council to be held on 9 March 2004 to allow concerned residents to comment on the proposed Guidelines.

CARRIED (7-0)

(Crs Cohen and Ker on approved leave of absence.)

BACKGROUND:

The Council at its Ordinary Meeting held on 27 March 2001 resolved to adopt the Policy relating to Appendix No. 6 Brookman and Moir Streets Design Guidelines.

Amendment No. 9

The Council at its Ordinary Meeting held on 8 April 2003 resolved the following:

"That the Council;

- (i) RECEIVES the amended version of the Policies relating to Appendix No. 6 Brookman and Moir Streets Development Guidelines as shown in Appendix 10.4.6(b);*
- (ii) ADOPTS the amended version of the Policies relating to Appendix No. 6 Brookman and Moir Streets Development Guidelines to be applied immediately;*
- (iii) ADVERTISES the amended version of the Policies relating to Appendix No. 6 Brookman and Moir Streets Development Guidelines for public comment, in accordance with Clause 47 of the Town of Vincent Town Planning Scheme No. 1, including:
 - (a) advertising a summary of the subject Policies once a week for four consecutive weeks in a newspaper circulating in the locality;*
 - (b) where practicable, notifying those persons who, in the opinion of the Town, might be directly affected by the subject Policies; and*
 - (c) forwarding a copy of the subject Policies to the Western Australian Planning Commission;**
- (iv) after the expiry of the period for submissions:
 - (a) REVIEWS the amended version of the Policies relating to Appendix No. 6 Brookman and Moir Streets Development Guidelines, having regard to any written submissions; and*
 - (b) DETERMINES the amended version of the Policies relating to Appendix No. 6 Brookman and Moir Streets Development Guidelines, with or without amendment, to or not to proceed with them; and**
- (v) DEFERS the Elven on the Park Design Guidelines."*

CONSULTATION/ADVERTISING:

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

Advertising of the amended Policy concluded on 29 July 2003. An extension of one week was granted to the Hyde Park Precinct Group by the Town's Executive Manager Environmental and Development Services. A total of 10 submissions were received, which equates to a 5.9 per cent response rate, of all owners/occupiers of the Brookman and Moir Streets precinct.

Prior to further amending the draft guidelines, presented to the Ordinary Meeting of Council held on 8 April 2003, additional community consultation was conducted. In September 2003 the Town's Officers conducted individual interviews with each person who wrote a submission to further identify and clarify points of concern with the development guidelines. Following this informal consultation process the Town's Officers were able to gain an improved understanding of the issues facing the Brookman and Moir Streets precinct, and identify those issues pertaining only to the development guidelines. This exercise has proved to be beneficial to advocate the strong desire by the Town's officers to provide both the Town and the owners and occupants of the precinct a document that is conducive to the retention of the heritage conservation ideals and significance of the precinct.

DETAILS:

The following is an extract of the report that went to the Ordinary Meeting of Council held on 8 April 2003, and summarises the history of the process of the development guidelines.

*"Policy relating to Appendix No. 6 Brookman and Moir Streets Development Guidelines
The Brookman and Moir Streets Precinct in Perth has been recognised as a culturally significant area for some fifteen years. In 1988, it was included in the City of Perth Town Planning Scheme as a place of historical architectural significance and in 1995 it was included in the Town of Vincent Municipal Heritage Inventory.*

Last year, the Town commissioned Considine and Griffiths Architects to undertake a detailed heritage assessment of the Brookman and Moir Streets Precinct. The heritage assessment was undertaken with a view to providing it to the Heritage Council of Western Australia so that at some point it can be considered for entry in the State Register of Heritage Places. In September 2002, all property owners in the Brookman and Moir Streets Precinct were advised in writing that the heritage assessment was being undertaken.

As part of the project, Considine and Griffiths Architects reviewed the existing Brookman and Moir Street Design Guidelines in consultation with Town Officers. The revised guidelines seek to provide more holistic advice and encouragement to owners regarding the development of their properties. The revised guidelines provide more than just design advice - they address all aspects of the development of properties in the Precinct. As such, it is considered more appropriate to refer to the revised guidelines as development guidelines, rather than design guidelines.

The draft amended Policy relating to Appendix No. 6 Brookman and Moir Street Development Guidelines is shown as Appendix No.10.4.6 (b) to this Report."

After the conclusion of the submission period and conduction of interviews the Town further consulted with Considine and Griffiths Architects, who reviewed the further amended Brookman and Moir Street Development Guidelines in consultation with the Town Officers with reference to both officers' and submitters' concerns.

LEGAL/POLICY:

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

STRATEGIC IMPLICATIONS:

Strategic Plan 2003-2008 - Key Results Area One: Environment and Infrastructure:

- 1.2 "Recognise the value of heritage in providing a sense of place and identity", and*
- 1.3 "Develop, implement and promote sustainable urban design."*

FINANCIAL/ BUDGET IMPLICATIONS:

The current 2003/2004 Budget lists \$130,000 for Town Planning Scheme Amendments and Policies.

COMMENTS:

Comments Relating to Submissions

A number of key issues can be drawn from the consultation with the community, and for the purposes of this report the concerns of the submissions have been highlighted into the major points of objection and are outlined below.

Further comment has been provided for, in the attached schedule of submissions. The predominant objection being, the focus the internal and private rear spaces of the dwelling are not in the public domain and therefore restrictions should not be placed as long as the streetscape features are retained. These concerns have been taken into consideration and the advertised guidelines have been amended accordingly to reflect both concerns and impacts of heritage conservation requirements.

Alterations and Additions and Internal Planning

The retention of the five-room layout is of great concern in the majority of submissions. The overall response is that the interior of a home should not be determined by the guidelines, as they are not an essential component of the public domain. As the internal layout of the dwellings forms an integral part of the heritage significance, it is acknowledged that some flexibility layout is required and is reflected in the amended guidelines, with internal alterations to be limited to the rear of the dwelling and whilst retaining the 3 original front rooms will allow flexibility to accommodate modern living requirements, through discretionary changes to the rear two rooms. This allows for both retention of heritage significance of the original dwelling design and that of individual owners' living requirements. Nevertheless retention of the five room layout is to be encouraged.

In respect to concerns regarding Council enforcing owners to reinstate original features it should be clarified that the guidelines do not enforce owners to return their home to their original state; however the guidelines encourage owners only to do so if they wish. Additionally the guidelines do not enforce owners to recreate the streetscape, however they allow for the streetscape to be maintained as it currently exists.

Roofs

The amended advertised guidelines have been reviewed to reflect objectors' concerns with material use through the allowance of the 'essential' criteria to become a 'discretionary' criterion, and are to be determined via the assessment of development applications. Concerns regarding prevention of television aerials and the like being viewed from the public domain is unrealistic. The essential component is to remain, as it is the aim of this provision to have such roof additions to be out of sight from the streetscape. Additionally television aerials and air conditioning units should not be visible from the public domain allows for the retention of the roof forms as it has existed since the dwellings were constructed.

Windows

Whilst the concerns regarding the retention of existing original windows have been noted, they are considered to be an essential part of the façade of the dwellings and retention of the window style and size is paramount to the heritage value and integrity of the place. However, as mentioned in the guideline requirements a window that has already had previous changes, it can be considered to leave this change. In respect to security requirements, security grilles are acceptable and are addressed by an advice note on the guidelines.

Fences

In relation to concerns on identification between front fencing and side fencing, front fences are located at the front of properties and are distinguished by extending to the front setback area. Side and rear fencing between neighbouring properties is a civil matter between neighbours. In terms of security concerns, open front fencing allows for passive surveillance, and the provisions for fencing additionally allow front fencing to be high enough to enclose the front setback area whilst allowing for a sense of security and privacy. Additionally the guidelines have been amended to reflect concerns between identification and concerns relating to secondary street frontage and fencing requirements.

Carparking

It is acknowledged that parking in the Brookman and Moir Streets Precinct may be an issue. However Locating carparking within the front setback does not consider the heritage significance of the dwellings and it is further considered that allowing vehicle to be located in the front setback to adversely and unduly affect the streetscape. This matter requires further consideration in due course.

Rear Water Closets

The retention of the rear water closet is seen as an important feature to the rear streetscape and that of the overarching heritage significance of the precinct. The water closet can retain its original function with modern day adaptation and additionally be utilised as a storage space. As they are located in the rear corners of each lot it is not considered to impact on design of outdoor spaces.

Land Value and Development

The aim of the guidelines is to allow for development, within a set criterion with reflection of the precincts heritage significance, and one which is additionally controlled by the low residential density code of R25. The impact of the heritage guidelines is considered not to unduly affect property values. Generally the high profile nature of such a rare early 1900's estate could be considered to favour land values due to its uniqueness.

Previous Guidelines

The current amended guidelines are seen to be a reasonable solution to heritage conservation aspects that were not covered by the previous guidelines and they additionally aim to allow for development within a set criterion to retain cultural heritage value and significance.

Urban Infrastructure

The amended guidelines highlight the need to address urban infrastructure in the event of future streetscape enhancement and have consideration of the unique heritage of the precinct. Engineering concerns with gas and water are aspects that the Town can only advise on. It is advised that occupants contact the relevant State Government Authorities with their concerns. Additionally it is advised that concerns with size of trucks driven in the area, be directed at the relevant State Government agency. However the Town acknowledges and is sympathetic to these concerns although it is only the State Government that can appease these concerns. Streetscape improvement concerns have been acknowledged and comments have been passed onto the Town's Technical Services.

Overhead power lines have existed in the precinct since the introduction of power to the area. It is not considered that they currently impact on the heritage integrity of the precinct.

Demolition and No. 8 Brookman Street

In respect to concerns relating to demolition of existing dwellings, the amended guidelines reflect concerns with demolition of dwellings and accordingly no entire demolition will be permitted. The Town acknowledges the concerns conducive to the demolition of No. 8 Brookman; however it is the aim of the guidelines to restrict such occurrences. The integrity

of the precinct however, is retained through its unique cultural heritage. Whilst the demolition has occurred the dwelling has been replaced with particular attention and reference to the previous dwelling.

Colour Palettes and External Walls

In regard to particular use of colour, advice can be sought from both the Town's Officers and Heritage Council of Western Australia in respect to appropriate colours of the 'Federation' architectural period, as well as for advice on protective coating to walls and whether they are an appropriate measure.

Subsidies

The Western Australian Local Government Association provides access to owners of heritage properties to a low interest loan scheme, through which both local and state government contribute to a combined fund. There are currently no relevant subsidies or incentives in place by both State and Federal governments.

Summary

The Brookman and Moir Streets precinct form an integral part of Western Australia's rich and varied history of European settlement, over the last 177 years, and the precinct represents cultural diversity and architectural richness.

The guidelines are essential to integrate heritage considerations within planning context and it is of equal importance that heritage is seen as a living, evolving, co-existing aspect of the urban landscape. The aim of this Policy is to provide a degree of certainty for the community and property owners, as well as protect the heritage value of the precinct whilst promoting local urban character, aesthetic appeal of streetscape and facilitating sympathetic new additions to the existing structures.

Through the application of these amended guidelines the Town endeavours to guide development whilst allowing for design interpretation, as well as aid community ownership and pride of its premier heritage precinct. Many of the objectors noted that one of the main reasons for living in the precinct was due to the unique cultural heritage of the place, and its locality.

In order to retain community values and heritage assets, heritage conservation guidelines are required, which aim to retain local heritage significance without unduly hindering development rights of the owners of properties. There is a need for heritage conservation areas be efficiently protected by development guidelines and protected by the local community. In this instance the guidelines have been revised to allow for both a sense of ownership, and aim to retain and enhance the architectural character of the Brookman and Moir Streets precinct through appropriate development control. Additionally, the context of heritage conservation is underestimated in terms of economic gain, due to the uniqueness of heritage properties; there is not only cultural and social value gain but that of resale value of heritage respected homes.

Although submissions noted various objections to the guidelines the overarching consensus from comments were that residents preferred the unique cultural heritage values of the area be retained. As such it is recommended that Council receives and adopts the revised guidelines in line with the Officer Recommendation."

10.1.5 No. 345 (Lot 31) Stirling Street, Highgate - Proposed Additional Three (3) Two-Storey Grouped Dwellings to Existing Ten (10) Single Bedroom Multiple Dwellings- Reconsideration of Carparking Condition

Ward:	South	Date:	5 May 2004
Precinct:	Forrest, P14	File Ref:	PRO1529; 00/33/2185
Attachments:	001		
Reporting Officer(s):	R Rasiah		
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 BY AN ABSOLUTE MAJORITY the application submitted by Robin Knott and Associates on behalf of the owner Decisive Holdings Pty Ltd for an additional three (3) two-storey grouped dwellings to the existing ten (10) single bedroom multiple dwellings, on No. 345 (Lot 31) Stirling Street, Highgate, and as shown on plans stamp-dated 23 April 2004, subject to the following conditions:

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (iii) subject to first obtaining the consent of the owners of No. 349 Stirling Street and Nos. 450-454 Beaufort 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. 349 Stirling Street and Nos. 450-454 Beaufort Street in a good and clean condition;*
- (iv) detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence Application;*
- (v) 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 3.1.78 Parking and Access, Residential Design Codes and Australian Standards AS2890.1 - "Off Street Parking";*
- (vi) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (vii) detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Stirling 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);*

- (viii) *a road and verge security bond or bank guarantee of \$550.00 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*
- (ix) *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;*
- (x) *no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to Stirling Street shall be a maximum height of 1.2 metres above the adjacent footpath level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (xi) *the car parking areas on the subject land and the associated turning area at the rear of the site 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;*
- (xii) *the car parking areas shall be clearly marked and sign posted to indicate that a vehicle turning area exists at the rear of the site and vehicles shall use this area in order to exit the site in forward gear. This marking and sign posting shall be completed prior to the first occupation of the development and maintained thereafter by the owner(s)/occupier(s) to the satisfaction of the Town;*
- (xiii) *no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services Section. Should such an approval be granted, all cost associated with the removal and replacement shall be borne by the applicant/owner(s); and*
- (xiv) *a watts profile speed hump plateau in accordance with AS2890.1 shall be constructed across the access driveway approximately 1.0 metre inside the front gate of the development prior to the first occupation of the development;*

to the satisfaction of the Chief Executive Officer.

COUNCIL DECISION ITEM 10.1.5

Moved Cr Chester, Seconded Cr Torre

That the recommendation be adopted.

CARRIED BY AN ABSOLUTE MAJORITY (9-0)

LANDOWNER:	Decisive Holdings Pty Ltd
APPLICANT:	Robin Knott and Associates
ZONING:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1: Residential R80
EXISTING LAND USE:	10 Single Bedroom Multiple Dwellings

COMPLIANCE:

Areas of non-compliance from Report Item 10.1.7 to Ordinary Meeting of Council held on 27 August 2002 are detailed below:

Setbacks

Wall	Height	Length	Major Openings	Setback Required	Setback Provided
Western (Store)	2.4 metres	1.8 metres	no	1.0 metre	nil
Northern side	5.25 metres	9.0 metres	no	1.2 metres	nil
Northern side (stores)	2.4 metres	5.0 metres	no	1.0 metre	nil

Requirements	Required	Proposed
Private Average Open Space Per Dwelling	40 square metres per grouped dwelling	24 square metres
Density	10 single bedroom dwellings and 2 grouped dwellings; or 14 single bedroom dwellings; or 10 multiple dwellings; or 7 grouped dwellings	10 single bedroom (multiple) dwellings and 3 grouped dwellings
Communal Open Space	20 percent (247.8 square metres)	9 percent (115 square metres)
Car Parking	16 bays * (minimum 1 bay per single bed dwelling)	14 bays after compliance with condition (i)

*It is to be noted that the above variations were based on the Residential Planning Codes of 1991 which have now been superseded by the Residential Design Codes 2002. The current request for reconsideration is based on the deletion of a carbay No.1 condition, which does not result in any further variations as previously approved by Council.

Requirements	Required	Proposed
Car Parking	16 bays * (minimum 1 bay per single bedroom dwelling)	15 bays, with previous condition (i) approved at Ordinary Meeting of Council (OMC) on 27 August 2002, which has been deleted in this report Officer Recommendation. Previous shortfall approved at OMC on 27 August 2002 was 14 carbays.

Use Class	Multiple (Single Bedroom) and Grouped Dwellings
Use Classification	'P'
Lot Area	1239 square metres

SITE HISTORY:

7 November 2000 At its Ordinary Meeting, the Council resolved to conditionally approve the development of three (3) two-storey grouped dwellings and alterations and additions to the existing multiple dwellings.

- 4 June 2002 An amended development application was received by the Town.
- 27 August 2002 At its Ordinary Meeting, the Council resolved to conditionally approve the development of three (3) additional two-storey grouped dwellings to the existing ten (10) single bedroom multiple dwellings.

DETAILS:

The above site is located along Stirling Street and is zoned Residential R80. The additional three two-storey grouped dwellings to the existing ten (10) single bedroom multiple dwellings are currently being constructed.

The Council at its Ordinary Meeting held on 27 August 2002 approved an additional three two-storey grouped dwellings to the existing ten (10) single bedroom multiple dwellings at the above site, which included the following condition:

- "(i) prior to the issue of a Building Licence, a revised plan shall be submitted and approved demonstrating the deletion of car parking bay number one (1) and inclusion of this area into the front landscaping. The bays shall be renumbered accordingly."*

The above subject application is for a similar proposal, mainly to request Council to reconsider and delete clause (i) of the previous approval by Council at its Ordinary Meeting held on 27 August 2002. Carlton Surveys who are preparing the strata subdivision for the above site have advised in writing (attached) that the design of the existing and proposed carparking spaces has resulted in one of the proposed three (3) grouped dwellings being left without a dedicated carbay. Both the tandem carbays proposed are for two of the three grouped dwellings proposed.

CONSULTATION/ADVERTISING

The proposal is not required to be advertised as it does not involve further variations to the relevant development requirements compared to the previous approved development.

No objections were received during the initial advertising period. The previous application included a letter of consent from the affected northern property owner in relation to the proposed two storey parapet wall.

FINANCIAL/ BUDGET IMPLICATIONS:

Nil.

STRATEGIC IMPLICATIONS:

Nil.

LEGAL/POLICY:

Town of Vincent Town Planning Scheme No. 1 and associated Policies, and the Residential Design Codes.

COMMENTS:

Reconsideration of Condition (i)

In the previous proposal considered at the Ordinary Meeting of Council held on 27 August 2002, a total of fourteen (14) carbays were approved. The car parking layout included two bays that were forward of the building line with one of the carbays being two metres from the front boundary. Condition/clause (i) as above which was imposed at the Ordinary Meeting held on 27 August 2002 was to maintain a high level of visual attractiveness to the streetscape.

The Town's Engineering Services have advised that although the existing parking facilities do not strictly comply with the requirements of Australian Standards AS2890.1, they are functional and have been in service for some years. On the above basis, no objection is raised subject to a watts profile speed hump plateau in accordance with AS2890.1 being constructed across the access driveway approximately 1.0 metre inside the front gate of the development.

An inspection of the site indicates that the front fencing has been upgraded to comply with the Town's Policy Relating to Street Walls and Fences and includes an open style automatic sliding gate. Taking into consideration the upgrade to the front fencing, proposed landscaping, the owners intention to provide at least one carbay for each of the grouped dwellings, the constraints affecting the site, it is considered reasonable to support the deletion of the condition/clause (i) of the previous approval and allowing the provision of carbay No.1 as per the site plans dated 23 April 2004. The improvements would help in maintaining an attractive streetscape and reduce further demand for on-street carparking.

Related Matters

The other matters relating to the proposal have been addressed in the Report, Item 10.1.7 to the Ordinary Meeting of Council held on 27 August 2002.

Accordingly, it is recommended that the proposal be approved, subject to standard and appropriate conditions to address the above matters, including the deletion of the previous condition (i) requiring the deletion of front carbay No.1.

Mayor Catania advised that Cr Doran-Wu had declared a proximity interest in this Item. Cr Doran-Wu departed the Chamber at 8.09pm and did not speak or vote on the matter.

10.1.6 No. 4 (Lot 8) Galwey Street, Dual Frontage with Tennyson Street, Leederville- Proposed Partial Demolition of and Alterations and Additions to Existing Single House

Ward:	North	Date:	30 April 2004
Precinct:	Leederville, P3	File Ref:	PRO2748; 00/33/2138
Attachments:	001		
Reporting Officer(s):	J Barton		
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 landowners M T McGill and M N Crump for proposed partial demolition of and alterations and additions to existing single house at No. 4 (Lot 8) Galwey Street, dual frontage with Tennyson Street, Leederville , and as shown on the amended plans stamped 15 April 2004, subject to:

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (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 new front fences and gates adjacent to Galwey Street and Tennyson Street shall be a maximum height of 1.2 metres above the adjacent footpath level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (iii) a road and verge security bond or bank guarantee of \$550 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*
- (iv) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (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) *standard visual truncations, in accordance with the Town's Policies and to the satisfaction to the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*
- (viii) *no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services Section. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*
- (ix) *the tree of significance, Lemon Scented Gum (Corymbia citriodora), located within the front setback area of the existing dwelling, being retained and measures being taken to ensure the trees identification and protection to the satisfaction of the Town prior to commencement of site works; and*
- (x) *subject to first obtaining the consent of the owners of No. 6 (Lot 7) Galwey Street, Leederville for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 7 (Lot 7) Galwey Street, Leederville in a good and clean condition;*

to the satisfaction of the Chief Executive Officer;

COUNCIL DECISION ITEM 10.1.6

Moved Cr Cohen, Seconded Cr Torre

That the recommendation be adopted subject to a new clause (xi) being added as follows:

- "(xi) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the wall on the boundary on the western side being setback in-line with the existing dwelling.*

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

Debate ensued.

Moved Cr Chester, Seconded Cr Lake

That clause (xi) be deleted.

Debate ensued.

AMENDMENT CARRIED (7-1)

(Cr Doran-Wu was absent from the Chamber and did not vote.)

<u>For</u>	<u>Against</u>
Mayor Catania	Cr Cohen
Cr Chester	
Cr Farrell	
Cr Franchina	
Cr Ker	
Cr Lake	
Cr Torre	

MOTION AS AMENDED CARRIED (7-1)

(Cr Doran-Wu was absent from the Chamber and did not vote.)

<u>For</u>	<u>Against</u>
Mayor Catania	Cr Cohen
Cr Chester	
Cr Farrell	
Cr Franchina	
Cr Ker	
Cr Lake	
Cr Torre	

FURTHER REPORT:

Fire rating concerns have been raised over the proximity of the western boundary wall to the adjoining dwellings eaves. However, parapet walls are fire rated, therefore, there are no fire rating concerns and the proposal complies with the Building Code Australia requirements.

In addition, the proposal also complies with the Residential Design Codes overshadowing requirements.

Additionally, a late submission has been received from the adjoining western property owner, which has been circulated to all Councillors for their information.

LANDOWNER:	M T McGill and M N Crump
APPLICANT:	M T McGill and M N Crump
ZONING:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1: Residential R30
EXISTING LAND USE:	Single House

COMPLIANCE:

Requirements	Required	Proposed
Buildings on Boundaries	One boundary wall is permitted with an average height of 3 metres and a maximum height of 3.5 metres, for 2/3 length of boundary.	Two boundary walls proposed. The western boundary wall has an average height of 3.3 metres from natural ground level.
Plot Ratio	N/A	N/A
Density	N/A- survey strata conditionally approved.	N/A

Use Class	Single House
Use Classification	"P"
Lot Area	655 square metres

SITE HISTORY:

15 March 2004	The Western Australian Planning Commission conditionally approved the proposed two (2) lot survey strata subdivision of the subject property.
23 March 2004	Request for subdivision clearance submitted to the Town for the above-mentioned proposal. However, the subdivision clearance has not been issued as certain conditions, namely a development approval being obtained, have not been met.

DETAILS:

The proposal is for partial demolition of, and alterations and additions to the existing single house.

The applicants have deleted the carport from the proposed additions, as the Town had significant concerns regarding the open space variation.

CONSULTATION/ADVERTISING:

The proposal was advertised to the adjoining neighbours for 14 days.

One submission was received during the advertising period, being one (1) letter of objection.

The main concerns raised in the letter are stated below:

- *"I object to such a wall being built so close to my existing property. My dining room window, my balcony and the windows of my downstairs area will be profoundly effected by such a wall. The light in the majority of my house will be significantly reduced by any wall in this area. A boundary wall will reduce my access to the northern light in winter even further."*
- *"When I was submitting plans for the development of my own house in 1977, I was expected to keep my external walls more than a metre from the boundary of my property for a multitude of reasons, not the least of which was the ability of my neighbours to access light into their houses. I was also expected to limit the squares of my house to suit council regulations, which have provided me with a smaller house than I might have preferred at the time. I can understand that the council regulations change to sit prevailing requirements of residents. However, this request is to accommodate the requirements of my new neighbour's need for light and privacy is at the cost of my own."*

LEGAL/POLICY:

Town Planning Scheme No.1 and associated Policies, and the Residential Design Codes (R-Codes).

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

Boundary Walls

The applicants are proposing to vary the R-Codes acceptable development requirements relating to boundary walls, as two boundary walls are proposed on the northern and western boundaries, and the western boundary wall exceeds the average height requirements, as it is 3.3 metres in average height, in lieu of 3 metres.

Notwithstanding the above variation, the proposed height difference is considered minor, and the proposal is also considered to address the relevant performance criteria under Clause 3.3.2 of the R-Codes, as the proposal make effective use of space, both walls comply with the length, privacy and overshadowing requirements.

In light of the above, the proposal is not considered to create an undue impact on the amenity of the area, or the adjoining neighbours, and conditional approval is recommended.

10.1.7 No. 27 (Lot 6) Knutsford Street, North Perth - Proposed Additional Three, Two-Storey Grouped Dwellings and Carport Addition to Existing Single House

Ward:	North	Date:	3 May 2004
Precinct:	North Perth, P8	File Ref:	PRO1217; 00/33/2105
Attachments:	001		
Reporting Officer(s):	P Mastrodomenico		
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 owner T Marchese for proposed additional three, two-storey grouped dwellings and carport addition to the existing single house at No.27 (Lot 6) Knutsford Street, North Perth, and as shown on amended plans stamp dated 5 March 2004 (floor plans and elevations) and 24 March 2004 (site plan and landscape plan), subject to;

- (i) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating:
 - (a) the retention and protection of the jarrah and jacaranda trees on the site adjacent to the northern boundary considered to be of significance;*
 - (b) no development, construction and compaction occurring within a 2.0 metres radius of the existing jacaranda and jarrah trees (listed on the Town's Significant Tree Database - Reference) adjacent to the northern boundary; and*
 - (c) upgrading works to be carried out to the existing dwelling, including a schedule of finishes, materials and colours. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);**

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

- (ii) a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*
- (iii) 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 Knutsford Street shall be a maximum height of 1.2 metres above the adjacent footpath level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (iv) a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Knutsford 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);*

- (v) *no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services Section. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*
- (vi) *subject to first obtaining the consent of the owners of No.31 Knutsford Street and No.13 Blake 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.31 Knutsford Street and No.13 Blake Street in a good and clean condition;*
- (vii) *prior to the first occupation of the development, the full length and width of the right of way from Knutsford Street to the western most boundary abutting the subject land shall be sealed, drained and paved to the specifications of and supervision under the Town, at the applicant's/owner(s)' full expense;*
- (viii) *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;*
- (ix) *a bond and/or bank guarantee for \$9,600 for the full upgrade of the right of way shall be lodged prior to the issue of a Building Licence;*
- (x) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (xi) *a road and verge security bond or bank guarantee of \$ 220 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*
- (xii) *the construction of crossovers shall be in accordance with the Town's specifications;*
- (xiii) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (xiv) *standard visual truncations, in accordance with the Town's Policies and to the satisfaction of the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*
- (xv) *the jarrah and jacaranda trees on the site adjacent to the northern boundary shall be retained and protected;*
- (xvi) *compliance with the relevant Building, Engineering and Environmental Health requirements; and*

(xvii) *to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development the windows to bedroom 2 and bedroom 3 of unit B and unit C on the first floor level, on the northern elevation, shall be screened with a permanent obscure material and be non openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be a major opening as defined in the Residential Design Codes 2002;*

to the satisfaction of the Chief Executive Officer.

Cr Doran-Wu returned to the Chamber at 8.15am.

Moved Cr Chester, **Seconded** Cr Cohen

That the recommendation be adopted subject to a new clause (i)(d) being added as follows:

"(i)(d) the garages and remainder of the development to Units B and C being setback 1.5 metres from the adjoining right of way;"

Debate ensued.

CARRIED (9-0)

COUNCIL DECISION ITEM 10.1.7

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owner T Marchese for proposed additional three, two-storey grouped dwellings and carport addition to the existing single house at No.27 (Lot 6) Knutsford Street, North Perth, and as shown on amended plans stamp dated 5 March 2004 (floor plans and elevations) and 24 March 2004 (site plan and landscape plan), subject to;

- (i) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating:*
 - (a) *the retention and protection of the jarrah and jacaranda trees on the site adjacent to the northern boundary considered to be of significance;*
 - (b) *no development, construction and compaction occurring within a 2.0 metres radius of the existing jacaranda and jarrah trees (listed on the Town's Significant Tree Database - Reference) adjacent to the northern boundary;*
 - (c) *upgrading works to be carried out to the existing dwelling, including a schedule of finishes, materials and colours. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
 - (d) *the garages and remainder of the development to Units B and C being setback 1.5 metres from the adjoining right of way; and*

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

- (ii) *a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*
- (iii) *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 Knutsford Street shall be a maximum height of 1.2 metres above the adjacent footpath level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (iv) *a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Knutsford 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);*
- (v) *no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services Section. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*
- (vi) *subject to first obtaining the consent of the owners of No.31 Knutsford Street and No.13 Blake 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.31 Knutsford Street and No.13 Blake Street in a good and clean condition;*
- (vii) *prior to the first occupation of the development, the full length and width of the right of way from Knutsford Street to the western most boundary abutting the subject land shall be sealed, drained and paved to the specifications of and supervision under the Town, at the applicant's/owner(s)' full expense;*
- (viii) *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;*
- (ix) *a bond and/or bank guarantee for \$9,600 for the full upgrade of the right of way shall be lodged prior to the issue of a Building Licence;*
- (x) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (xi) *a road and verge security bond or bank guarantee of \$ 220 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*

- (xii) *the construction of crossovers shall be in accordance with the Town's specifications;*
- (xiii) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (xiv) *standard visual truncations, in accordance with the Town's Policies and to the satisfaction of the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*
- (xv) *the jarrah and jacaranda trees on the site adjacent to the northern boundary shall be retained and protected;*
- (xvi) *compliance with the relevant Building, Engineering and Environmental Health requirements; and*
- (xvii) *to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development the windows to bedroom 2 and bedroom 3 of unit B and unit C on the first floor level, on the northern elevation, shall be screened with a permanent obscure material and be non openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be a major opening as defined in the Residential Design Codes 2002;*

to the satisfaction of the Chief Executive Officer.

FURTHER REPORT:

Additional information to the Compliance Table is as follows:

Requirements	Required	Proposed
Density	4 grouped dwellings, consisting of 3 grouped dwellings and one (1) existing dwelling being retained (R30/40).	4 grouped dwellings. The higher R40 density applies as the existing dwelling is retained. Density bonus does not apply to this site.

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

The plot ratio details have already been provided in the Agenda Report for Item 10.1.7

LANDOWNER: T Marchese
APPLICANT: T Marchese
ZONING: Metropolitan Region Scheme – Urban
Town Planning Scheme No.1 – Residential R30/40
EXISTING LAND USE: Single House

COMPLIANCE:

Requirements	Required	Proposed
Setbacks: Existing House North (garage/carport)	1.0 metre	Nil
Unit A North (ground)	1.5 metres	1.0 metre - 1.5 metres
North (first floor)	1.5 metres	1.0 metre - 1.5 metres
West (garage)	1.0 metre	Nil
Front setback (first floor) - Right of Way	1.5 metres	1.0 metre
Front setback (first floor) - Knutsford Street	6.0 metres	5.6 metres
Unit B East (garage)	1.0 metre	Nil
East (first floor)	1.5 metres	1.5 - 2.4 metres
Unit C West (garage)	1.0 metre	Nil
West (first floor)	1.5 metres	1.5 - 2.4 metres
Pedestrian Access Way	1.5 metres	1.0 metre
Plot Ratio	n/a	n/a
Density	R30 = 3 Dwellings R40 = 4 Dwellings	4 Dwellings
Privacy North Unit B (bedroom 2 and bedroom 3) Unit C (bedroom 2 and bedroom 3)	Bedroom windows within 4.5 metres of a boundary to be screened in accordance with the Residential Design Codes.	No screening shown on plans.

Use Class	Grouped Dwelling
Use Classification	'P'
Lot Area	1009 square metres

SITE HISTORY:

The subject property is occupied by a single dwelling indicative of a Californian Bungalow. A privately-owned, unsealed seven (7) metres wide right of way runs along the southern boundary. The surrounding area is characterised by residential dwellings to the north, south and west, and the Knutsford Arms Hotel to the east.

The Council at its Ordinary Meeting held on 26 July 2002 conditionally approved the demolition of the existing dwelling and the construction of three (3) two-storey grouped dwellings on the subject site.

The Council at its Ordinary Meeting held on 8 October 2002 conditionally approved proposed additional three (3) two-storey grouped dwellings and carport addition to the existing dwelling, on the subject site.

DETAILS:

Approval is sought to construct an additional three, two-storey grouped dwellings to the existing dwelling.

The proposal is similar to the conditionally approved application which was referred to the Ordinary Meeting of Council held on 8 October 2002. This proposal involves a minor redesign in relation to the proposed carport to the existing dwelling in order to retain the significant trees, which have been identified on the subject lot. The proposal also seeks a variation to the pedestrian access way width along the south boundary.

CONSULTATION/ADVERTISING:

No submissions were received during the advertising period.

LEGAL/POLICY:

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

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

Density (Dual Coding)

The subject property is currently zoned Residential R30/R40. Town Planning Scheme No.1 allows the Council to consider development on lots to a density of Residential R40 where an existing dwelling is retained and the following criteria is met:

- (a) *no unreasonable significant adverse impact on adjacent residences in terms of privacy and amenity;*
- (b) *no unreasonable loss of healthy, mature trees; and*
- (c) *the design responds to the design and character of the existing dwelling on the lot and the streetscape in general.*

The proposed development represents a density of R40.

The existing dwelling was assessed for cultural heritage value previously, whereby it was determined that the place is reasonably sound, although in poor condition. Archival evidence indicates that the place was constructed around 1935 and conforms to the usual style and design of inter-war housing in this era. This type of housing is typical throughout this part of North Perth, and whilst the property is not considered as having cultural heritage significance nor likely to cross the threshold for entry on the Municipal Heritage Inventory, it is considered that the place is worthy of retention and hence supportive of a R40 density in terms of its contribution to the streetscape.

Significant Trees

There are several substantial trees located on the property, which are proposed to be removed. The trees, including a jarrah, a jacaranda, a sugar gum, a grevillea robusta, 4 lilac trees and a yellow capped gum, have been included on the Town's Interim Significant Tree Data Base – Reference, however, upon inspection by Parks Services, it was considered that only the jarrah and jacaranda trees located adjacent to the northern boundary of the lot are worthy of retention. In view of the above, the retention and protection of these trees should be required.

Significant Tree and Garage to Existing Dwelling

The proposed garage to the existing dwelling to be retained fronting Knutsford Street has been designed to be in a tandem arrangement in order to retain and protect the significant tree (Jacaranda) on site. However the Town's Parks Services have recommended a "protection zone" of 2.0 metres radius from the base of the tree; as such condition/clause (i) (b) has been applied.

Significant Tree and Unit B

A significant tree (jarrah) to the rear of unit B should be retained. The Town's Parks Services have recommended a "protection zone" of 2.0 metres radius from the base of the tree; as such condition/clause (i) (b) has been applied.

Pedestrian Access way

The provision of a 1.5 metres wide access way is required where sole vehicular access is to be taken from a right of way. The purpose of the access way is to provide pedestrian access to the new dwellings from Knutsford Street, the collection of mail and garbage services from Knutsford Street, and the provision of a corridor for utilities. Discussions have been held with the applicant regarding reduction of the width of the pedestrian access way to 1.0 metre. In this instance, the Town's Officers have agreed that the reduction in the access way (PAW) along the southern boundary of the lot is considered acceptable, as it is not possible to locate the PAW to the northern boundary as there are two significant trees, which are required to be retained.

Setbacks

The proposed setbacks of the new dwellings are considered acceptable given the nature of surrounding development and the sense of openness afforded by the adjoining right of way. The variations to the side setbacks are supportable, given the absence of direct objection and it is not considered that the proposed setbacks of the buildings would have an unreasonable adverse impact on the amenity of the area.

The proposed front second storey setback of unit A to Knutsford Street is considered acceptable given the erratic pattern of setbacks of dwellings and the recently constructed timeshare apartments to the rear of the Knutsford Hotel opposite the subject site, which have a reduced setback to the street.

Overlooking

With regard to the potential for unreasonable overlooking from the first floor bedrooms 2 and 3 to unit B and unit C, on the northern elevation, it is considered necessary that relevant screening conditions are applied to these openings to comply with the privacy requirements of the Residential Design Codes.

Summary

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

10.1.8 No. 399 (Lot 3) Charles Street, Corner Haynes Street, North Perth - Proposed Demolition of Existing Single House and Construction of Three (3) Two-Storey Single Houses

Ward:	North	Date:	3 2004
Precinct:	North Perth, P8	File Ref:	PRO2700; 00/33/2073
Attachments:	001 002		
Reporting Officer(s):	V Lee, N Edgecombe		
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 the Council APPROVES, and in accordance with the Metropolitan Region Scheme the Council RECOMMENDS APPROVAL to the Western Australian Planning Commission for, the application submitted by B Di Paolo on behalf of the owner S Rogers for the proposed demolition of existing single house and construction of three (3) two-storey single houses at No. 399 (Lot 3) Charles Street, corner Haynes Street, North Perth, and as shown on plans stamp-dated 26 March 2004, 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 and approved demonstrating the following:*
 - (a) compliance with the minimum dimension of a carport in accordance with the Residential Design Codes;*
 - (b) compliance with minimum sightlines in accordance with the Residential Design Codes;*
 - (c) the first floor front main building wall (not balconies) of proposed unit 1 being setback a minimum of 4 metres from Haynes Street; and*
 - (d) the northern elevation boundary wall of Unit 1 being reduced to a maximum height of 3 metres.*

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

- (iii) a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*
- (iv) subject to first obtaining the consent of the owners of No. 401 Charles Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 401 Charles Street in a good and clean condition;*

- (v) *no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to Charles Street and Haynes Street shall be a maximum height of 1.2 metres above the adjacent footpath level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (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 Residential Design Codes or the Town's Policy relating to Parking and Access and Australian Standards AS2890.1 – "Off Street Parking";*
- (vii) *the carports 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 proposed dwelling;*
- (viii) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (ix) *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;*
- (x) *a road and verge security bond or bank guarantee of \$1100 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired /reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing.*
- (xi) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (xii) *the construction of crossovers shall be in accordance with the Town's specifications, including the provision of an island separator where cross overs are more than 7.3 metres wide;*
- (xiii) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (xiv) *standard visual truncations, in accordance with the Town's Policies and/or to the satisfaction to the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*
- (xv) *no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services Section. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*

- (xvi) *a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Charles Street and Haynes Street verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s); and*
- (xvii) *each proposed lot shall comply with the lot/site area requirement of the Residential Design Codes for Residential R 60;*

to the satisfaction of the Chief Executive Officer.

Moved Cr Chester, Seconded Cr Franchina

That the recommendation be adopted subject to a new clause (ii)(e) being added as follows:

"(e) proposed residence number 3 being modified to allow the retention of the street tree on Haynes Street;"

CARRIED (9-0)

COUNCIL DECISION ITEM 10.1.8

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 the Council APPROVES, and in accordance with the Metropolitan Region Scheme the Council RECOMMENDS APPROVAL to the Western Australian Planning Commission for, the application submitted by B Di Paolo on behalf of the owner S Rogers for the proposed demolition of existing single house and construction of three (3) two-storey single houses at No. 399 (Lot 3) Charles Street, corner Haynes Street, North Perth, and as shown on plans stamp-dated 26 March 2004, 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 and approved demonstrating the following:*
- (a) *compliance with the minimum dimension of a carport in accordance with the Residential Design Codes;*
- (b) *compliance with minimum sightlines in accordance with the Residential Design Codes;*
- (c) *the first floor front main building wall (not balconies) of proposed unit 1 being setback a minimum of 4 metres from Haynes Street;*
- (d) *the northern elevation boundary wall of Unit 1 being reduced to a maximum height of 3 metres; and*
- (e) *proposed residence number 3 being modified to allow the retention of the street tree on Haynes Street;*

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

- (iii) *a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*
- (iv) *subject to first obtaining the consent of the owners of No. 401 Charles Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 401 Charles Street in a good and clean condition;*
- (v) *no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to Charles Street and Haynes Street shall be a maximum height of 1.2 metres above the adjacent footpath level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (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 Residential Design Codes or the Town's Policy relating to Parking and Access and Australian Standards AS2890.1 – "Off Street Parking";*
- (vii) *the carports 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 proposed dwelling;*
- (viii) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (ix) *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;*
- (x) *a road and verge security bond or bank guarantee of \$1100 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired /reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing.*
- (xi) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (xii) *the construction of crossovers shall be in accordance with the Town's specifications, including the provision of an island separator where cross overs are more than 7.3 metres wide;*
- (xiii) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (xiv) *standard visual truncations, in accordance with the Town's Policies and/or to the satisfaction to the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*

- (xv) *no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services Section. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*
- (xvi) *a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Charles Street and Haynes Street verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s); and*
- (xvii) *each proposed lot shall comply with the lot/site area requirement of the Residential Design Codes for Residential R 60;*

to the satisfaction of the Chief Executive Officer.

FURTHER REPORT:

The applicant is required to redesign proposed residence number 3 to allow the retention of the street tree which is proposed to be removed due to the location of the proposed crossover.

The Town's Technical Services have advised that the tree is Camphor Laurel (*Cinnamomum camphora*) and is estimated to be around 40 to 50 years old, and appears to be in a sound and healthy state of growth. As the majority of the street trees are of the same species and a similar age and size, the specimen is considered to form an integral part of the streetscape.

The proposed modifications shall not result in any greater variation to the Town's Policies and the Residential Design Codes, or a new development application will be required to be submitted and approved.

Prepared by: Executive Manager Environmental and Development Services
Requested by: **Councillor Simon Chester**

FURTHER REPORT:

Additional information to the Compliance Table as follows:

Requirements	Required	Proposed *
Density	3 dwellings R60	3 dwellings $10000 / 574 \times 3 =$ R52.26

Requirements	Required	Proposed *
Plot Ratio	0.65 Unit 1 = 143 square metres Unit 2 = 106 square metres Unit 3 = 129 square metres	Unit 1 0.65 = 143 square metres Unit 2 0.65 = 106 square metres Unit 3 0.65 = 129 square metres

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

LANDOWNER: S Rogers
APPLICANT: B N Di Paola
ZONING: Metropolitan Region Scheme No. 1 - Urban
 Town Planning Scheme No. 1 - Residential R 60
EXISTING LAND USE: Single House

COMPLIANCE:

Requirements	Required	Proposed
Buildings on Boundary	Walls no higher than 3.5 metres with an average of 3 metres for 2/3 the length of the balance of the boundary behind the front setback to one side boundary.	3.3 metres long wall proposed on northern boundary up to 3.7 metres high. Two storey walls proposed on proposed internal lot boundaries.
Sightlines at Vehicle Access Points	Walls and fences to be no higher than 0.75 metre within 1.5 metres of where a driveway meets a street.	Walls to 1.2 metres proposed within sightlines.
Plot Ratio	0.65	Unit 1 - 0.65 Unit 2 - 0.65 Unit 3 - 0.65
Density	3 dwellings	3 dwellings
Town's Policy relating to the Charles Locality	A general height limit of two storeys provided the second storey is generally setback a minimum of 6 metres from the street	Unit 1 - proposed first floor balcony setback 1.5 metres from Haynes Street, and second storey main dwelling setback 3.36 metres from Haynes Street. Unit 2 - proposed first floor balconies setback 3.36 metres from Haynes Street, and second storey main dwelling setback 4.08 metres from Haynes Street. Unit 3 - proposed first floor balconies setback 3.08 metres from Haynes Street, and second storey main dwelling setback 4.08 metres from Haynes Street.

Use Class	Single House
Use Classification	'P'
Lot Area	574 square metres

SITE HISTORY:

The site is occupied by a circa 1920 single storey dwelling.

- 9 February 2004 Planning Application received by the Town.
- 26 March 2004 Revised plans were received by the Town, addressing a number of concerns raised by the Town's Officers including variations to plot ratio, open space and setbacks.
- 26 March 2004 Planning Application referred to Department for Planning and Infrastructure for their determination as it fronts Charles Street which is subject to Planning Control Area No. 54.

DETAILS:

The proposal involves the demolition of the existing single storey dwelling and erection of three single houses with Haynes Street as the primary street.

The subject site has dual frontage with Haynes Street and Charles Street.

The property abuts Charles Street, which is affected by Planning Control Area No. 54. Accordingly, the matter has to be determined by the Western Australian Planning Commission under the Metropolitan Region Scheme. 3.94 metres of road widening is proposed at this location with an associated truncation.

CONSULTATION/ADVERTISING:

The proposal was advertised to adjoining landowners and occupants in accordance with the Town's Policy relating to Community Consultation.

One submission was received expressing concerns primarily regarding the setback of proposed unit 1 from Charles Street. The submission describes an existing safety problem in this location, because Charles Street is a major arterial road and the location of a hill which inhibits a clear view of oncoming traffic. There is concern that once Charles Street has been widened, the proposed dwelling will reduce the visual sightlines increasing an already serious traffic problem.

LEGAL/POLICY:

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

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

Demolition

A detailed heritage assessment is contained in the attachment to this report.

The circa 1920 single storey cement rendered brick dwelling at No. 399 Charles Street, North Perth is a two bedroom residence, which has undergone extensive additions and alterations to the front fenestration and the rear of the dwelling and is considered to have diminished the authenticity of the place.

While some of the original features remain in situ such as decorative cornices and wooden floorboards, it is not considered that these features alone justify the retention of the house or qualify the place for consideration for entrance into the Town's Municipal Heritage Inventory. The place is not rare and is considered to be of little aesthetic, historic, scientific and social value. The subject dwelling contributes to the streetscape in terms of traditional setbacks and building style.

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

Setbacks from Primary Street

Unit 1

Proposed unit 1 has frontage to Charles Street and Haynes Street. 3.94 metres of road widening is proposed along Charles Street.

The proposed dwelling is setback a minimum of 5 metres from the current lot boundary to Charles Street. The applicant has designed this dwelling so that it is setback from the proposed road widening and car parking and private courtyard area can be provided within the lot after the road widening is resumed. Resumption of the land will result in a reduction in the open space and plot ratio calculations on site, however at the time of determination the proposal complies with the current requirements, and therefore the application should not be refused on the basis that road widening may occur in the future.

In this instance, the carport and the main pedestrian access into the dwelling is proposed from Haynes Street, therefore when interpreting the plan in accordance with the Residential Design Codes (R Codes), Haynes Street is considered to be the primary street.

The Town's Policy in relation to the Charles Locality states that a general height limit of two-storeys can be considered provided that the second storey is generally setback a minimum of 6 metres from the street.

In this instance, a proposed open style balcony is setback 1.5 metres from Haynes Street and the first floor is setback 3.36 metres from Haynes Street.

The elevations show the balcony as an 'open style and not roofed, therefore the balcony is not considered to unduly add to the bulk and scale of the building.

It is noted that the dwellings are located on a corner lot which restricts the proposed lots' effective depth to a general length of approximately 13.3 metres. In this instance, requiring the applicant to setback the first floor to 6 metres from Haynes Street is considered unreasonable and an inefficient use of land area. The presence of the balcony and differing floor plan of the first floor is considered to add some visual interest to this elevation and reduce the visual bulk of the building. The proposed design also allows portions to be setback from the northern boundary, allowing some northern facing courtyards which is a desirable solar passive design feature.

In this instance, it is considered appropriate that the upper floor plan of proposed unit 1 be modified so that no front main building wall of the proposed dwelling is within 4 metres of Haynes Street, which will require modification to bedroom 1. This will then make the dwelling setback generally comply with the Town's Officers current considerations for development on corner sites.

Units 2 and 3

The reduced first floor balcony setbacks from Haynes Street are supported in this instance as the balconies are open style, unroofed and are not considered to unduly increase the visual bulk and scale of the building.

The reduced first floor dwelling setback are also supported in this instance given the relatively narrow depth (13.3 metres) of the proposed lots.

Buildings on Boundary

The proposed variation to the building on boundary on the northern elevation is 3.7 metres high. In order to reduce the visual bulk of this wall to the adjoining neighbours, it is recommended that prior to the issue of a Building Licence, revised plans are prepared and approved demonstrating that this wall height is reduced to 3 metres to comply with the requirements of the R Codes.

The application also involves two-storey parapet walls between the proposed dwellings. The proposed design of the dwellings is considered to articulate the boundaries between the dwellings, and assists in breaking up the visual bulk of the building. The narrow depth and squareness of the proposed lots is also noted.

Carports within the front setback and Sightlines at Vehicle Access Points

The proposal includes double carports within the front setback along Haynes Street. The proposed balconies use a portion of the carports as the base of the balconies.

The carports are open in nature except where they abut the proposed main dwellings. The carports also take up less than 50 per cent of each lot frontage and therefore comply with these requirements of the R Codes.

Provided that revised plans are submitted and approved showing adequate and appropriate sight lines for vehicles entering and leaving the property, the carports within the front setback are supported.

Overshadowing

The proposed dwellings overshadow Haynes Street and therefore comply with the requirements of the Residential Design Codes.

Summary

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

10.1.11 No. 36 (Lot 33) Ruth Street, Dual Frontage with Edith Street, Perth - Proposed Demolition of Existing Single House and Construction of Two (2) Two- Storey Single Houses

Ward:	South	Date:	3 May 2004
Precinct:	Hyde Park, P12	File Ref:	PRO2657; 00/33/2015
Attachments:	001		
Reporting Officer(s):	S Bowman, J Barton, N Edgecombe		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That;

(i) 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 Corp Pty Ltd t/a Perceptions on behalf of the owner E Resteska for proposed demolition of existing single house at No. 36 (Lot 33) Ruth Street, dual frontage with Edith Street, Perth, and as shown on plans stamp-dated 5 January 2004, subject to the following conditions;

- (a) a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (b) an archival documented record of the place including photographs (internal, external and streetscape elevations), floor plans and elevations for the Town's Historical Archive Collection shall be submitted and approved prior to the issue of a Demolition Licence;*
- (c) a development proposal for the redevelopment of the subject property shall be submitted to and approved by the Town prior to the issue of a Demolition Licence;*
- (d) support of the demolition application is not to be construed as support of the Planning Approval/Building Licence application for the redevelopment proposal for the subject property;*
- (e) demolition of the existing dwelling may make the property ineligible for any development bonuses under the provisions of the Town of Vincent Town Planning Scheme No.1 and associated Policies for the retention of existing dwellings valued by the community;*
- (f) any redevelopment on the site should be sympathetic to the scale and rhythm of the streetscape in line with the provisions of the Town of Vincent Town Planning Scheme No.1 and associated Policies; and*
- (g) compliance with all relevant Environmental Health, Engineering and Building requirements;*

to the satisfaction of the Chief Executive Officer; and

(ii) *in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme the Council REFUSES the application submitted by the applicant J Corp Pty Ltd t/a Perceptions on behalf of the owner E Resteska for construction of two (2) two storey single houses at No. 36 (Lot 33) Ruth Street, Perth, and as shown on plans stamp-dated 5 January 2004, for the following reasons;*

- (a) *the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
- (b) *the non-compliance with the site area (density), plot ratio, setback, open space and privacy requirements of the Residential Design Codes; and*
- (c) *the non-compliance with the first floor front setback requirements of the Town's Policy relating to the Roberston Locality.*

Moved Cr Ker, Seconded Cr Torre

That the recommendation be adopted.

COUNCIL DECISION ITEM 10.1.11

Moved Cr Ker, Seconded Cr Torre

That the Item be DEFERRED as requested by the applicant.

CARRIED (9-0)

FURTHER REPORT:

Additional information to the Compliance Table is as follows:

Requirements	Required	* Proposed
Density	1 single house The density applying to the site is R80, however for single houses, the density is based on R60.	2 single houses R61.73.. 2.88 per cent density bonus. However, the density bonus does not apply to this site.

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

The plot ratio details have already been provided in the Agenda Report for Item 10.1.11.

LANDOWNER	E Resteska
APPLICANT:	J Corp Pty Ltd t/a Perceptions
ZONING:	Metropolitan Region Scheme - Urban Town Planning Scheme No.1 - Residential R80
EXISTING LAND USE:	Single House

COMPLIANCE:

Use Class	Single House
Use Classification	'P'
Lot Area	324 square metres

Requirements	Required	Proposed
Plot Ratio	0.65 (210.6 square metres)	0.88 (285.12 square metres)
Setbacks Unit 1 - Ground floor		
Front	4 metres	3.5 metres
Side (east)	1.5 metres	1.0 metre
Side (West)	Boundary walls are permitted for 2/3 length of boundary, with an average height of 3 metres.	Boundary wall is 3.2 metres average height.
Unit 1- Upper Floor		
Front	6 metres	3.5 metres
Side (east)	1.5 metres	1.0 metre
Side (west)	1.2 metres	1.0 metre
Unit 2 - Ground floor		
Front	4.0 metres	3.5 metres
Side 1(west)	1.5 metres	1.0 metre
Front - garage	Behind front main dwelling wall	Forward of front main dwelling wall (nil)
Unit 2 - Upper floor		
Front	6.0 metres	3.5 metres
Side (east)	1.5 metres	1.0 metre
Side (west)	1.2 metres	1.0 metre
Density- R60	1 single house	2 single houses
Open Space	45 percent	42.2 percent
Privacy - Cone of Vision Encroachment		
Unit 2 - Windows to Bedrooms two and three	Bedroom window are to be 4.5 metres from the boundary or suitable screened	Bed 3 is 2.5 metres to east boundary and bedroom 2 is 2.5 metres to west boundary

SITE HISTORY:

The subject site is occupied by a single storey house fronting Ruth Street. The rear boundary of the lot fronts Edith Street.

DETAILS:

The applicant seeks approval for demolition of the existing single storey house and construction of two (2) two-storey dwellings, with one fronting Ruth Street and the other fronting Edith Street.

The applicant submitted the attached justification and photographs in support of the proposed variations.

CONSULTATION/ADVERTISING:

The proposal was advertised for a two week period in accordance with the requirements of the Residential Design Codes (R Codes) and the Town's Policy relating to Community Consultation. No objections were received during this period.

In addition, the applicant has submitted twenty (20) signed letters of no-objection to the development from neighbouring residents along Ruth Street and Edith Street.

LEGAL/POLICY:

Town Planning Scheme No.1 and associated Policies, and the Residential Design Codes (R-Codes).

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

Demolition

An application has been received for the demolition of the above building.

The subject dwelling at No. 36 Ruth Street appears to have been constructed in 1933, after the City of Perth granted a Building Licence to Mr C. Raabe to build a single storey brick and tile dwelling. According to the Metropolitan Sewerage plans of 1953, Ruth Street had been fully developed by this time with a variety of brick and wood residences.

The subject dwelling features a central front entrance, three bedrooms, living room and bathroom, with a laundry, kitchen and dining room to the rear. The place is a basic brick and tile dwelling that has been modified to meet the need for increased living areas. The internal floor plan appears somewhat altered, as the west sleep out has been divided into two bedrooms and other changes to the rear such as kitchen renovations have also taken place. There is a galvanised iron garage constructed in 1988, a brick and iron shelter and a vegetable garden in the rear yard.

The streetscape along Ruth Street consists of mostly single storey dwellings, with some second storey additions. Brick and tile dwellings remain in situ either side of the subject dwelling, however there are at least two new residential constructions along the northern side of the street and a new commercial building at the eastern end of the street at No. 911.

The subject place is not considered to meet the threshold for the Town's Municipal Heritage Inventory and is not listed on the Interim Heritage Database. Overall it is considered to have little to no cultural heritage value and it is considered that the place does not warrant a full heritage assessment. It is recommended that the application for the demolition of the existing dwelling be approved, subject to standard conditions.

Density

The subject land is zoned R80, and under the R-Codes, *"all standards for Grouped Dwellings and Single Houses within R80-R160 areas are as for the R60 Code"*. Given this, and that multiple dwellings are not permitted in the Hyde Park Precinct, the R60 density applies in this instance.

The applicants are proposing two (2) lots on 324 square metres. Under the current R-Codes, an average of one hundred and eighty (180) square metres, and a minimum of one hundred and sixty (160) square metres is required per lot for single houses.

The applicant is proposing two single houses, with an average site area of 162 square metres. A five (5) per cent site area variation under Clause 3.1.3 of the R-Codes is not considered appropriate in this instance, as the proposal is not considered to address the relevant performance criteria. However, even after applying the five (5) per cent variation, the proposal stills fall short of the required site area for single houses.

The applicants have not submitted a subdivision application as yet for the site, and it is also considered that the proposal does not satisfy clause 20(2) of the Town's Town Planning Scheme No. 1.

Given that the proposal does not meet the average site area requirements for single houses, the proposal is therefore not supported.

Open Space

The open space variation is not considered appropriate, given that this will be a vacant site once the building is demolished, and as such there is scope to design two dwellings which comply with the 45 per cent open space requirement.

Additionally, the proposal is not considered to provide sufficient open space to compliment the building, or to allow for attractive streetscapes.

In light of the above, the proposal is not considered to address the relevant performance criteria under Clause 3.4.1 of the R-Codes, and the variation is not supported.

Setbacks and Boundary Wall

The setback variations to Unit 1 and Unit 2, and the nil front setback to the garage to Unit 2, and the parapet wall exceed the average height requirements, as highlighted in the above Compliance Table, are not considered to be in-keeping with the area, and the garage is considered to dominate the streetscape and create an undue impact on the amenity of the street.

It is noted that there are several garages with nil setbacks to Edith Street, however, the majority of which are single dwelling lots with Edith Street forming the secondary street, not the primary frontage. Given that Edith Street is the primary frontage for proposed Unit 2, a 4.5 metres setback to the garage is required, especially given that surrounding properties will subdivide in the future, and Edith Street will form the primary street frontage for many new developments.

In light of the above, and given the extent of other variations proposed, the setback variations are not supported.

Privacy

The above-mentioned privacy issues are considered minor and can be addressed via appropriate screening conditions, in the event that the Council resolves to approve the proposed development.

Plot Ratio

The plot ratio variations, together with the other variations, are considered to increase the bulk and scale of the proposal, which is not in-keeping with the area, and is considered to create an undue impact on the adjoining neighbours and the area generally.

In light of the above, the variation is therefore not supported.

Conclusion

Given the above, and the extent and nature of the variations sought, the proposed development is not considered to contribute towards the amenity of the area, and refusal is recommended.

10.1.12 No. 18 (Lot 15) Brisbane Street, Corner Bulwer Street, Perth – Proposed Sale Sign to Approved Mixed Use Development Comprising Three (3) Offices and Eight (8) Multiple Dwellings

Ward:	South	Date:	3 May 2004
Precinct:	Beaufort, P13	File Ref:	PRO1838; 00/33/2186
Attachments:	001		
Reporting Officer(s):	R Rasiah		
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 REFUSES the application submitted by J Mulligan on behalf of the owner Saville Property Group P/L for proposed sale sign to approved mixed use development comprising three (3) offices and eight (8) multiple Dwellings, at No. 18 (Lot 15) Brisbane Street, corner Bulwer Street, Perth, and as shown on plans stamp dated 22 April 2004, for the following reasons:

- (i) the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
- (ii) the non-compliance with the Town's Policy relating to Signs and Advertising; and*
- (iii) the development would create an unacceptable precedent for other signage on similar size developments.*

Moved Cr Franchina, Seconded Cr Ker

That the recommendation be adopted.

Debate ensued.

Cr Torre departed the Chamber at 8.25pm.

COUNCIL DECISION ITEM 10.1.12

Moved Cr Lake, Seconded Cr Farrell

That the Item be DEFERRED to allow further investigation.

CARRIED (7-1)

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

<u>For</u>	<u>Against</u>
Mayor Catania	Cr Doran-Wu
Cr Chester	
Cr Cohen	
Cr Farrell	
Cr Franchina	
Cr Ker	
Cr Lake	

LANDOWNER: Saville Property Group P/L
APPLICANT: J Mulligan
ZONING: Metropolitan Region Scheme (MRS) - Urban
Town Planning Scheme No. 1 – Residential Commercial
R80
EXISTING LAND USE: Vacant

COMPLIANCE:

Requirements	Required	Proposed
Sale sign-signage area	2 square metres	24.48 square metres

Use Class	Office Building and Multiple Dwellings
Use Classification	“AA” & 'P'
Lot Area	873 square metres

SITE HISTORY:

The proposed sign was previously erected without Council approval within the Road Reserve at the corner of Brisbane and Bulwer Streets. The owners were requested to remove the sale sign from the Road Reserve and further advised that if they still wanted a "sale sign" for the development, it had to be located within the property, and that they had to lodge a formal planning application with the Town of Vincent for consideration. The owners were also required to remove the construction site office, which also doubled up as a “sales office” within the above Road Reserve, and relocate to within the lot.

DETAILS:

The applicant seeks to install a non-illuminated “sale sign” associated with the approved mixed use development consisting offices and multiple dwellings, which are to be built at the above site. The dimensions of the sign are 7.2 metres by 3.4 metres, and when measured from ground level is 4.1 metres in height. The sign is to be located on the eastern side corner within the lot.

CONSULTATION/ADVERTISING:

The proposal was not advertised as it is associated with the current development proposed for the site, and is being referred to the Council for its consideration.

LEGAL/POLICY:

Town Planning Scheme No. 1 and associated Policies.

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

Under the provisions of the Town's Policy relating to Signs and Advertising, a sale sign should not be more than two (2) square metres. The proposed sign is to be 24.48 square metres. The variation proposed is considered excessive and is likely to dominate the immediate area and streetscape, and does not commensurate in terms of the size of the property and location of the sign on the site. Furthermore, the proposed sign is considered undesirable and, if approved, would create an unacceptable precedent for signs proposed for other similar developments.

On the above basis, it is recommended that the proposed sale sign be refused.

10.1.14 Introduction of Paid Parking in Newcastle Street, between Loftus Street and Carr Place, Leederville

Ward:	South	Date:	5 May 2004
Precinct:	Oxford Centre, P4	File Ref:	PKG0012
Attachments:	-		
Reporting Officer(s):	J MacLean, A Munyard, R Lotznicher		
Checked/Endorsed by:	R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the report on the proposed introduction of Paid Parking in Newcastle Street, between Loftus Street and Carr Place, Leederville;*
- (ii) *APPROVES in principle the installation of eight (8) parking ticket issuing machines in Newcastle Street, between Carr Place and Loftus Street, Leederville;*
- (iii) *APPROVES in principle the inclusion of Newcastle Street, between Carr Place and Loftus Street, Leederville as a Ticket Machine Zone, within the Town of Vincent;*
- (iv) *pursuant to Sections 3.12 to 3.17 of Subdivision 2 of Division 2 of Part 3 of the Local Government Act 1995 APPROVES BY A SPECIAL MAJORITY the proposal to amend the Town of Vincent Local Law Relating to Parking Facilities to include Newcastle Street, Leederville as a Ticket Machine Zone as follows,*

LOCAL GOVERNMENT ACT 1995 (as amended)

TOWN OF VINCENT PARKING FACILITIES LOCAL LAW

AMENDMENT

In pursuance of the powers conferred upon it by 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 May 2004 to amend the Town of Vincent Parking Facilities Local Law published in the Government Gazette on 23 May 2000 by:

- (a) *Amending the existing First Schedule relating to Ticket Machine Zones – Periods and Fees, as follows:*
 - (1) *by inserting in column 1 “North and South sides of Newcastle Street, Leederville”;*
 - (2) *by inserting in column 2 “Between Carr Place and Loftus Street”; and*
 - (3) *by inserting in column 3 “8.00am to 8.00pm Monday to Sunday”;*
- (v) *in accordance with the provisions of Section 3.12 of the Local Government Act 1995 as amended, advertises on a State-wide basis, indicating where and when the proposed amendment may be viewed and seeking public comment on the proposed amendment to the Town of Vincent Parking Facilities Local Law; and*
- (vi) *RECEIVES a further report after the expiry of the statutory consultation period listing any comments from the public and providing any further recommendations considered appropriate.*

COUNCIL DECISION ITEM 10.1.14

Moved Cr Chester, Seconded Cr Doran-Wu

That the recommendation be adopted.

Cr Torre returned to the Chamber at 8.27pm.

CARRIED BY AN SPECIAL MAJORITY (9-0)

BACKGROUND:

Ticket Issuing Machines

The Town's Law and Order Services Officers have identified that parking in the Leederville area is extremely congested and there are very few regularly available parking spaces in most of the streets. In Part 2.2 of the Town of Vincent Car Parking Strategy, dated January 2002 (on page 3), it was identified that the nature of the businesses in the Oxford Centre area tends to generate demand for parking facilities. The report specifies:

"The Leederville Car Parks are consistently utilised throughout the day. Generally the streets surrounding the popular car parking generating uses such as restaurants, entertainment facilities and Leederville TAFE are in demand."

DETAILS:

Proposed Installation of Ticket Issuing Machines - Newcastle Street - Carr Place to Loftus Street

The Town of Vincent Car Parking Strategy has adopted the principles recommended by Austroads in regard to Paid Parking. Austroads lists the following as imperatives when considering the implementation of ticket parking zones:

- Not creating parking difficulties for residents;
- Being part of an overall parking strategy;
- Having a surrounding set of parking restrictions that contain the proposed paid parking, and not permitting parking to simply migrate to adjacent areas;
- Having a sufficient and regular turnover of parking vehicles in order to be economically viable;
- Providing a level of attractiveness sufficient to justify the cost; and
- Not having an adverse impact on the economic viability of adjacent shopping areas

All the above have been addressed in the course of deciding that paid parking is considered the best solution to the shortage of available parking in this section of Newcastle Street. This is a commercial zone, in close proximity to the Town's Frame Court Car Park, which provides a facility for long term parking for staff of surrounding businesses as well as clients whose business will take time to conclude.

A two (2) hour restriction is currently in place on both sides of the Leederville section of Newcastle Street. Nevertheless, the staff of many of the businesses in the area tend to park in Newcastle Street, between Carr Place and Loftus Street, and simply move their vehicle from one bay to another, every two hours. While this prevents the vehicles from being issued with an infringement notice, it does nothing to relieve the demand for casual parking places for clients and visitors. One of the strategies, used to create a turn-over of available parking bays, is to install ticket issuing machines in kerbside locations, thereby making it more attractive for all-day parking in Frame Court Car Park or The Avenue Car Park, where pre-paid concessional parking permits are available.

All surrounding streets have time restricted parking. In Oxford Street, a one (1) hour restriction is in place between 8am and 5.30pm, Monday to Friday and between 8am and 12 noon on Saturdays. This ensures frequent turn over of available parking to meet the needs of shoppers and short term visitors to the area. Carr Place, which is a mixed commercial and residential street, is also protected by a similar one (1) hour restriction adjacent to the entirely commercial section at the Newcastle Street end. The remainder of the street has a two (2) hour restriction during business hours, with the Council recently approving the extension of the restriction on the north side of the street (which is primarily residential) to be in place at all times. This amendment was welcomed by residents who felt negatively affected by hotel and restaurant patrons parking in the street.

It would be expedient for the Council to determine the matter of paid parking in Newcastle Street prior to the implementation of the proposed streetscape enhancements so that the ticket machines can be installed as an integral part of the works. It has been determined that eight (8) parking ticket issuing machines would be sufficient to cover the whole of Newcastle Street, between Carr Place and Loftus Street. There are two (2) existing Work Zones in Newcastle Street, however these will return to general kerbside parking bays before the end of 2004, the estimated completion time of the construction.

CONSULTATION/ADVERTISING:

Consultation and advertising are proposed as per statutory requirement and are detailed in the recommendations to the Council.

LEGAL/POLICY:

In accordance with Local Government Act 1995.

STRATEGIC IMPLICATIONS:

The proposal reflects the directions defined in the Town's Strategic Plan 2003 – 2008, Key Result Area One; Section 1.4 (p)

“Develop a strategy for parking management in business, residential and mixed use precincts, that includes

- *parking facilities that are appropriate to public needs*
- *a clear indication that it is the developer's responsibility to provide on-site parking;*
- *protection of the rights of local residents to park in their street where limited off street parking is available”.*

FINANCIAL/BUDGET IMPLICATIONS:

An amount of \$72,000 has been listed for consideration in the Draft 2004/2005 Budget.

COMMENTS:

As outlined above, employees of many of the businesses in the area tend to park in Newcastle Street, between Carr Place and Loftus Street, and simply move their vehicles from one bay to another every two hours. While this prevents the vehicles from being issued with an infringement notice, it does nothing to relieve the demand for casual parking places for clients and visitors. One of the strategies used to create a turnover of available parking bays, is to install ticket issuing machines in kerbside locations, thereby making it more attractive for all-day parking in Frame Court Car Park or The Avenue Car Park, where prepaid concessional parking permits are available.

It is therefore recommended that the Council commences the process with regard to the implementation of paid parking in Newcastle Street and receives a further report at the conclusion of the consultation period. It should be noted that Newcastle Street, between Carr and Loftus Streets is proposed to be upgraded. Refer to Item 10.2.1 on this agenda.

10.2.1 Proposed Amendment to the Long Term Commercial Precinct Streetscape Upgrade Program, Including Newcastle Street

Ward:	South	Date:	4 May 2004
Precinct:	Oxford Centre P4	File Ref:	TES0316
Attachments:	001		
Reporting Officer(s):	R Lotznicher		
Checked/Endorsed by:	-	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the report on the Proposed Amendment to the long term Commercial Precinct Streetscape Upgrade Program;*
- (ii) *ENDORSES an amendment to the Commercial Precinct Streetscape Upgrade Program which includes the staging of the streetscape upgrade of Newcastle Street between Carr Place and Fitzgerald Street over several financial years with stage one planned to commence in 2004/2005;*
- (iii) *NOTES that two (2) options for the upgrade of Newcastle Street between Carr Place and Loftus Street have been presented in the report as follow:*
 - (a) *Option 1 as outlined on attached plan No 2271-CP-1 proposed to be staged over two (2) financial years at a total estimated cost of \$160,000;*
 - (b) *Option 2 as outlined on attached plan No 2271-CP-2, estimated to cost \$646,000, which comprises a much higher standard of streetscape and provides a more defined gateway into the Oxford Centre. This option would need to be staged over several financial years;*
- (iv) *ADOPTS either Option 1 or Option 2 as its preferred streetscape upgrade option for the section of Newcastle Street between Carr Place and Loftus Street prior to seeking the comments of the community;*
- (v) *LISTS an amount of \$70,000 for consideration in the 2004/2005 draft budget for the commencement of a staged upgrade of the Streetscape in of Newcastle Street between Carr Place and Loftus Street;*
- (vi) *CONSULTS with the business proprietors in the section of Newcastle Street listed in clause (iii) and gives them 21 days to provide comments with regards the adopted proposal; and*
- (vii) *RECEIVES a further detailed report at the conclusion of the consultation period.*

Moved Cr Chester, Seconded Cr Cohen

That the recommendation be adopted.

Debate ensued.

Cr Franchina departed the Chamber at 8.35pm.

Moved Cr Chester, Seconded Cr Ker

That existing clauses (ii), (iii), (iv), (v), (vi) and (vii) be deleted, and new clauses (ii) and (iii) inserted as follows:

- "(ii) Prior to adopting a preferred upgrade option for Newcastle Street requests the Chief Executive Officer to investigate the following matters:*
- (a) as part of the development of the Leederville Master Plan determines what yield can be obtained from any Council owned land in the Study Area with a view that any proposed rezoning and sale of land could significantly fund the upgrade of the Leederville Precinct area;*
 - (b) develops a business plan to define what funding and grants are available to the Town for it to be able to implement works as outlined in option 2 of the proposed Newcastle Street Streetscape upgrade;*
 - (c) determines the total estimated cost to upgrade the overall Leederville Precinct area and identifies the required cash flow to determine the overall project viability.*
- (iii) RECEIVES a further report on the matter as outlined in clause (ii) in conjunction with the Leederville Masterplan Report (intended for completion in October 2004)."*

Debate ensued.

It was requested that the existing clause (v) remain and renumbered to (iv). This was agreed by the Mover and Seconder.

Cr Franchina returned to the Chamber at 8.37pm.

AMDENDMENT CARRIED (8-1)

<u>For</u>	<u>Against</u>
Mayor Catania	Cr Doran-Wu
Cr Cohen	
Cr Chester	
Cr Farrell	
Cr Franchina	
Cr Ker	
Cr Lake	
Cr Torre	

MOTION AS AMENDED CARRIED (9-0)

COUNCIL DECISION ITEM 10.2.1

That the Council;

- (i) RECEIVES the report on the Proposed Amendment to the long term Commercial Precinct Streetscape Upgrade Program;*
- (ii) Prior to adopting a preferred upgrade option for Newcastle Street requests the Chief Executive Officer to investigate the following matters:*
 - (a) as part of the development of the Leederville Master Plan determines what yield can be obtained from any Council owned land in the Study Area with a view that any proposed rezoning and sale of land could significantly fund the upgrade of the Leederville Precinct area;*
 - (b) develops a business plan to define what funding and grants are available to the Town for it to be able to implement works as outlined in option 2 of the proposed Newcastle Street Streetscape upgrade;*
 - (c) determines the total estimated cost to upgrade the overall Leederville Precinct area and identifies the required cash flow to determine the overall project viability;*
- (iii) RECEIVES a further report on the matter as outlined in clause (ii) in conjunction with the Leederville Masterplan Report (intended for completion in October 2004); and*
- (iv) LISTS an amount of \$70,000 for consideration in the 2004/2005 draft budget for the commencement of a staged upgrade of the Streetscape in of Newcastle Street between Carr Place and Loftus Street.*

BACKGROUND:

The main purpose of this report is for the Council to consider staging the streetscape upgrade of Newcastle Street between Carr Place and Fitzgerald Street over four (4) or more financial years commencing in 2004/2005 and to amend the Commercial Streetscape Upgrade program.

Streetscape Improvements

In 1997 the Town received funding from the Metropolitan Regional Road Program for the rehabilitation of the section of Beaufort Street between Chelmsford and Mary Streets. These funds allowed for the upgrading of the road surface and rekerbing. In addition the Council allocated additional funds for improvements to the streetscape along this section of Street.

The improvements included the following:

- Removal of the existing slab footpath and replacing with brick paving
- Installation of appropriate street furniture
- The provision of pedestrian refuge islands
- Reticulated landscaping.

A theme for these streetscape improvements was prepared and following a public meeting with the local business community, the works were implemented.

Through the combined funding of Main Roads WA (MRWA) and the Town the remainder of Beaufort Street was progressively upgraded to Brisbane Street over successive financial years.

In addition, through this combined funding effort, Fitzgerald Street, between Angove Street and Raglan Road, and between Vincent and Bulwer Streets, were also upgraded to the same standard as Beaufort Street and more recently this has included Angove Street.

Since that time the Beaufort Street “streetscape theme” has also been implemented outside various developments in the Town where the developer has wholly or part funded the works, in conjunction with the Town.

On 20 December 1999 the Council considered a report on a long term streetscape upgrade program outside main shopping precincts and commercial premises within the Town where the following resolution was adopted (in part).

That the Council;

- (i) *ADOPTS year one, 2000/2001, of the shopping centre and commercial precincts streetscape upgrade program as outlined in the report and includes \$195,000 in the 2000/2001 budget to implement the works;*
- (ii) *APPROVES IN PRINCIPLE the remaining eight (8) years of the program as outlined in the report, subject to the program being reviewed during the annual budget process; and*

Note: The eight (8) years of the program as outlined in the report is outlined below:

Year	Project	Location	Estimated Cost \$	Comments
00/01	William St	Brisbane St to Newcastle St (Asiatown)	\$195,000	On Hold – concepts being considered
01/02	Scarb Bch Rd	Federation St to Killarney St	\$175,000	Design in progress (03/04)
02/03	Angove St	Fitzgerald St to Daphne St	90,000	Completed
	Lord St	Brewer St to Edward St	30,000	Completed
	Walcott St	William St to Burt St	45,000	Completed
			\$165,000	
03/04	Lord St	Summer St to Marlborough St	110,000	Not commenced
	Walcott St	Redfern St to Fitzgerald St	65,000	Completed
			\$175,000	
05/06	Scarb Bch Rd	Charles St to Hardy St	75,000	
	Fitzgerald St	Bulwer St to Newcastle St	125,000	
			\$200,000	
06/07	Oxford St	Richmond St to Tennyson	\$110,000	Completed
07/08	Newcastle St	Carr St to Loftus St	\$165,000	
08/09	Beaufort St	Brisbane St to Parry St	\$125,000	
09/10	Newcastle St	Loftus St to Fitzgerald St	\$175,000	

DETAILS:

Streetscape Improvement Standards

The streetscape improvement theme implemented in the late 90's through to the early 2000's has consisted mainly of replacing the existing slab footpaths with clay pavers, planting of suitable street trees in verges and median islands (where possible), the installation of street furniture including litter bins, and seats where appropriate, and new kerbing including road profiling and resurfacing (where funded by MRWA).

In 2002 as part of the Angove Street streetscape upgrade works, local business proprietors and the Council were keen to develop an attractive streetscape which included more street furniture and large trees and landscaping.

In preparing the design for Angove Street, a landscape architect was commissioned to provide useful advice particularly with regards future designs giving greater priority to planted areas and tree locations and spacings.

The Angove Street project is a good example where the landscape theme dictated the infrastructure upgrade proposal where for example the type of trees chosen for the centre of the road dictated the width of the central median island and where tree spacings were carefully determined.

Following a Notice of Motion requesting that the Town's officers identify ways of improving the amenity and aesthetic contribution of street trees in streetscape upgrades, at its Ordinary meeting held on 9 September 2003 the Council considered a report in relation to street trees located in the Town of Vincent's Town Centres and it was resolved (in part).

That the Council;

- (ii) notes the principles and recommendations outlined in the report in relation to improvements to existing and future streetscape improvements in the Town;*
- (iii) notes that increased budget allocations will be required in subsequent financial years to implement a higher level of streetscape improvements;*
- (iv) considers implementing a staged upgrade of existing streetscapes, commencing in the 2004/05 financial year to incorporate the principles outlined in the report, subject to the preparation of a further report outlining a proposed implementation timetable, details of individual improvement proposals and financial implications;*
- (v) consistent with the Angove Street project, supports shade and street trees and plantings being considered as a major element in any future streetscape upgrades; and*

The principles outlined in the report for future streetscape improvements included the following

- *Adequate median island widths*
- *Uniform spacing of trees (where possible)*
- *Inground reticulation preferable, linked to a domestic bore most desirable*
- *Tree guards around verge trees located where there is high pedestrian traffic*
- *Suitable tree specimens to be selected from the following table*

Native Species			
Median *		Verge *	
Botanical Name	Common Name	Botanical Name	Common Name
<i>Angophora costata</i>	Apple Gum	<i>Agonis flexuosa</i>	Weeping Peppermint
<i>Brachychiton acerifolia</i>	Illawarra Flame Tree	<i>Callistemon viminalis</i>	Weeping Bottlebrush
<i>Eucalyptus maculata</i>	Spotted Gum	<i>Callistemon "Perth Pink"</i>	Perth Pink Bottlebrush
<i>Melaleuca quinquinervia</i>	Paper Bark	<i>Eucalyptus ficifolia</i>	Red Flowering Gum
		<i>Eucalyptus leucoxlyn "rosea"</i>	Pink Flowering Gum
		<i>Eucalyptus torquata</i>	Coral Gum
		<i>Melaleuca linarifolia</i>	Snow in Summer

Exotic Species			
Median *		Verge *	
Botanical Name	Common Name	Botanical Name	Common Name
<i>Fraxinus raywoodi</i>	Claret Ash	<i>Fraxinus griffithii</i>	Evergreen Ash
<i>Jacaranda mimosaeifolia</i>	Jacaranda	<i>Sapium sebiferum</i>	Chinese Tallow
<i>Liquidamber styraciflua</i>	Liquid Amber	<i>Olea europa</i>	Olive
<i>Platanus x acerifolia</i>	London Plane	<i>Tipuana tipu</i>	Pride of Bolivia
<i>Platanus orientalis</i>	Oriental Plane		
<i>Pyrus ussuriensis</i>	Manchurian Pear		
<i>Ulmus parvifolia</i>	Chinese Elm		

* Dependent on width of median island and verges, various other native species may be suitable.

Proposal for Newcastle Street (Between Carr Place and Loftus Street)

Two Options for the Council's consideration have been developed.

Option 1

This Option maintains the current road alignment and upgrade the footpaths with an Angove Street Streetscape theme which will include the following as shown on plan No 2271-CP-1

- Removal of slab paths. Installation of Pilbarra Iron clay paving with charcoal header
- Verge trees located behind kerb at 6m spacing (Chinese Tallows).
- Garden beds where appropriate
- Decorative public Litter Bins and seats
- Bicycle Parking rails.New signage.Removal of existing kerbing/Installation of new Kerbing
- Installation of strategically placed raised plateaus (red asphalt)
- Minor drainage improvements.Line Marking.
- Installation of a domestic bore.

This option would be staged over 2 financial years commencing in 2004/2005.

The total cost of **Option 1** is as follows:

	Stage 1	Stage 2
Kerbing	8,000	8,000
Paving	48,000	42,000
Reticulation	8,000	8,000
Trees	6,000	6,000
Street Furniture		12,000
Bore / Pump		8,000
Electrical		6,000
Total	\$70,000	\$90,000

Note: \$70,000 is currently listed in the 2004/2005 draft budget for the Council's consideration

Should Option 1 be adopted by the Council the existing program would be amended as follows:

Newcastle Street - Carr to Loftus Street is currently listed for 2007/2008 and the section between Loftus and Fitzgerald is listed for 2009/2010. It is recommended that Newcastle Street be staged over 4 financial years from 2004/2005 to 2007/2008 as follows:

2004/2005	Stage 1	Newcastle Street <i>South side</i> - Carr Place to Loftus Street	\$70,000.
2005/2006	Stage 2	Newcastle Street <i>North Side</i> - Carr Place to Loftus Street	\$90,000
2006/2007	Stage 3	Inclusion of Newcastle Street <i>North Side</i> Loftus Street to Charles St (Boundary Rd)	\$130,000
2007/2008	Stage 4	Newcastle Street <i>North Side</i> Charles Street to Fitzgerald Street (Boundary Rd)	\$50,000

Option 2

This option will provide a higher level of streetscape upgrade as a gateway into the Oxford Centre and would need to be staged over several financial years depending on the availability of funding available.

This option comprises the following elements:

- Embayed parking
- Centrally planted trees (Cut leaf Plane trees)*
- Verge plantings (Chinese Tallows)
- Double outreach Central road lighting.
- Street furniture
- Brickpaved paths (as per option 1)
- Bore / Reticulation
- New Kerbing
- Entry Statements
- Line marking, signage.
- Underground power (subject to funding)

Note: The Oxford centre Study recommends London Plane Trees for this section of Newcastle Street.

The total cost of the proposal is as follows

	Stage 1	Stage 2	Stage 3	Stage 4
Kerbing	25,000	10,000		
Paving	60,000	55,000		
Reticulation	15,000	20,000		
Trees	29,000	6,000		
Street furniture		10,000		
Bore / Pump		10,000		
Electrical		6,000		
Lighting			50,000	
Underground Power				350,000*
Entry Statements		5,000		
Subtotals	\$129,000	\$117,000	\$50,000	\$350,000
TOTAL	\$646,000			

Note: There is a section of high tension cables on the south side of Newcastle Street which may result in additional costs being incurred.

CONSULTATION/ADVERTISING:

What ever option is adopted by the Council will be advertised to the public for a period of 21 days.

LEGAL/POLICY

As previously reported to the Council the difficulty of growing trees to maturity within a sometimes "hostile" environment and safety considerations should be taken into when considering planting of trees within the road reserve.

Main Roads (WA) have compiled a draft document referring to the placement of vegetation within a road reserve. The information is based on the AASHTO (2002) *Roadside Design Guide*, American Association of State Highway Transportation Officials.

Dependant on the speed restrictions and location and road conditions the document makes various recommendations in relation to the type and height of vegetation and how close it is planted to the nearest driving lane edge.

While the planting of trees along street verges and within median islands is common practice, in future, Local Governments and other Road controlling bodies need to consider any legal ramifications prior to planting large trees in restrictive areas.

STRATEGIC IMPLICATIONS:

In accordance with Key Result Area One of Strategic Plan 2003-2008 - 1.4 Maintain and enhance the Town's infrastructure to provide a safe, healthy, sustainable and functional environment. *"b) Continue to develop and implement annual road rehabilitation and upgrade programs."*

FINANCIAL/BUDGET IMPLICATIONS:

An amount of \$70,000 has been allocated in the 2004/2005 draft budget.

COMMENTS:

The report details principles and makes recommendations on how to improve existing streetscapes and what should be considered in future street works.

In addition the success of the streetscape upgrades carried out in the Town to date suggests that most members of the community, be they businesses, visitors or residents, are very much in favour of these types of upgrading works.

Streetscape improvements not only improve the aesthetics of roadways but also reduce the liability on the Town resulting from ageing and unsafe footpaths and pavements.

Business proprietors have in the past indicated they want a high quality streetscape to give an area some sort of identity. It is considered that this section of Newcastle Street comprises a gate way into the Oxford Centre.

It is therefore recommended that the Council receives the report and NOTES that two (2) options for the upgrade of Newcastle Street between Carr Place and Loftus Street have been presented as follow:

- Option 1 as outlined on attached plan No 2271-CP-1 proposed to be staged over two (2) financial years at a total estimated cost of \$160,000;
- Option 2 as outlined on attached plan No 2271-CP-2, estimated to cost \$635,000, which comprises a much higher standard of streetscape and provides a more defined gateway into the Oxford Centre. This option would need to be staged over several financial years;

It is further recommended that the Council adopts either Option 1 or Option 2 as its preferred streetscape upgrade option for the section of Newcastle Street between Carr Place and Loftus Street prior to seeking the comments of the community, and receives a further report on the matter at the conclusion of the community consultation period.

10.2.2 Berryman Street Playgroup – Installation of Shade Sail

Ward:	North	Date:	5 May 2004
Precinct:	Mt Hawthorn – P1	File Ref:	CMS0028
Attachments:	-		
Reporting Officer(s):	J van den Bok; K Steicke		
Checked/Endorsed by:	R Lotznicher	Amended by:	

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the report in relation to the installation of a shade sail at Berryman Street Playgroup; and*
- (ii) *APPROVES BY AN ABSOLUTE MAJORITY the re-allocation of \$6000 from the 2003/04 Budget “Shade Structure – Banks Reserve Courtyard” to a new budget item “Berryman Street Playgroup – Installation of Shade Sail.*

COUNCIL DECISION ITEM 10.2.2

Moved Cr Chester, Seconded Cr Torre

That the recommendation be adopted.

CARRIED BY AN ABSOLUTE MAJORITY (9-0)

BACKGROUND:

An amount of \$6000 was listed in the Town’s 2003/04 Capital Works Budget for the installation of a shade sail in the courtyard at Banks Reserve.

After assessing the location a shade sail was not considered necessary and further investigation could not reveal where the request for a shade sail had originated from.

Subsequently this project was not progressed and the budget amount of \$6000 has been noted as a surplus for future budget reviews.

DETAILS:

The Town’s Property Maintenance Officer received a letter on the 10 March 2004 from the Earlybirds Playgroup Inc. who are based at the Berryman Street Centre.

They indicated that they had completed a number of improvements at the centre and in order to maximise usage of the outdoor area were hoping to install a shade sail.

The group have previously tried to raise the funding required via Community Grant Funding opportunities, however were deemed ineligible as the centre is Local Government owned.

At a budget briefing session held on Saturday 1 May 2004, with the Mayor, Elected Members, and Executive Management it was proposed that this project be implemented during the 2003/04 Financial Year by re-allocating funds from the Banks Reserve Project.

CONSULTATION/ADVERTISING:

Nil.

LEGAL/POLICY:

Nil

STRATEGIC IMPLICATIONS:

In accordance with Key Result Area One of the Strategic Plan 2003-2008 – 1.4 Maintain and enhance the Town's infrastructure to provide a safe, healthy, sustainable and functional environment. *“i) Develop a program to make all playgrounds universally accessible.”*

FINANCIAL/BUDGET IMPLICATIONS:

A quotation has been received to undertake the works requested at a total cost of \$5,926.80 including GST.

COMMENTS:

Should the re-allocation of funding be approved by the Council this project will be initiated immediately and will be completed prior to the end of the 2003/04 Financial Year.

The Chief Executive Officer advised that the Mayor declared a financial interest in this Item and he departed the Chamber at 8.47pm. He did not speak or vote on the matter.

Cr Ker assumed the Chair.

10.3.1 Investment Report

Ward:	-	Date:	29 April 2004
Precinct:	-	File Ref:	FIN0005
Attachments:	001		
Reporting Officer(s):	J Wearing		
Checked/Endorsed by:	N Russell	Amended by:	

OFFICER RECOMMENDATION:

That the Council RECEIVES the Investment Report for the month ended 30 April 2004 as detailed in Appendix 10.3.1.

COUNCIL DECISION ITEM 10.3.1

Moved Cr Lake, Seconded Cr Cohen

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 in Appendix 10.3.1. 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 30 April 2004 were \$9,951,125 compared with \$9,951,125 at 31 March 2004. At 30 April 2003, \$12,621,500 was invested.

Total accrued interest earned on Investments as at 30 April 2004:

	Budget	Actual	%
	\$	\$	
Municipal	300,000	230,229	76.74
Reserve	342,000	324,735	94.95

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.

10.3.3 Debtor Write-off

Ward:	-	Date:	27 April 2004
Precinct:	-	File Ref:	FIN0007
Attachments:	-		
Reporting Officer(s):	N Russell		
Checked/Endorsed by:	M Rootsey	Amended by:	

RECOMMENDATION:

That the Council APPROVES BY AN ABSOLUTE MAJORITY the write-off of the following Sundry Debtors totalling \$14,787.81 as being uncollectable;

- (i) *Reparto Holdings (Brazier): - \$3,421.49*
- (ii) *Willis Homes: - \$4,348.30*
- (iii) *Pilates Institute of WA: - \$264.00*
- (iv) *Dishonoured Cheques: - \$2,356.10*
- (v) *Special Bin Collections: - \$99.00*
- (vi) *C Woodley: - \$132.50*
- (vii) *T Edwards: - \$1,368.10*
- (viii) *Speedo Australia Pty Ltd: - \$813.23*
- (ix) *Home Schooling: - \$70.40*
- (x) *C Marco: - \$330.00*
- (xi) *Talbot & Oliver Barristers: - \$275.00*
- (xii) *Talent 2000 Dance Academy: - \$105.60*
- (xiii) *Velkovski: - \$3.79*
- (xiv) *Dung Dinh Hun: - \$110.00*
- (xv) *Into The Future Management: - \$193.00*
- (xvi) *R Kuscevic: - \$275.00*
- (xvii) *Colleen Pearce: - \$272.30*
- (xviii) *J Eltham: - \$350.00*

Moved Cr Lake, Seconded Cr Chester

That the recommendation be adopted.

Debate ensued.

Moved Cr Lake, Seconded Cr Chester

That clause (xvi) be deleted, the remaining clauses renumbered and the amount of \$14,787.81 in the second line of the recommendation being amended to read \$14,512.81.

AMENDMENT CARRIED (8-0)

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

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

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

Mayor Catania returned to the Chamber at 8.50pm and assumed the Chair.

COUNCIL DECISION ITEM 10.3.3

That the Council APPROVES BY AN ABSOLUTE MAJORITY the write-off of the following Sundry Debtors totalling \$14,512.81 as being uncollectable;

- (xix) *Reparto Holdings (Brazier): - \$3,421.49*
- (xx) *Willis Homes: - \$4,348.30*
- (xxi) *Pilates Institute of WA: - \$264.00*
- (xxii) *Dishonoured Cheques: - \$2,356.10*
- (xxiii) *Special Bin Collections: - \$99.00*
- (xxiv) *C Woodley: - \$132.50*
- (xxv) *T Edwards: - \$1,368.10*
- (xxvi) *Speedo Australia Pty Ltd: - \$813.23*
- (xxvii) *Home Schooling: - \$70.40*
- (xxviii) *C Marco: - \$330.00*
- (xxix) *Talbot & Oliver Barristers: - \$275.00*
- (xxx) *Talent 2000 Dance Academy: - \$105.60*
- (xxxi) *Velkovski: - \$3.79*
- (xxxii) *Dung Dinh Hun: - \$110.00*
- (xxxiii) *Into The Future Management: - \$193.00*
- (xxxiv) *Colleen Pearce: - \$272.30*
- (xxxv) *J Eltham: - \$350.00*

BACKGROUND:

The Council is currently carrying a number of debtors which have been outstanding for several months. In a number of instances recovery will not be achievable and the cost involved in pursuing them through the legal recovery proceedings will be more than the debt, therefore these debts are recommended for write off. Details of these are as follows:-

DETAILS:

Reparto Holdings Pty Ltd - \$3,421.49

This was a Planning issue that was invoiced 8/12/2000 concerning a disputed subdivision of land at No. 67 (Lot 54) Barlee Street, Mt Lawley. The costs were incurred for legal determinations and the next stage is to take this through the Supreme Court. On the 28th February 2003 the debt was sent to Macquarie Collections. This debt is recommended for write off by Macquarie Collections due to the additional costs that this would attract and the time taken to follow through with the legal recovery.

Willis Homes - \$4,348.30

The debt is for a recoverable work that was undertaken at 122-132 Charles Street, North Perth. The invoice was issued on the 22nd August 2002 and sent to the Town's debt collection agency on the 11th of February 2003. The company is now in liquidation and Melsom Robson Chartered Accountants, the liquidator, have advised that the debt is unlikely to be collected and is therefore recommended for write off.

Pilates Institute of WA - \$264.00

The Pilates Institute of WA hired out meeting rooms at Beatty Park for a 10 week period but they didn't use all this time as the program wasn't as popular as first thought and the classes didn't get the numbers that were initially planned for. The Pilates Institute also helped Beatty Park set up its own program for no cost.

Taking into account the above, it is recommended to write off the outstanding amount.

Dishonoured Cheques - \$2,356.10

Parking infringements to the value of \$402.00.
Beatty Park to the value of \$304.10.
Planning to the value of \$1,650.00.

Contact with these debtors has not been possible therefore they are recommended for write off.

Special Bin Collections - \$99.00

The outstanding amounts are for special bin collections that are additional to the normal services. The Town has been unable to contact the people that requested the additional services and therefore the amount is proposed for write off.

C Woodley - \$132.50

This is for mobile telephone costs incurred after Ms Woodley ceased to be a Councillor. The invoice was issued on the 27th of November 2002 and letters have been sent requesting payment with no response and therefore it is recommended for write off.

T Edwards - \$1,368.10

Due to a data entry error the pay of another employee was deposited into Mr Edward's bank account by direct electronic funds transfer. The invoice was issued 27 November 2002. Mr Edwards agreed to a fortnightly repayment plan but then he resigned without making any payments. Follow up on this debt has been unsuccessful and the debt is now put forward for write off.

Speedo Australia Pty Ltd - \$813.23

This amount represents 50% of the sponsorship by Speedo towards the production of Beatty Park Leisure Centre retails plastic shopping bags. No paperwork was received by Speedo's head office as it was a verbal agreement between Beatty Park and a representative of Speedo. It is unlikely that the debt will be recovered since there is no formal agreement so it is recommended for write off.

Home Schooling - \$70.40

The invoice was issued on the 12th of September 2002 for hire of Banks Reserve Pavilion in July and August 2002. Home Schooling no longer use the Pavilion and the Town has been unable to contact them. The sundry nature of the debt and the age of the debt are the reason for write off.

C Marco - \$330.00

The invoice was issued on the 29th of January 2003 for a recoverable work at 88 Kalgoorlie St. There has been no response to follow up letters and telephone calls.

Talbot & Oliver Barristers - \$275.00

The invoice was issued on the 4th of April 2001, for securing the property and clean up works at 314 Bulwer Street. The property is owned by the Deceased Estate of Maurice Zines and the Town does not expect to be able to recover these costs.

Talent 2000 Dance Academy - \$105.60

The invoice was issued on the 4th of April 2001 for hire of Royal Park Hall. The group no longer use the hall and the Town has been unable to make contact with any member of the group and therefore the debt is recommended to be written off.

S Velkosvki - \$3.79

The invoice was issued on the 29th of June 2002 for the contribution towards the purchase of safety boots from a former employee. Since the amount is minimal and the employee has terminated employment from the Town the debt is recommended to be written off.

Dung Dinh Hung - \$110.00

An invoice was issued on the 30th of May 2002 for clean up and removal of accumulated materials on the vacant property at 177 Fitzgerald Street, West Perth. Dung Dinh Hung was no longer the owner as of the 12th of May 2002 and the recovery of the debt is not considered possible.

Into The Future Management - \$193.00

Two invoices were issued in January 2000 for hire of the Mount Hawthorn main hall in December 1999. The hall has not been hired by this group and the Town no longer has a contact for the group so it is recommended for write off.

R Kuscevic - \$275.00

An invoice was issued on the 4th of April 2001, for securing the property and clean up works at 89-91 Smith Street. The property was derelict and recovery of the debt is not anticipated.

Colleen Pearce - \$272.30

A number of invoices were issued from March 1999 to January 2002 for pool hire at Beatty Park. The hire of the pool no longer occurs and the Town has been unable to make any contact with Colleen Pearce and therefore the debt is recommended for write off.

J Eltham - \$350.00

This invoice was raised in September 2000 for damage done to a brick wall at Beatty Park which was not claimed under the Town's insurance policy as it was under the Town's insurance excess. Follow up by Beatty Park has been unsuccessful and therefore the debt is recommended for write off.

STRATEGIC IMPLICATIONS:

Strategic Plan 2003-2008 – Key Result Area 4.2 – Governance and Management

“Deliver services in ways that accord with the expectations of the community, whilst maintaining statutory compliance.”

CONSULTATION/ADVERTISING:

NIL

FINANCIAL/BUDGET IMPLICATIONS:

The debts listed for write off will reduce the funds to be received by the Town. These items will have to be expensed.

COMMENTS:

The majority of the accounts listed have a low dollar value and the expense of using a debt collection agency and the formal debt recovery process will exceed the value of the debt. Considerable effort is put into trying to recover these outstanding sundry debtors by the Accounts Receivable Officer in Financial Services, however as can be seen many debtors are uncontactable. This write-off list is prepared annually, normally just prior to the end of the financial year. This list is therefore recommended for write-off.

10.3.4 Summer Concerts in the Park Programme 2004

Ward:	Both	Date:	30 April 2004
Precinct:	All	File Ref:	CMS 0075
Attachments:	-		
Reporting Officer(s):	D Spurgeon		
Checked/Endorsed by:	M Rootsey	Amended by:	

OFFICER RECOMMENDATION:

That the Council;

- (i) RECEIVES the report on the Summer Concerts in the Park Programme, 2004;*
- (ii) The Summer Concerts in the Park programme for 2005 consist of four (4) concerts.*

Moved Cr Doran-Wu, Seconded Cr Lake

That the recommendation be adopted.

Debate ensued.

Moved Cr Doran-Wu, Seconded Cr Chester

That clause (ii) be deleted and new clauses (ii), (iii) and (iv) be added as follows:

- "(ii) review the time of day the concerts are held;*
- (iii) review the mix of music style at the concerts; and*
- (iv) continues with 6 concerts for the Summer Concerts in the Park for 2005."*

AMENDMENT CARRIED (9-0)

MOTION AS AMENDED CARRIED (9-0)

COUNCIL DECISION ITEM 10.3.4

That the Council;

- (i) RECEIVES the report on the Summer Concerts in the Park Programme, 2004;*
- (ii) reviews the time of day the concerts are held;*
- (iii) reviews the mix of music style at the concerts; and*
- (iv) continues with 6 concerts for the Summer Concerts in the Park for 2005.*

FURTHER REPORT:

Of the six bands that played in the 2004 summer concerts, only one was local to Vincent (Pink and White Bridge) they are based in Mt Hawthorn.

An advert was placed in the Voice News (15/11/03), the advert was titled Calling all Bands. Bands were asked to send a resume and a CD to be considered for the summer concerts. The advert also stated that Town of Vincent residents or bands based in the Town were encouraged to apply.

As a result of the advert approximately 20 CD's were received, unfortunately many of the CD's were not suitable either due to the type of music played or the quality of band. This severely limited the number of bands to choose from and in particular the local content.

BACKGROUND:

The Summer Concerts in the Park series originated in 1998 as 'Families in the Park' before assuming the current title in 1999. The programme of concerts prior to this year provided for three concerts to be held.

At the Ordinary Meeting of Council on the 11 March 2003, Item 11.2 Notice of Motion - Councillor Simon Chester - Town of Vincent Summer Concerts, the following resolution was adopted.

"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."*

In 2004 six concerts were performed, instead of the traditional three, two concerts each, were held in January, February and March.

DETAILS:

The six concerts for 2004 showcased a wide range of music including Latin American, big band and R & B. Below are the event details for each of the concerts.

Band	Location	Date	Time	Audience numbers
Richard Roberts and the Cruise-o-matics	Banks Reserve Mt Lawley	Sunday 4 Jan 2004	4:30 - 6:30pm	100
Pink and White Bridge	Braithwaite Park Mt Hawthorn	Sunday 18 Jan 2004	4:30 - 6:30pm	200
Los Chasquis	Banks Reserve Mt Lawley	Sunday 8 Feb 2004	4:00 - 6:00pm	300
Montuno	Hyde Park Perth	Sunday 22 Feb 2004	4:30 - 6:30pm	300
The Magic Dream Big Band	Braithwaite Park Mt Hawthorn	Sunday 7 Mar 2004	3:30 - 5:30pm	250
Bayou Brothers	Hyde Park Perth	Sunday 21 Mar 2004	3:30 - 5:30pm	80

Attendances for the concerts series:

	2002	2003	2004
Total attendance	900	950	1230
Average per concert	300	316	205

The total attendance for the series increased with the increased number of concerts, however average attendances per concert decreased, this can be partly attributed to the low attendance at the first concert and the last concert. The first concert held early January probably suffered due to the date being too close to the start of the year and many people being away. The last concert was held on a day that had extremely hot weather, over 40C, and therefore suffered poor attendance due to the heat.

Concert Series

It is difficult to schedule six concerts into the three months of January February and March without them clashing with other Town of Vincent events, including Visions of Vincent and the Australia Day activities in January as well as the Harmony Day event in March, and other similar events held within nearby councils. It would be hard to extend the concert season beyond those three months as the weather is often not reliable enough in the following months. To start the series any earlier would not be viable as December is busy with events and programs leading up to Christmas such as the Channel 7 Christmas pageant in Perth, Christmas carols in Braithwaite Park as well as carols in City of Stirling and Town of Cambridge.

Less than three concerts do not constitute a series, therefore the ideal number of concerts, to fit into the time frame is either 3 or 4 concerts.

Another option to consider would be to run one major concert event as opposed to the smaller concert programmes, similar to the South Perth Fiesta or the Joondalup Festival. These are likely to be very expensive and would attract more people from outside the Town of Vincent.

The Town of Vincent already runs a major artistic event, last year titled Culture Shock, formerly Viva Vincent. Culture Shock is festival that includes musical, dance and other cultural performances. By turning the concert series into a single day major event it would compete directly with the Town's existing event, Culture Shock. Culture Shock was a one day event that cost approximately \$15,000, close to the cost of six concerts. Although a popular event that was enjoyed by the participants, the Youth Officer noted that only approximately 600 people attended on the day.

Feedback

At the concert series, as at all Town of Vincent events, feed back sheets are given to a random number of attendees on the day. A total of 129 feedback sheets were collected from the six concerts.

Of the respondents, 121 rated the concerts as well organized and only 7 rated it as average with just one person rating the organization of the series less than average due to the concert not starting on time, due to the rain.

Less than 5 respondents did not enjoy the band that played at the concert they attended.

Approximately half of the people that attended the concerts were attending a Town of Vincent concert for the first time. Over 90% of all attendees found out about the concert(s) through advertisements in the local newspapers and friends and relatives. The remainder of attendees found out about the concert(s) from the flyer or other sources, or just dropped in while passing

CONSULTATION/ADVERTISING:

The Summer Concerts in the Park programme was advertised in both local newspapers and letter box drops completed around surrounding residents prior to the concerts.

STRATEGIC IMPLICATIONS:

The Summer Concerts in the Park programme addresses the following section of the Town's Strategic Plan 2003–08:

Key Result Area Two: Community Development

2.1 *Celebrate and acknowledge the Town's cultural diversity.*

b) develop and organize community events that engage the community and celebrate the cultural diversity of the Town

FINANCIAL/BUDGET IMPLICATIONS:

Project funds for the 2004 Summer Concerts in the Park came from the Concerts in the Park account. A total of twenty thousand dollars was budgeted for this account for the 2003/2004 programme.

The total expenditure for the six concerts was just under \$16,000 (15,887.54). For the two previous series of the three concerts, expenditure was just over \$8,000, \$8,500 in 2002 and \$8,300 in 2003. This indicates that the cost is only marginally reduced per concert when running six, rather than three.

An amount of \$14,000 has been included in the Draft Budget 2004/2005 for the Concerts in the Park programme.

COMMENTS:

In 2004 the number of concerts was increased to six to trial for the year. It is the officers opinion that this has proved to be too many as it has produced a scheduling problem trying to fit all the concerts in the within the three month period.

It is recommended that the number for the 2005 programme be reduced to four with the advertising increased to maximise the attendance at those held.

10.4.1 Delegations for the Period 1 January 2004 to 31 March 2004

Ward:	Both	Date:	05 May 2004
Precinct:	All	File Ref:	ADM0018
Attachments:	001		
Reporting Officer(s):	J MacLean, T Prout		
Checked/Endorsed by:	John Giorgi	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *ENDORSES the delegations for the period 1 January 2004 to 31 March 2004 as shown in Appendix 10.4.1; and*
- (ii) *APPROVES BY AN ABSOLUTE MAJORITY to write-off infringement notices to the value of \$51,055.00 for the reasons detailed in this report.*

COUNCIL DECISION ITEM 10.4.1

Moved Cr Torre, Seconded Cr Lake

That the recommendation be adopted.

CARRIED BY AN ABSOLUTE MAJORITY (9-0)

BACKGROUND:

The Local Government Act 1995, at Section 5.42, allows for a Council to delegate to the Chief Executive Officer its powers and functions.

The purpose of delegating authority to the Chief Executive Officer is to provide for the efficient and orderly administration of the day to day functions of the Local Government. The Chief Executive Officer and Executive Managers exercise the delegated authority in accordance with the Council's policies.

ADVERTISING/CONSULTATION:

Not applicable.

LEGAL/POLICY:

Section 5.42 of the Local Government Act 1995 gives power to a Council to delegate to the CEO the exercise of its powers and functions; prescribes those functions and powers which cannot be delegated; allows for a CEO to further delegate to an employee of the Town; and states that the CEO is to keep a register of delegations. The delegations are to be reviewed at least once each financial year by the Council and the person exercising a delegated power is to keep appropriate records.

It is considered appropriate to report to Council on a quarterly basis on the delegations utilised by the Town's Administration. A copy of these for the quarter is shown in the attached Appendix 10.4.1. Quarterly reports are reported to the Council.

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

The Council's auditors recommend that infringement notices be reported to Council for a decision to write-off the value of the infringement notice. In these cases it is the opinion of the Manager Law and Order Services that infringement notices cannot be legally pursued to recover the money or it is uneconomical to take action as this will exceed the value of the infringement notice. The details of the infringement notices are as follows:

Description	Amount \$
Ranger/Clerical Error	\$ 6,265.00
Other (Financial Hardship, Disability, Police On-duty, Etc)	\$ 5,300.00
Ticket Purchased but not Displayed (Valid Ticket Produced)	\$ 1,365.00
Breakdown/Stolen (Proof Produced)	\$ 1,265.00
Details Unknown/Vehicle Mismatched	\$ 3,785.00
Interstate or Overseas Driver	\$ 3,250.00
Signage Incorrect or Insufficient	\$ 4,080.00
Equipment Faulty (Confirmed by Technicians)	\$ 35.00
Failure to Display Resident or Visitor Permit #	\$22,770.00
Modified Penalties	\$ 2,900.00
Litter Act	\$ 0.00
Dog Act	\$ 0.00
Pound Fees Modified	\$ 40.00
TOTAL	\$51,055.00

The majority of reasons are that the resident or a resident's visitor failed to display the required residential parking permit – proof was provided.

COMMENTS:

It is recommended that the delegations be endorsed by the Council.

10.4.3 Members Equity Stadium - Legal Documentation and Outstanding Issues - Progress Report

Ward:	South	Date:	5 May 2004
Precinct:	Beaufort, P13	File Ref:	RES0051/RES0072
Attachments:	-		
Reporting Officer(s):	John Giorgi		
Checked/Endorsed by:	-	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the Members Equity Stadium - Legal Documentation and Outstanding Issues - Progress Report as at 5 May 2004; and*
- (ii) *NOTES that a further report will be provided at the meeting of 11 May 2004.*

COUNCIL DECISION ITEM 10.4.3

At 8.55pm Moved Cr Torre, Seconded Cr Cohen

That this Item be held over to end of the meeting to allow for Council to go Behind Closed Doors.

CARRIED (9-0)

(Refer to Page 144)

BACKGROUND:

At the Ordinary Meeting of Council held on 27 April 2004, the Council considered this matter and resolved as follows;

"That the Council;

- (i) *RECEIVES the Members Equity Stadium - Legal Documentation and Outstanding Issues - Progress Report as at 21 April 2004;*
- (ii) *NOTES that a further report will be provided at the meeting of 27 April 2004; and*
- (iii) *REQUESTS the negotiations to continue."*

On 22 April 2004, the Department of Sport and Recreation (DSR) wrote to the Town offering to mediate in this matter and followed this up with several telephone discussions.

On 28 April 2004, a meeting between the Town and Allia/PGSC was arranged for Tuesday 4 May 2004.

On Saturday 1 May 2004, the Director General of the DSR accepted to Chair the meeting to be held between the Town and Allia/PGSC.

On Monday 3 May 2004, the Mayor and CEO met for two (2) hours with DSR and advised them of the Town's position and matters of concern. The DSR also met with Allia/PGSC.

On Friday 30 April 2004, the Town's solicitors were advised by Ilberys (lawyers for Allia and PGSC) that they would provide their response to the draft documents on Monday morning (3 May 2004) and verbally advised that these would be a number of "dot" points.

On Monday 3 May 2004, Ilberys submitted an 18 page letter outlining matters raised in the various documents and also other matters to be resolved. This is summarised as follows.

1. Standard Deed of Licence
14 items raised - previously on 11 March 2004, 17 items were raised
2. PGSC Deed of Licence
41 items raised - previously on 15 March 2004, 40 items were raised.
3. PGSC Lease
38 items raised - previously on 15 March 2004, 45 items were raised.
4. Carpark Licence
10 items raised - previously on 15 March 2004, 11 items were raised.

In addition, other general matters were raised as follows;

- (a) Catering Commission
- (b) Net rent (PGSC lease)
- (c) Storeroom areas
- (d) Security of the Stadium
- (e) The Town's scoreboard sign
- (f) Date of commencement (for Heads of Agreement)
- (g) Other outstanding matters
- (h) Definition of secured monies
- (i) Pro forma Deed of Licence
- (j) Bankwest letter
- (k) Access by West Australian Rugby League (WARL) - (on event days)
- (l) Members Equity signage on temporary grandstand

The meeting held on Tuesday 4 May 2004 was of 8 hours duration and was attended by the following persons;

Town of Vincent: Mayor Nick Catania
Chief Executive Officer, John Giorgi
Solicitors: (Minter Ellison)
Michael Henderson, Martin Matthews

Allia/PGSC: Chairman, Nick Tana
Chief Executive Officer, Jeff Dennis
Company Secretary, Gary Kift
Solicitors: (Ilberys Lawyers)
Tony Di Francesco

DSR: Director General, Ron Alexander
Director of Facilities, Nigel McCombe
Facilities Co-ordinator, Steve Humfrey

Crown Solicitor's Office: Alan Ramage

An Agenda was prepared by DSR and after discussion, both parties agreed to discuss each item raised by the various parties - although this was considered to be time consuming, it was acknowledged that this meeting should address all items and that both parties should be clear on the agreed outcomes.

The following was agreed (subject to Council approval);

1. Licence Agreement - Standard Document

14 items were raised concerning this document. This document was finalised, subject to the following items to be resolved;

(i) Definition of Heads of Agreement

This definition referred to the commencement date of the Heads of Agreement. The definition appears in all documents. Both parties could not agree on this matter and further discussion is required.

(ii) Definition of Minister

The Crown Solicitor's Office advised that the Minister could not arbitrate in a commercial contract between a Local Government and another party (previously DSR did not advise of any concerns in this matter). It was agreed that this Clause would be re-drafted to allow for the President of the Law Society to nominate an expert witness to mediate any disputes. The Heads of Agreement will need to also be amended.

2. Licence Agreement - PGSC

41 items were raised concerning this document. This document was agreed, subject to the following items to be resolved;

(i) Clause 1.2 - Definition of Heads of Agreement

This definition referred to the commencement date of the Heads of Agreement. The definition appears in all documents. Both parties could not agree on this matter and further discussion is required.

(ii) Clause 1.2 - Definition of Minister

The Crown Solicitor's Office advised that the Minister could not arbitrate in a commercial contract between a Local Government and another party (previously DSR did not advise of any concerns in this matter). It was agreed that this Clause would be re-drafted to allow for the President of the Law Society to nominate an expert witness to mediate any disputes. The Heads of Agreement will need to also be amended.

(iii) Clause 2.4 - Assignment Clause

Clause 2.4(d)(v) - Guarantee - unresolved - Town has indicated it wants a guarantee. Further discussion required.

Clause 2.4(g) - unresolved - Town has indicated it wants a guarantee.

(iv) Clause 6.13(d) - Parking

This Clause relates to the use of the Brisbane Street carpark, if available, by PGSC in the event that Loton Park cannot be used for parking. Allia have requested that the Town prescribes an amount for the use of this carpark. The Town will provide a formula for costs.

(v) Clause 9.1 - Licensee must have Insurance

It was agreed that this would be resolved after the Town confers with its Insurers.

(vi) Clause 9.2 - Licensee releases and indemnifies the Licensor and Manager

Town to investigate this matter with its Insurers.

(vii) Clause 9.4 - Indemnity to Licensee

Town to investigate this matter with its Insurers.

3. PGSC Lease

41 items raised. This document was agreed, subject to the following;

(i) Clause 1.2 - Definition of Heads of Agreement

This definition referred to the commencement date of the Heads of Agreement. The definition appears in all documents. Both parties could not agree on this matter.

(ii) Clause 9.2(a)(i) and (ii) - Conditions applying to assignment and sub-letting

This to be further investigated

(iii) Clause 9.3 - Special requirements concerning proposed Sub-Lease

Allia request that it be allowed to sub-lease up to 50% of their office without the Town's approval. Town to consider this request.

(iv) Schedule Item 1(a)(iv) - Insurance on Town's installation

Town to clarify with its Insurers.

4. PGSC Lease - Carparking Licence

10 items raised. This document was agreed.

The meeting was reconvened on 5 May 2004 for 5 hours and the following matters were discussed;

- (a) Catering Commission
- (b) Net rent (PGSC lease)
- (c) Storeroom areas
- (d) Security of the Stadium
- (e) The Town's scoreboard sign
- (f) Date of commencement (for Heads of Agreement)

- (g) Other outstanding matters
- (h) Definition of secured monies
- (i) Pro forma Deed of Licence
- (j) BankWest letter
- (k) Access by West Australian Rugby League (WARL) - (on event days)
- (l) Members Equity signage on temporary grandstand

All matters except (f), (g) and (h) were finalised or clarified. These items were deferred to allow further negotiations.

The Town raised the following items;

1. Deed of Covenant

At the previous meetings held on 25 and 26 March 2004, it was advised that Allia would lodge the appropriate form with the Australian Securities and Investment Commission.

This has not occurred and it was requested that this document would be re-executed to the Town's satisfaction within seven days.

2. Deed of Clarification

Both parties agreed that this was no longer required.

3. Deed of Acknowledgement

Both parties agreed that this document would most likely be needed in light of the three outstanding issues (f), (g) and (h).

4. \$5,000 Bond Money - Heads of Agreement (Clause 7.1)

This Bond is required to be paid to the Town and held in trust in the event that Allia does not perform such matters as cleaning in the streets, etc. Allia agreed to pay this money on commencement of their management.

5. Grandstand Lettering

Town advised that the Heritage Council of WA require the lettering to remain, however removal of the "Fred Book" lettering requires consultation with all stakeholders and this may take some time. Allia accepted this explanation.

6. Access by Allia's Caterer in the Interim Period

Both parties acknowledge that the caterer be advised of the current situation for a period of two weeks.

The following items are still unresolved and negotiations were in progress at the time of writing this report;

1. **Legal Agreements**

(a) Heads of Agreement (HOA)

Allia is still holding the view that the HOA have not commenced. They would not discuss why they held this view, despite selling both the Naming Rights and Catering Rights. Further discussions are required.

(b) Mortgage/Guarantee Documents

This document was agreed, except for the definition of "Mortgage Security". Ilbery's seek to change the definition from that contained in the Heads of Agreement which covers the loan, any outstanding monies and also for it to be used in the event of non-performance by Allia and limiting it strictly to cover the Town's outstanding loan and \$300,000 for catering equipment.

(c) Charge over Water Licences

This document was agreed, except for the definition of "Mortgage Security" as per 1(b).

2. **Caveat**

As directed by the Council on 25 February 2003, the Town's solicitors lodged a caveat on land registered in the name of North East Equity Pty Ltd of 257 Balcatta Road, Balcatta. The land is Lot 41 Beermullah Road West, Wanerie - which is the property nominated by North East Equity Pty Ltd in its own right and as trustee for the Nicola Tana Family Trust No. 20. The Town's solicitors have also written to Bankwest, who currently have a mortgage on the subject land, advising that the Town requires a "first ranking" mortgage.

At the time of writing this report, no information has been received from Bankwest.

Allia's lawyer verbally stated that they have had discussions with Bankwest and the Town's 1st ranking mortgage will be provided, subject to all documents being agreed.

The Town confirmed its position that the caveat would not be removed until the matter is satisfactorily resolved.

3. **Outstanding Monies**

Allia/PGSC acknowledged that payment of all outstanding monies would be made. The amount relating to the amount of \$24,927.95 owed by PGSC was still disputed.

The following monies remain outstanding as at the time of writing this report;

<u>Allia Holdings Pty Ltd</u>		
	<u>Item</u>	<u>Amount</u> <i>(excl GST)</i>
1.	Contribution to Stadium Capital Reserve Fund - January contribution as per HOA Clause 4.9 - <u>money due 19 February 2004.</u>	\$25,000.00
	<u>Action Taken:</u> Invoice sent on 12 February 2004. Letter of Demand sent on 27 February requiring payment within 30 days, as required by Clause 10.1 of the Heads of Agreement - advising that failure to pay the full debt will result in default of the Heads of Agreement and legal proceedings being commenced.	

2.	Reimbursement of building insurance - as per HOA Clause 6.12 - for period 27 December 2003 - 30 June 2004 - <u>money due 12 February 2004.</u>	\$11,506.63
	<p><u>Action Taken:</u> Invoice sent on 30 January 2004. Letter of Demand sent on 27 February requiring payment within 30 days, as required by Clause 10.1 of the Heads of Agreement - advising that failure to pay the full debt will result in default of the Heads of Agreement and legal proceedings being commenced. Allia have queried this matter. The Town provided additional information on 15 March 2004.</p>	
3.	Reimbursement of Public Indemnity Insurance - as per HOA Clause 6.11 - for period 27 December 2003 - 30 June 2004 - <u>money due on 5 March 2004.</u>	\$4,542.63
	<p><u>Action Taken:</u> Invoice sent on 20 February 2004. Awaiting payment. Letter of demand to be issued.</p>	
4.	Recoup of Additional Works at Stadium (Additional signage - \$2,269.30, Replacement of Water Damaged Ceiling Tiles - \$1,166.00, Additional Electrical Works for Chicken Treat Van - \$1,568.60, 4 Extra Chairs in Grandstand - \$407.00, Powerpoint for roof mounted TV Platform - \$1,056.00, 12 Additional Chairs in Grandstand - \$1,219.90)	\$6,988.00
	<p><u>Action Taken:</u> Invoice sent and payment due on 9 April 2004.</p>	
5	March - Monthly Payment for Use of Stadium - March payment due 19 February 2004	\$33,333.33
	<p><u>Action Taken:</u> Invoice sent on 5 February 2004.</p>	
6	April - Monthly Payment for Use of Stadium - April payment due 17 March 2004	\$33,333.33
	<p><u>Action Taken:</u> Invoice sent on 3 March 2004.</p>	
7	May - Monthly Payment for Use of Stadium - May payment due 16 April 2004	\$33,333.33
	<p><u>Action Taken:</u> Invoice sent on 2 April 2004.</p>	
	Subtotal	<u>\$148,037.25</u>

<u>Perth Glory Soccer Club Pty Ltd (PGSC)</u>		
	<u>Item</u>	<u>Amount</u> <i>(excl GST)</i>
1.	Stadium office fitout and other works - <u>money due 18 February 2004.</u>	\$18,823.00
	<u>Action Taken:</u> Invoice sent on 4 February 2004. Letter of demand sent on 25 February 2004 requesting immediate payment.	
2.	Payment of Perth Oval lease costs 2002/03 Season - <u>well overdue.</u>	\$24,927.95
	<u>Action Taken:</u> Invoices sent in late 2003. Letter of demand sent on 2 March 2004 requesting immediate payment. It should be noted that this money is the subject of dispute between Perth Glory Soccer Club and the Town as detailed in PGSC's letter dated 13 February 2004.	
	Subtotal	<u>\$43,750.95</u>
	GRAND TOTAL - ALLIA AND PGSC	<u>\$191,788.20</u>

CONSULTATION/ADVERTISING:

N/A.

LEGAL/POLICY:

N/A.

STRATEGIC IMPLICATIONS:

N/A.

FINANCIAL/BUDGET IMPLICATIONS:

The outstanding monies will be pursued through the normal debt recovery process, following receipt of the response to the outstanding issues from Allia.

COMMENT:

Over the previous week there has been considerable media publicity (newspaper, radio and television) concerning this matter.

The CEO is of the opinion that positive progress was made and there appears to be goodwill demonstrated by Allia and PGSC to satisfactorily resolve the matter. As previously stated, at the time of writing this report, further negotiations were continuing relating to the most critical matters of commencement of the HOA, payment of all outstanding monies and definition of secured monies in the Mortgage document.

The Mayor and CEO are confident that a resolution can be achieved. Allia/PGSC have been advised that any proposals must be approved by the Council.

10.4.4 Proposed Town of Vincent Health Local Law 2004 and Town of Vincent Health (Eating House) Local Law 2004

Ward:	Both	Date:	4 May 2004
Precinct:	All	File Ref:	LEG0049
Attachments:	001 002		
Reporting Officer(s):	D Brits		
Checked/Endorsed by:	R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the report relating to the proposed Town of Vincent Health Local Law 2004 and Town of Vincent Health (Eating House) Local Law 2004;*
- (ii) *APPROVES BY A SPECIAL MAJORITY pursuant to Subdivision 2 of PART 3 of the Local Government Act 1995 as amended and the powers conferred by the Health Act 1911 (Sections 134, 172, 199, 207, 249 and 342), to repeal the Town of Vincent Health Local Law 1997 published in the Government Gazette of 4 March 1998 and to adopt the Town of Vincent Health Local Law 2004 and Town of Vincent Health (Eating House) Local Law 2004 as shown in Appendix 10.4.4 and as 'Laid on the Table';*
- (ii) *ADVERTISES the proposed Town of Vincent Health Local Law 2004 and Town of Vincent Health (Eating House) Local Law 2004 on a state-wide basis (for six weeks) indicating where and when the proposed local laws may be viewed and seeking public comment; and*
- (iii) *NOTES that a further report will be submitted after the public and community comment period for the Council's consideration.*

COUNCIL DECISION ITEM 10.4.4

Cr Franchina departed the Chamber at 8.55pm.

Moved Cr Lake, Seconded Cr Torre

That the recommendation be adopted.

CARRIED BY AN SPECIAL MAJORITY (9-0)

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

BACKGROUND:

The Town's Local Law relating to health was adopted in 1997 and requires updating and amendment. The reasons for the recommendation to repeal the existing Town of Vincent Health Local Laws 1997 and adopting the proposed Town of Vincent Health Local Law 2004 and Town of Vincent Health (Eating House) Local Law 2004 are as follows:

- To update the Town's local health legislation with the recent Parliamentary Joint Standing Committee on Delegated Legislation and the Honorable Minister for Health's wish to amend existing Health Local Laws by amending "local government" with "Council", amending potentially unreasonable wording in relation to rodent control, and by inserting the amended liability clause:

- *"The Council shall not be liable to pay compensation or damages of any kind to the person referred to in subclause (1) in relation to any action taken by the Council under this clause, except to the extent the person has suffered loss or damage because the action taken by the Council Officer was negligent or in breach of its duty."*;
- To equip the Environmental Health Officers with the best practice local legal tools available in the interest of the Health and Safety of our community;
- To separate the eating-house component of the local laws and facilitate impending changes to National and State food laws;
- To remove the Skin Penetration provisions from the existing local laws as State Regulations have since been promulgated; and
- To repeal the Schedule of Fees with a clause that allows the Council to immediately consider new fees upon the review by the Honourable Minister for Health in accordance with the Health Act 1911 (as amended) - *"fee" as fixed from time to time by the Council under section 344C of the Act."*

DETAILS:

In essence, the proposed Health Local Laws reflect the existing Local Laws with the exception of the matters outlined under the heading *"Background"*.

The proposed Health Local Laws will assist the Town of Vincent in the continuation of delivering essential environmental health functions. Separating the eating-house component of the Health Local Laws will also facilitate impending changes to National and State food legislation and a collective state-wide repeal when necessary.

The proposed Health Local Law 2004 deals with such issues as:

- Sanitation;
- Housing;
- Waste & Refuse;
- Nuisances;
- The Keeping of Animals;
- Pest Control;
- Infectious Diseases;
- Lodging Houses;
- Offensive Trades; and
- Penalties & Offences.

The proposed Health (Eating House) Local Law 2004 deals with such issues as:

- Registration & Licensing of Eating Houses;
- Sanitary Conveniences for Restaurants; and
- Penalties & Offences.

The existing Health Local Laws 1997 will automatically be repealed upon adoption of the new Health Local Laws 2004, in accordance with Clause 2 in the proposed Town of Vincent Health Local Law 2004.

COMMUNITY CONSULTATION/ADVERTISING:

As part of the public and community notice process, the proposed Health Local Law 2004 and Health (Eating House) Local Law 2004, as '*Laid on the Table*', will be advertised in *The West Australian* Newspaper and placed on the Town's Public Notice Boards at the Administration and Civic Centre and Library as well as being placed on the Town's web-site as a community consultation item for a statutory period of 6 weeks. The public notice advertisements will invite members of the public to submit comments over the six-week period. It can be anticipated that the submission period will end on 18 June 2004. Thereafter, a further report will be submitted to the Council in relation to comments received. Following Council's anticipated endorsement of the new Local Laws, two copies of the Local Laws, signed by the Chief Executive Officer and Mayor, will be submitted to the Executive Director of Public Health (EDPH) for consent. The EDPH will then return the endorsed Local Laws to Council for publication in the '*Government Gazette*'. A copy of the '*Gazetted*' Local Laws will thereafter be given to the Director of Environmental Health, Department of Health Western Australia and the Minister for Local Government. A State-wide public notice will follow outlining the title and summary of purpose and effect of the proposed local laws. Lastly, the Joint Standing Committee on Delegated Legislation of the Western Australian Parliament will be provided with an '*Explanatory Memorandum*' of the Local Laws and 10 copies of the Local Laws as '*Gazetted*'.

LEGAL/POLICY:

The adoption and gazettal of the proposed Town of Vincent Health Local Law 2004 and Town of Vincent Health (Eating House) Local Law 2004 will be progressed in accordance with Sections 3.12 to 3.15 of the Local Government Act 1995 (as amended) and Sections 134, 172, 199, 207, 249 and 342, of the Health Act 1911 (as amended). The existing Town of Vincent Health Local Laws 1997 will be repealed automatically pursuant to Clause 2 in the proposed Town of Vincent Health Local Law 2004.

National Competition Policy

As the draft local laws are based on the State's Model Health Local Laws, and no substantial modifications are being made, it is deemed that a National Competition Policy Public Benefit Test is not required.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

STRATEGIC IMPLICATIONS:

Town of Vincent Strategic Plan 2003-2008:

"VISION

We will continue to be a safe and healthy inner city area, rich in heritage and cultural diversity..."

"CHALLENGES

*The Town of Vincent is likely to be operating in an environment where: Pressure of population and density of living is increasing. Environmental awareness is increasing and issues of sustainability are becoming more important...We recognise the challenges that our community faces, including: **Providing a clean, healthy and sustainable environment.**"*

COMMENTS:

It is considered that the proposed Town of Vincent Health Local Law 2004 and Town of Vincent Health (Eating House) Local Law 2004 will facilitate compliance with the requirements of the Parliamentary Joint Standing Committee on Delegated Legislation and the requests from the Honorable Minister for Health. The proposed Health Local Laws separate general local health matters and eating house provisions and provide the opportunity for local ratepayers to comment afresh on local environmental health provisions. Subsequently, it is recommended that the report and recommendations be approved.

10.4.5 Information Bulletin

Ward:	-	Date:	07 May 2004
Precinct:	-	File Ref:	-
Attachments:	001		
Reporting Officer(s):	N Wilton		
Checked/Endorsed by:	John Giorgi	Amended by:	-

OFFICER RECOMMENDATION:

That the Information Bulletin dated 11 May 2004 as distributed with the Agenda, be received.

COUNCIL DECISION ITEM 10.4.5

Moved Cr Chester, Seconded Cr Ker

That the recommendation be adopted.

CARRIED (8-0)

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

DETAILS:

The items included in the Information Bulletin dated 11 May 2004 are as follows:

ITEM	DESCRIPTION
IB01	E-mail of upgrade - Right of Way upgrade
IB02	No. 44 (Lot 33) Bondi Street, Mount Hawthorn - Town Planning Appeal No. 70 of 2004 - Statement by Respondent
IB03	No. 44 (Lot 33) Bondi Street, Mount Hawthorn - Town Planning Appeal No. 71 of 2004 - Statement by Respondent
IB04	No. 412 (Lot 37 and Prt Lot Y36) William Street, Perth - Town Planning Appeal No. 89 of 2004 - Statement by Respondent
IB05	Letter from the Office of the Minister for the Environment - Draft Western Australian Greenhouse Strategy
IB06	Letter from the Department for Planning and Infrastructure - Building Encroachments on Crown Land
IB07	Letter from the Heritage Council of Western Australia - Register of Heritage Places - No. 147 Lincoln Street, Highgate - Highgate Primary School
IB08	Letter from the Heritage Council of Western Australia - Section 9 Referral - Knutsford Hotel, 9 Blake Street
IB09	Rangers' Statistics for January, February and March 2004
IB10	Compliance Officer - Progress Report

ITEM	DESCRIPTION
IB11	Town Planning Appeals Register
IB12	Register of Petitions - Progress Report - May 2004
IB13	Register of Notices of Motion - Progress Report - May 2004
IB14	Register of Reports to be Actioned - Progress Report - May2004
IB15	Elected Members Forum - 1 May 2004

10.4.6 Late Item: Town of Vincent Elections - 2005

Ward:	Both Wards	Date:	11 May 2004
Precinct:	All Precincts	File Ref:	ADM0030
Attachments:	-		
Reporting Officer(s):	John Giorgi		
Checked/Endorsed by:	-	Amended by:	-

OFFICER RECOMMENDATION:

That the Council RESOLVES BY A SPECIAL MAJORITY to;

- (i) *DECLARE in accordance with Section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner be responsible for the conduct of the May 2005 Ordinary Elections together with any other elections or polls which may also be required; and*
- (ii) *DECIDE, in accordance with Section 4.61(2) of the Local Government Act 1995, the method of conducting the 2005 Elections be as a postal election.*

COUNCIL DECISION ITEM 10.4.6

Cr Cohen departed the Chamber at 8.59pm.

Moved Cr Torre, Seconded Cr Lake

That the recommendation be adopted.

CARRIED (7-0)

(Crs Cohen and Franchina were absent from the Chamber and did not vote.)

CEO'S FURTHER COMMENT:

The Electoral Commissioner has advised that the Council approve of the amended recommendation above, which includes the additional words "*together with any other elections or polls which may also be required*". These words will ensure that the Council can conduct elections for any extraordinary vacancies or polls that may arise.

The Electoral Commissioner has also indicated that the current estimate for the election is \$60,500-\$68,000 and not the \$42,000 as indicated in the previous report. The Town's estimation was based on an election for Councillors, without the Mayoral election. The Town's Draft Budget 2004-2005 will be amended accordingly.

The Local Government Act requires that the Electoral Commission is required to conduct Local Government elections on a full cost recovery basis. Therefore, the revised cost is in accordance with this requirement.

BACKGROUND:

At the Ordinary Meeting of Council held on 27 April 2004, the Council considered the following report and resolved as follows:

"That the Council;

- (i) RESOLVES BY A SPECIAL MAJORITY to;*
 - (a) DECLARE in accordance with Section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner be responsible for the conduct of the May 2005 Elections; and*
 - (b) DECIDE, in accordance with Section 4.61(2) of the Local Government Act 1995, the method of conducting the 2005 Elections be as a postal election; and*
- (ii) RECEIVES the information relating to the Local Government Postal Elections Election Report 2003 as shown in Appendix 10.4.1."*

DETAILS

The Western Australian Electoral Commissioner recently wrote to the Town regarding the 2005 elections seeking "...An early indication of the likelihood of a postal election..." The Commissioner sought this early indication so as to commence preliminary planning of the election process on a State wide basis. A copy of the "Local Government Postal Elections Election Report 2003" is "Laid on the Table".

Since the inception of the Town in 1995, the Western Australian Electoral Commissioner has conducted all elections as postal elections except the extraordinary election for the Mount Hawthorn Ward in December 1997.

LEGAL/POLICY IMPLICATIONS:

The Council needs to pass two (2) motions by special majority, namely;

- 1. declare in accordance with section 4.20(4) of the Local Government Act, 1995 the Electoral Commissioner to be responsible for the conduct of the May 2005 elections; and*
- 2. decide, in accordance with section 4.61(2) of the Local Government Act, 1995 the method of conducting the election will be as a postal election.*

In the case of the Town of Vincent, a "special majority" is the same as an "absolute majority".

STRATEGIC IMPLICATIONS:

The Town has a philosophy of community consultation and encouraging its residents to participate in elections. Postal voting has a much higher participation rate.

FINANCIAL/BUDGET IMPLICATIONS

The estimated cost to conduct the postal election is approximately \$42,000 - as there is no Mayoral election on this occasion. It should be noted that this is an indicative amount and actual costs will be determined by the Electoral Commission at the conclusion of the elections. An amount of \$42,000 has been provided in the 2004/2005 Draft Budget.

COMMENT

Local Government is required to consult more with the community, encourage community participation and be more open and accountable for their actions. The Town of Vincent has actively supported these requirements. From an election view point, the conduct of the 1995, 1997 and 1999 ordinary elections by the postal vote method, has ensured that the highest consultation and participation rates possible would be achieved.

Having the local government election process managed by the Western Australian Electoral Commission, whose principle activity is to conduct elections, is accepted most appropriate for the following reasons;

- 1. The election is conducted by professionally trained staff appointed for that sole purpose;*
- 2. The election is overseen by an independent person with the experience and resources to perform the task;*
- 3. The appointment of the Electoral Commission to manage Local Government Election removes any conflict of interest that may exist between Elected Members and the Chief Executive Officer as the Returning Officer and other local government officers appointed for the election.*

Appointing the Western Australian Electoral Commission to manage the Town's 2005 Election, would continue the strong commitment to consult with the community and achieve high voter participation rates, as established with previous elections. It is therefore recommended that the 2005 Ordinary Elections for the Town be conducted using the postal vote method."

11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

12. REPRESENTATION ON STATUTORY AUTHORITIES AND PUBLIC BODIES

Nil.

Cr Cohen returned to the Chamber at 9.00pm.

13. URGENT BUSINESS

Nil.

At 9.00pm Mayor Catania called an adjournment.

The meeting resumed at 9.08pm with the following present:

Mayor Nick Catania JP, Crs Chester, Cohen, Doran-Wu, Farrell, Ian Ker, Lake and Torre, John Giorgi JP, Rob Boardman, Mike Rootsey, Rick Lotznicher, Annie Smith.

Martin Matthews and Michael Henderson from Minter Ellison Solicitors were also present to provide Elected Members with an update on Item 10.4.3.

Cr Franchina had declared a proximity Interest in this Item and he did not return to the Chamber for the remainder of the meeting.

10.4.3 Members Equity Stadium - Legal Documentation and Outstanding Issues - Progress Report

Ward:	South	Date:	5 May 2004
Precinct:	Beaufort, P13	File Ref:	RES0051/RES0072
Attachments:	-		
Reporting Officer(s):	John Giorgi		
Checked/Endorsed by:	-	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) RECEIVES the Members Equity Stadium - Legal Documentation and Outstanding Issues - Progress Report as at 5 May 2004; and*
- (ii) NOTES that a further report will be provided at the meeting of 11 May 2004.*

Moved Cr Torre, Seconded Cr Ker

That the recommendation be adopted.

At 9.10pm **Moved Cr Doran-Wu, Seconded Cr Torre**

That the meeting move "Behind Closed Doors" to discuss this Item as it involves legal advice.

CARRIED (8-0)

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

Moved by Cr Ker, Seconded by Cr Torre

That Standing Orders be suspended to allow discussion on the matter and for the Town's solicitors to provide advice to the Council.

CARRIED (8-0)

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

Mayor Catania introduced Martin Matthews (Associate Solicitor) and Michael Henderson (Partner) from Minter Ellison Solicitors and requested that they provide a summation on matters that have occurred in the past week.

The CEO's Further Report as at 11 May 2004 and letter dated 7 May 2004 from Minter Ellison and 11 May 2004 from Ilberys (Lawyers for Allia Holdings and PGSC) were circulated to the Council. These documents to remain confidential until the negotiations are finalised.

Solicitor Martin Matthews then addressed the Council on the following points advising of the Town's position and Allia/PGSC's response:

1. Term
2. Outstanding Payments and in particular PGSC's outstanding monies of \$24,927.95
3. Crediting of Monthly Payments made to date
4. Mortgage Documents
5. Deed of Clarification/Acknowledgement and in particular the need for the Town to include the revised administration costs of \$500 (increasing annually by CPI) for any commercial event held at the Stadium, which involves the playing pitch.
6. Deed of Covenant (Catering)
7. Reference to Minister in Heads of Agreement

Discussion ensued and Councillors asked questions. Answers were provided by the Town's solicitors and the Mayor and/or CEO.

At 10.30pm Moved Cr Torre, Seconded Cr Chester

That Standing Orders be resumed.

CARRIED (8-0)

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

Moved Cr Torre, Seconded Cr Ker

That a new clause (iii) be added as follows:

"(iii) ADOPTS the position as detailed in the CEO's Further Report (Confidential) dated 11 May 2004 relating to the Town's position and Allia/PGSC's response subject to the following:

- (a) *the twenty year term of the Heads of Agreement (HOA) started on 1 February 2004 and that the Council will approve of the HOA being extended for the months of March, April, May and June of the twentieth year (similar to a "lease - holding over" clause) and this be included in the proposed Deed of Clarification/Acknowledgement;*
- (b) *a clarification clause NOT being inserted in the proposed Deed of Clarification/Acknowledgement to clearly articulate that the Mortgage Security under the Heads of Agreement is provided to secure both the repayment of the loan monies plus \$300,000 and the performance of all of the Guarantors Covenants under the Heads of Agreement; and*
- (c) *the other provisions of the Town's offer and Allia/PGSC's response together, as detailed in the CEO's Further Report (Confidential) remaining unchanged.*

Debate ensued, particularly in relation to the commencement date and definitions.

Cr Chester foreshadowed a further amendment to the proposed amendment clause (iii)(b).

The CEO advised the Presiding Member that Standing Orders do not permit an amendment to be made to an amendment.

Discussion ensued and the Elected Members acknowledged Cr Chester's foreshadowed amendment as being supportable.

Crs Torre and Ker agreed to withdraw their amendment and this was consented by the Council.

Moved Cr Ker, Seconded Cr Torre

That a new clause (iii) be added as follows:

"(iii) ADOPTS the position as detailed in the CEO's Further Report (Confidential) dated 11 May 2004 relating to the Town's position and Allia/PGSC's response subject to the following:

- (a) *the twenty year term of the Heads of Agreement (HOA) started on 1 February 2004 and that the Council will approve of the HOA being extended for the months of March, April, May and June of the twentieth year (similar to a "lease - holding over" clause) and this be included in the proposed Deed of Clarification/Acknowledgement;*
- (b) *a clarification clause being inserted in the proposed Deed of Clarification/Acknowledgement to clearly articulate that the Mortgage Security under the Heads of Agreement is provided to secure both the repayment of the loan monies plus \$300,000 and the performance of all of the Guarantors Covenants under the Heads of Agreement; and*

- (c) *the other provisions of the Town's offer and Allia/PGSC's response together, as detailed in the CEO's Further Report (Confidential) remaining unchanged.*

AMENDMENT CARRIED (8-0)

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

MOTION AS AMENDED CARRIED (8-0)

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

COUNCIL DECISION ITEM 10.4.3

That the Council;

- (i) *RECEIVES the Members Equity Stadium - Legal Documentation and Outstanding Issues - Progress Report as at 5 May 2004;*
- (ii) *NOTES that a further report will be provided at the meeting of 11 May 2004; and*
- (iii) *ADOPTS the position as detailed in the CEO's Further Report (Confidential) dated 11 May 2004 relating to the Town's position and Allia/PGSC's response subject to the following:*
- (a) *the twenty year term of the Heads of Agreement (HOA) started on 1 February 2004 and that the Council will approve of the HOA being extended for the months of March, April, May and June of the twentieth year (similar to a "lease - holding over" clause) and this be included in the proposed Deed of Clarification/Acknowledgement;*
- (b) *a clarification clause being inserted in the proposed Deed of Clarification/Acknowledgement to clearly articulate that the Mortgage Security under the Heads of Agreement is provided to secure both the repayment of the loan monies plus \$300,000 and the performance of all of the Guarantors Covenants under the Heads of Agreement; and*
- (c) *the other provisions of the Town's offer and Allia/PGSC's response together, as detailed in the CEO's Further Report (Confidential) remaining unchanged.*
-

14. CLOSURE

The Presiding Member, Mayor Catania JP, declared the meeting closed at 10.40pm with the following persons present:

Cr Simon Chester	North Ward
Cr Caroline Cohen	South Ward
Cr Helen Doran-Wu	North Ward
Cr Steed Farrell	North Ward
Cr Ian Ker (Deputy Mayor)	South Ward
Cr Sally Lake	South Ward
Cr Maddalena Torre	South Ward
John Giorgi, JP	Chief Executive Officer
Rob Boardman	Executive Manager, Environmental & Development Services
Mike Rootsey	Executive Manager, Corporate Services
Rick Lotznicher	Executive Manager, Technical Services
Annie Smith	Executive Secretary (Minutes Secretary)
Michael Henderson	Partner, Minter Ellison Solicitors (from 9.00pm)
Martin Matthews	Associate, Minter Ellison Solicitors (from 9.00pm)

These Minutes were confirmed by the Council as a true and accurate record of the Ordinary Meeting of the Council held on 11 May 2004.

Signed: Presiding Member
Mayor Nick Catania, JP

Dated this day of 2004