



TOWN OF VINCENT

"Enhancing and celebrating our diverse community"

MINUTES

12 MAY 2009

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INDEX (12 MAY 2009)

ITEM	REPORT DESCRIPTION	PAGE
9.1 DEVELOPMENT SERVICES		
9.1.1	No. 50 (Lot: 97 D/P: 6064) Tasman Street, Mount Hawthorn - Proposed Five (5), Two-Storey Single Bedroom Grouped Dwellings (PRO4126; 5.2009.92.1)	34
9.1.2	No. 14A (Lot: 262 D/P: 38560) Scott Street, Leederville - Proposed Two-Storey Single House with Loft (PRO4470; 5.2008.303.1)	20
9.1.3	No. 17 (Lot: 7 D/P: 11538) Green Street, Mount Hawthorn - Proposed Two-Storey Mixed Use Development Comprising Five (5) Offices, Two (2) Multiple Dwellings and Two (2) Single Bedroom Multiple Dwellings (PRO0375; 5.2009.122.1)	9
9.1.4	Adding/Deleting/Amending Places Listed on the Municipal Heritage Inventory (MHI) - Nos. 79-81 (Lots: 11 and 12 D/P: 59211) Brisbane Street, Perth (PRO4489; PLA 0098)	27
9.1.5	LATE ITEM – Nos. 59-61 (Lots 10, 16, 17, 18, 19, and 20) Brewer Street, Corner Pier Street and Thorley Street, Perth - Proposed Strata Form 7 Certificate of Local Government to Previously Approved Construction of Four (4) Storey Residential Building Comprising Forty (40) Multiple Dwellings and Basement Car Parking – Building Encroachments (PRO3797; 6.2009.168.1)	38
9.2 TECHNICAL SERVICES		
9.2.1	Further Report- Proposed Traffic Parking Improvements - Lincoln Street and Bulwer Avenue, Highgate, outside Highgate Primary School (PKG0142 & TES0043) Hyde Park Precinct	50
9.2.2	Norham/Redfern Street Reserve – BBQ & Drinking Fountain (RES0109) North Perth Precinct	15
9.3 CORPORATE SERVICES		
9.3.1	Investment Report as at 31 March 2009 (FIN0033)	57
9.3.2	Fees and Charges 2009/2010 (FIN0025)	59
9.4 CHIEF EXECUTIVE OFFICER		
9.4.1	Use of the Council's Common Seal (ADM0042)	17
9.4.2	Adoption and Consideration of Submission relating to the Town of Vincent Plan for the Future 2009-2014 (ADM0038)	64
9.4.3	Review and Adoption of Members Fees and Expenses 2009/2011 (ADM0051)	69
9.4.4	Information Bulletin	73

- 10. COUNCIL MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**
Nil 75
- 11. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN (Without Discussion)**
Nil 75
- 12. REPRESENTATION ON COMMITTEES AND PUBLIC BODIES**
Nil 75
- 13. URGENT BUSINESS**
Nil 75
- 14. CONFIDENTIAL ITEMS / MATTERS FOR WHICH THE MEETING MAY BE CLOSED ("*Behind Closed Doors*")**
Nil 75
- 15. CLOSURE** 76
-

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 12 May 2009, commencing at 6.00pm.

1. DECLARATION OF OPENING

The Presiding Member, Deputy Mayor Steed Farrell, declared the meeting open at 6.04pm.

2. APOLOGIES/MEMBERS ON APPROVED LEAVE OF ABSENCE

(a) Apologies:

Mayor Nick Catania – apologies due to work commitments.

(b) Present:

Cr Steed Farrell (Deputy Mayor)	Presiding Member, North Ward
Cr Anka Burns	South Ward
Cr Helen Doran-Wu	North Ward (from 6.10pm)
Cr Ian Ker	South Ward
Cr Sally Lake	South Ward
Cr Dudley Maier	North Ward
Cr Izzi Messina	South Ward
Cr Noel Youngman	North Ward
John Giorgi, JP	Chief Executive Officer
Rob Boardman	Director Development Services
Rick Lotznicker	Director Technical Services
Mike Rootsey	Director Corporate Services
Anita Radici	Executive Assistant (Minutes Secretary)

Approximately 12 Members of the Public

(c) Members on Approved Leave of Absence:

Nil.

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

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

1. James Watson of 180 Palmerston Street, Perth – Petition 5.1. Stated he attended the Meeting in March 2009 and heard the presentation from Syrinx Environmental and what they had proposed for Hyde Park. Stated he wrote to Council informing Council of his concerns and also put a petition together to give an indication of the community feeling about the proposals. Believed most members of the public think restoration of the lakes means restoring them to their original condition however, from the presentation in March it is quite clear that is not the case. Concerned it is more a matter of transforming rather than restoring. Stated members of the public that he spoke to and that signed the petition, they believed the restoration involved fixing the stone edging, taking appropriate action to ensure the water levels are maintained throughout the year, removing weeds from islands etc, which is the common using and understanding of the work “restoration”. Concerned that the two

proposals presented, exclusively deal with environmental aspects and do not take into account other aspects, particularly the public amenity, social and cultural values of the park/lakes and heritage protection as it is listed under the state register. Advised it is very heartfelt, that most people they spoke to (except for a small number) were quite concerned about the track being take however, more than anything it was very clear that they had no idea of the two proposals or the major changes that would be taking place at Hyde Park i.e. the trees and islands would be removed and that only parts of the stonewalls may be retained. Concerned also that they would no longer be looking out on water-it would be a wetlands and for at least one of the lakes, it would probably dry out in the summer.

Cr Doran-Wu entered the Chamber at 6.10pm.

2. Wendy Watson-Ekstein of 180 Palmerstone Street, Perth – Petition 5.1. Stated she also collected names for the petition which they did by attending Hyde Park and spoke to the people who use it, live in it, have weddings there, picnics, birthdays etc. Stated people adore they way Hyde Park is now. Advised when they approached people and explained the implications of the intended changes were, they were horrified. Believed there will be an enormous backlash if the Lakes get turned into wetlands. Stated people love the Arcadian landscaping style – a fine old Victorian English park, big trees, exotic foliage, lakes, birds and other animals. Believed if it changes in anyway there will be tremendous distress. Stated when door knocking, people advised the reason they moved there is because of Hyde Park and hope the money the Town would spend and the money given by Federal Government would be spent on restoring the Lakes and bringing them back to their former beauty.
3. Kate Casey of 93 Glendower Street, Perth – Petition 5.1. Endorsed what the previous speakers have said. Stated she also collected signatures and received the same responses. Advised when she first moved to Glendower Street she was struck by the fact that it was people in the same sort of position as Councillors that planned to drain the swamp, not for the own benefit, it was for future generations as it was going back 100 or so years. Stated they could foresee the need for recreational space even in those days and, believes if there was a need then, there is an even bigger need now. Believed the natural sound and beauty of water is going to disappear. Water is very necessary for emotional and spiritual health. Stated the word “environment” is being used to take away the beautiful lakes and greenery. Urged Council to think again about it.
4. Sharon Pinesi-O’Brien of 2/80 Loftus Street, West Perth – Item 9.1.2. Stated they have consulted the Town’s Planners on many occasions prior to submitting the plans – trying to do the right thing and also complying with all requests they were advised on during the process. Accepts the three conditions stated prior to the issue of the building licence and are very happy with it. In relation to comments by a neighbour (on page 9) regarding the clothes drying area – they are undecided as to whether or not they are going to put one in as they may just have a dryer however, stated they would put it below the 1.8m wall so it will not be visible to any neighbours. Advised the pool pump that was mentioned will be on the east boundary facing south so as to allow for proper air ventilation and will also not be visible to any neighbours. Advised that the bin storage area has been placed within the garage, complying with the Regulations.

5. Mo Zhai of 8 Vermillion Way, Success – Item 9.1.4. Stated the application has taken more than 10 months with both parties spending considerable time to prepare documents to allow SAT to carry out an independent review which included three rounds of hearings and mediations. Advised the Owner also spent considerable costs to engage heritage professionals to assess the heritage value of the properties. Appreciates that Council's Heritage Officers understanding and recommendation to Council to delete 79 and 81 Brisbane Street from the Town's Heritage List Category B which will pave the way to plan a design for a new development that will achieve the Town's objective for the Beaufort Precinct in intensifying mixed use development within the locality. Requested the Council approve the demolition.

There being no further speakers, public question time was closed at approx. 6.19pm.

(b) RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4. APPLICATIONS FOR LEAVE OF ABSENCE

Nil.

5. THE RECEIVING OF PETITIONS, DEPUTATIONS AND PRESENTATIONS

The Chief Executive Officer read out a summary of the following petitions:

- 5.1 Petition received from Mr J. Watson and Ms W. Watson-Ekstein of Palmerston Street, Perth together with 276 signatories supporting the restoration of the Hyde Park Lakes as full bodies of water, not wetlands from residents living around the park and visitors to Hyde Park; and

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

- 5.2 Petition received from Mrs G. Georgiu of Mardella Street, Coolbinia together with 84 signatories opposing the installation of a total medium strip at the intersection of Adair Parade, Coolbinia and Walcott and Hunter Streets, North Perth.

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

Moved Cr Ker, Seconded Cr Youngman

That the Petitions be received and referred to the Director Technical Services for investigation and report.

CARRIED (8-0)

(Mayor Catania was an apology for the meeting.)

6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

- 6.1 Minutes of the Ordinary Meeting of Council held on 28 April 2009.

Moved Cr Burns, Seconded Cr Maier

That the Minutes of the Ordinary Meeting of Council held 28 April 2009 be confirmed as a true and correct record.

Cr Maier queried why the Confidential Reports did not show the amendments moved “Behind Closed Doors”, in the Council Decision shown in the Minutes – which are public. Stated the amendments were shown in a previous case (such as 10 March 2009).

The Chief Executive Officer advised that it was his understanding that the Local Government Act Regulations only require the Council Decision to be stated in the Public Minutes.

PROCEDURAL MOTION

Moved Cr Maier, Seconded Cr Ker

That the amendments moved for the Confidential Items, whilst the Council was “Behind Closed Doors” be included on the public Minutes.

PROCEDURAL MOTION PUT AND LOST ON THE CASTING VOTE OF THE PRESIDING MEMBER (4-5)

For: Cr Ker, Cr Lake, Cr Maier, Cr Youngman

Against: Presiding Member, D/Mayor Cr Farrell (two votes – deliberative and casting vote), Cr Burns, Cr Doran-Wu, Cr Messina

(Mayor Catania was an apology for the meeting.)

THE MOTION TO ADOPT THE MINUTES WAS PUT AND CARRIED (6-2)

For: Presiding Member, D/Mayor Cr Farrell, Cr Burns, Cr Doran-Wu, Cr Ker, Cr Messina, Cr Youngman

Against: Cr Lake, Cr Maier

(Mayor Catania was an apology for the meeting.)

6.2 Minutes of the Special Meeting of Council held on 5 May 2009.

Cr Maier queried page 4, Amendment No. 7, Part I of the Minutes stated that the initial vote is shown as 3-3 with Crs Doran-Wu, Lake and Maier being in favour and Mayor Catania, Crs Burns and Messina against. His recollection is that it was Mayor Catania, Crs Lake and Maier being in favour and Crs Doran-Wu, Burns and Messina against.

Cr Doran-Wu concurred with Cr Maier.

The Presiding Member, Deputy Mayor, Cr Farrell requested that page 4 be corrected accordingly.

Moved Cr Burns, Seconded Cr Doran-Wu

That the Minutes of the Special Meeting of Council held 5 May 2009 be confirmed as a true and correct record, subject to page 4, amendment No. 7 being amended to show the initial vote to be “Mayor Catania, Crs Lake and Maier for” and “Crs Burns, Doran-Wu and Messina against”.

CARRIED AS CORRECTED (8-0)

(Mayor Catania was an apology for the meeting.)

7. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

7.1 Australian Family Fisher-Price Child Care Awards 2008-09

I am very pleased to announce that Barbara Wood, Director of the Leederville Early Childhood Centre has been selected as the State Winner of the Australian Family Fisher-Price Child Care Awards and awarded the "Western Australian Child Care Director of the Year". Furthermore, on attending the Awards Ceremony in Sydney, Barbara went on to win the National Director of the Year Award.

The Awards recognise "A Director who is committed to excellence in care and quality outcomes for our children."

Barbara has achieved this through her professional approach as Supervising Officer providing a high level of management expertise and tireless effort, to ensure all activities in the Centre are based on and directed toward, excellence and quality outcomes for children; and through her personal leadership style, which exemplifies a level of care and dedication to excellence and quality in childcare that is unsurpassed.

Barbara has worked in the child care industry for over 46 years and over that time has developed a vision of early childhood.

Under Barbara's supervision, the Leederville Early Childhood Centre has evolved to become a Centre with an excellent reputation within the community and the Western Australian childcare industry and this has now been recognised nationally.

It is with great pleasure that we welcome Barbara Wood to the Meeting and present her with a Certificate of Acknowledgement, in recognition of her significant services to the community of the Town of Vincent.

As Director of our local Leederville Early Childhood Centre, the Town has had the pleasure of working with Barbara and seeing first-hand the dedication she has to her vocation and the esteem in which she is held by our community.

On behalf of the Mayor, Councillors, Chief Executive Officer and Staff of the Town of Vincent please accept our sincere congratulations on this well deserved Award!

Received with Acclamation!

Barbara Wood addressed the Meeting.

7.2 Anzac Day Service – Letter of Appreciation

The Mayor recently received a letter from The Returned and Services League of Australia W.A. Branch (Inc). relating to the Town's Anzac Day Service held at Axford Park, as follows:

"On behalf of the president and members of the Mount Hawthorn RSL Sub Branch it is my pleasant task to congratulate you and your staff on the excellent presentation of the Anzac day commemoration Service at Axford Park.

Our president, Mr Ian Saunders, in particular wishes to express his thanks to your self for the manner in which the service was conducted and your support with this event, which by the numbers attending, certainly confirms your and your council's standing within the community.

To the musicians, the catering staff, the Piper, Rangers, Jamie and Jacinta and all other personnel assisting please convey our sincere thanks for the wonderful effort they made to make this, once again, a very successful event.

In the opinion of our members, the entire service was equal to if not better than in previous years and certainly indicates that the public are prepared to patronize local community organised services, which reflects on the role your council plays in the community.

Once again from the members of the Mount Hawthorn RSL Sub Branch thank you, your Council and staff members for your support in making this Remembrance Day a huge success."

7.3 Employee of the Month Award for the Town of Vincent for May 2009

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

For MAY 2009, the award is presented to Jamie Bennett, Senior Community Development Officer in the Town's Community Development Section.

Jamie was nominated by the Chief Executive Officer, John Giorgi, in acknowledgement of the letter of thanks received from the Mount Hawthorn RSL Sub- Branch regarding the Town's organisation of this year's Anzac Day Ceremony.

As announced by the Mayor at the last Council Meeting, this year's Anzac Day Ceremony was considered the best ever and the attendance was in excess of 600 attendees.

Organisation of the Anzac Day Ceremony is conducted primarily by Jamie, who co-ordinates the various Sections within the Town's Administration to ensure that the Ceremony is conducted "without a hitch".

The Award is presented to Jamie in recognition of his great efforts.

Congratulations Jamie - and well done!

Received with Acclamation!

7.4 Late Item

I have approved of a Late Item, which is considered Urgent, to be placed on tonight's Agenda, as follows:

- Item 9.1.5 - Nos. 59-61 Brewer Street, Corner Pier Street and Thorley Street, Perth - Proposed Strata Form 7 Certificate of Local Government to Previously Approved Construction of Four (4) Storey Residential Building Comprising Forty (40) Multiple Dwellings and Basement Car Parking - Building Encroachments.

The reasons of urgency are for the Council to determine its position with regards to the building encroachments. If approved, it will allow the Builder to request the relevant Government Minister to approve of the encroachments into public land.

8. DECLARATIONS OF INTERESTS

- 8.1 Cr Burns declared a Financial interest in Item 9.3.1 – Investment Report. The extent of her interest being that she is a shareholder and her father is a director in the North Perth Community Bank in which the Town has investment shares.
- 8.2 Cr Messina declared a Financial interest in Item 9.3.1 – Investment Report. The extent of his interest being that he is a director and shareholder of the North Perth Community Bendigo Bank in which the Town has shares.
- 8.3 Cr Youngman declared a Proximity interest in Item 9.1.2 – No. 14A (Lot: 262 D/P: 38560) Scott Street, Leederville - Proposed Two-Storey Single House with Loft. The extent of his interest being that he owns a property in the street.

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

Nil.

10. REPORTS

The Presiding Member, Deputy Mayor Steed Farrell, requested that the Chief Executive Officer advise the meeting of:

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

Items 9.1.2 and 9.1.4.

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

Items 9.3.2, 9.4.2 and 9.4.3.

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

Item 9.3.1.

Presiding Member, Deputy Mayor Steed Farrell, requested Council Members to indicate:

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

Cr Messina	Nil.
Cr Youngman	Item 9.4.3.
Cr Ker	Items 9.1.1, 9.3.2 and 9.4.4.
Cr Doran-Wu	Nil.
Cr Lake	Nil.
Cr Maier	Item 9.2.1.
Cr Farrell	Nil.

The Presiding Member, Deputy Mayor Steed Farrell, requested that the Chief Executive Officer advise the meeting of:

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

Items 9.1.3, 9.2.2 and 9.4.1.

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

Nil.

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

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

Items 9.1.3, 9.2.2 and 9.4.1.

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

Items 9.1.2 and 9.1.4.

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

Moved Cr Messina, Seconded Cr Ker

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

Items 9.1.3, 9.2.2 and 9.4.1.

CARRIED (8-0)

(Mayor Catania was an apology for the meeting.)

9.1.3 No. 17 (Lot: 7 D/P: 11538) Green Street, Mount Hawthorn - Proposed Two-Storey Mixed Use Development Comprising Five (5) Offices, Two (2) Multiple Dwellings and Two (2) Single Bedroom Multiple Dwellings

Ward:	North	Date:	5 May 2009
Precinct:	Mount Hawthorn; P01	File Ref:	PRO0375; 5.2009.122.1
Attachments:	001		
Reporting Officer(s):	D Pirone		
Checked/Endorsed by:	H Smith, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES the application submitted by S Butto on behalf of the owner Czernik Family Trust for proposed Two-Storey Mixed Use Development comprising Five (5) Offices, Two (2) Multiple Dwellings and Two (2) Single Bedroom Multiple Dwellings, at No. 17 (Lot: 7 D/P: 11538) Green Street, Mount Hawthorn, and as shown on plans stamp-dated 18 March 2009 and 23 April 2009, subject to the following conditions:

- (i) all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, solar panels, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) 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;*
- (iii) the two (2) car parking bays for the office component shall be shown as 'common property' on any strata or survey strata subdivision plan for the property;*
- (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) all signage that does not comply with the Town's Policy relating to Signs and Advertising shall be subject to a separate Planning Application, and all signage shall be subject to a separate Sign Licence application, being submitted and approved prior to the erection of the signage;*
- (vi) first obtaining the consent of the owners of No. 19 Green 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. 19 Green Street in a good and clean condition;*
- (vii) the gross floor area of the office component shall be limited to a maximum of 391 square metres;*

- (viii) *prior to the issue of a Building Licence, the owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the multiple dwellings of the following:*
- (a) *that the use or enjoyment of the property may be affected by noise, traffic, car parking and other impacts associated with nearby commercial and non-residential activities. This notification shall be lodged and registered in accordance with the Transfer of Land Act prior to the first occupation of the development; and*
 - (b) *the Town of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the residential units/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.*

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

- (ix) *prior to the issue of a Building Licence, an acoustic report prepared in accordance with the Town's Policy relating to Sound Attenuation shall be submitted and approved by the Town. The recommended measures of the acoustic report shall be implemented and certification from an acoustic consultant that the measures have been undertaken, prior to the first occupation of the development, and the applicant/owners shall submit a further report from an acoustic consultant 6 months from first occupation of the development certifying that the development is continuing to comply with the measures of the subject acoustic report;*
- (x) *prior to the first occupation of the development, four (4) car parking spaces being provided for the residential component of the development shall be clearly marked and signposted for the exclusive use of the residents of the development and shall not be in tandem arrangement unless they service the same residential unit/dwelling;*
- (xi) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating:*
- (a) *all car parking bays complying with the minimum specifications and dimensions specified in the Town's Policy relating to Parking and Access and Australian Standards AS2890.1 – "Off Street Parking", including one car parking bay for people with disabilities; and*
 - (b) *the pavement within the site boundary being graded down to the existing footpath level so that stormwater is directed away from the building.*

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

- (xii) *prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating a bin compound being provided in accordance with the Town's Health Services specifications, divided into commercial and residential areas and sized to contain:*

Residential Properties

- **General Waste:** *One (1) Mobile Garbage Bin or equal to 240 litres per unit (collected weekly); and*

- **Recycle Waste:** *One (1) Mobile Recycle Bin or equal to 240 litres per unit (collected fortnightly).*

Commercial Properties

- **General Waste:** *One (1) Mobile Garbage Bin or equal to 240 litres per commercial unit or 200 square metres of floor space, or part thereof (collected weekly); and*
- **Recycle Waste:** *One (1) Mobile Recycle Bin or equal to 240 litres per commercial unit or 200 square metres of floor space, or part thereof (collected fortnightly).*

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

- (xiii) *doors, windows and adjacent floor areas fronting Green and London Streets shall maintain an active and interactive relationship with these streets;*
- (xiv) *prior to the issue of a Building Licence, a Construction Management Plan addressing noise, hours of construction, traffic and heavy vehicle access, dust and any other appropriate matters, shall be submitted to and approved by the Town;*
- (xv) *the awnings shall be a minimum height of 2.75 metres from the footpath level to the underside of the awning and 600 millimetres from the kerb line of Green and London Streets;*
- (xvi) *prior to first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services, at the applicant's/owners(s)' full expense;*
- (xvii) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (xviii) *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;*
- (xix) *prior to the first occupation of the development, two (2) class 1 or 2 bicycle parking facilities shall be provided at a location convenient to the entrances of the approved development. Details of the design and layout of the bicycle parking facilities shall be submitted and approved prior to installation of such facilities;*
- (xx) *the on-site car parking provided for the offices shall be available for use by the multiple dwellings outside the normal business hours of the offices;*
- (xxi) *the support/approval of the Department for Planning and Infrastructure and/or Western Australian Planning Commission, and compliance with its comments and conditions at the applicant(s)/owner(s)' full expense;*
- (xxii) *in keeping with the Town's practice for multiple dwellings, commercial, retail and similar developments the footpaths adjacent to the subject land are to be upgraded, by the applicant, to a brick paved standard to the Town's specification. A refundable footpath upgrading bond and/or bank guarantee of \$5,000 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing facilities have been reinstated to the satisfaction of the Town's Technical Services. An application to the Town for the refund of the upgrading bond must be made in writing;*

- (xxiii) *no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s); and*
- (xxiv) *prior to the issue of a Building Licence for the single bedroom dwelling (unit 2), the owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the single bedroom dwelling (unit 2) that:*
- (a) *a maximum of one (1) bedroom and two (2) occupants are permitted in each single bedroom dwelling at any one time; and*
 - (b) *the floor plan layout of each single bedroom dwelling shall be maintained in accordance with the Planning Approval plans.*

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

COUNCIL DECISION ITEM 9.1.3

Moved Cr Messina, Seconded Cr Ker

That the recommendation be adopted.

CARRIED "EN BLOC" (8-0)

(Mayor Catania was an apology for the meeting.)

Landowner:	Czernik Family Trust
Applicant:	S Butto
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Local Centre
Existing Land Use:	Multiple Dwellings and Office (under construction)
Use Class:	Multiple Dwellings and Office
Use Classification:	"AA" and "P"
Lot Area:	676 square metres
Access to Right of Way	South side, 5 metres wide, sealed, Public

BACKGROUND:

- 22 September 1997 The Council at its Ordinary Meeting resolved to conditionally approve proposed new shop building and boundary fencing to London Street.
- 14 April 1998 The Council at its Ordinary Meeting resolved to refuse proposed change of use from caretakers residence to consulting rooms.
- 12 July 1999 The Council at its Ordinary Meeting resolved to conditionally approve proposed construction of an eating house and change of use from caretakers residence to office.

- 13 September 2005 The Council at its Ordinary Meeting resolved to conditionally approve the demolition of existing caretakers residence and shop and the construction of a two-storey mixed use development comprising five (5) offices and four (4) multiple dwellings.
- 10 July 2007 The Council at its Ordinary Meeting resolved to conditionally approve the reconsideration of condition (xiii) (d) of planning approval dated 13 September 2005 for the demolition of existing caretakers residence and shop and the construction of a two-storey mixed use development comprising five (5) offices and four (4) multiple dwellings.
- 9 October 2007 The Council at its Ordinary Meeting resolved to conditionally approve the demolition of the existing caretakers residence and shop and the construction of a two-storey mixed use development comprising five (5) offices and four (4) multiple dwellings.
- 30 April 2009 The Town under delegated authority from the Council approved an Amended Building Licence Application for the increased setback of the balconies and the upper floor main building line.

DETAILS:

The proposal involves an amendment to the Planning Approval granted by the Council at its Ordinary Meeting held on 9 October 2007. As a result of Western Power moving the power pole closer to the subject property, the applicant was required to setback the upper floor balconies and overall building further than the distance approved by the Council at its Ordinary Meeting held on 9 October 2007. Due to this increased setback, unit 2 and 3 significantly decreased in size and, as such, these two units are more suitable as single bedroom dwellings. Whilst the subject application is modifying its original description, the application has been assessed and there are no further variations to the original Planning Approval granted by the Council at its Ordinary Meeting held on 9 October 2007.

ASSESSMENT:

Non-Compliant Requirements			
Requirements	Required	Proposed *	Officer Comments Pursuant to Clause 38(5) of TPS 1
Density:	2 multiple dwellings and 2.8 single bedroom multiple dwellings.	2 multiple dwellings and 2 single bedroom multiple dwellings.	Noted – no variation.
Plot Ratio:	0.7 or 466 square metres	0.45 or 295 square metres	Noted – no variation and the original planning application proposed a greater plot ratio.
Single Bedroom Dwelling Plot Ratio:	70 square metres	67 square metres for each unit.	Noted – no variation.
Consultation Submissions			
Consultation was not required in this instance as the proposed change from two-bedroom dwellings to single bedroom dwelling does not result in any further variation to the R Codes and the Town's Policies.			

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

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

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

COMMENTS:

The conditions stated in the Officer Recommendation replicate the conditions placed on the approval granted by the Council at its Ordinary Meeting held on 9 October 2007, except for the following:

- The condition for cash-in-lieu was not placed on the approval as the payment has been made;
- The condition for public art was not placed on the approval as the payment has been made;
- The bin store condition has been updated to comply with the 2009 standards; and
- An additional section 70A condition has been included for the single bedroom dwellings.

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

9.2.2 Norham/Redfern Street Reserve – BBQ & Drinking Fountain

Ward:	North	Date:	30 April 2009
Precinct:	North Perth	File Ref:	RES0109
Attachments:	-		
Reporting Officer(s):	J van den Bok		
Checked/Endorsed by:	R Lotznicker	Amended by:	

OFFICER RECOMMENDATION:

That the Council;

- (i) **RECEIVES** the report in relation to the petition received to install a barbeque and drinking fountain at Redfern/Norham Street Reserve, North Perth;
- (ii) **NOTES** that a drinking fountain will be installed within Redfern/Norham Street Reserve as part of the 2009/10 budget and Universal Accessible Facilities (Playgrounds) Upgrade Program reported to the Council on 27 May 2008;
- (iii) **CONSIDERS** listing the proposal to install an electric barbeque at Redfern/Norham Street Reserve in the 2010/11 draft budget; and
- (iv) **ADVISES** the petitioners of its decision.

COUNCIL DECISION ITEM 9.2.2

Moved Cr Messina, **Seconded** Cr Ker

That the recommendation be adopted.

CARRIED “EN BLOC” (8-0)

(Mayor Catania was an apology for the meeting.)

PURPOSE OF REPORT:

The purpose of this report is to advise the Council of a request to install a barbeque and drinking fountain in the park bounded by Redfern and Norham Streets, North Perth.

BACKGROUND:

A petition signed by twenty two (22) signatories was recently received by the Town requesting that a barbeque and drinking fountain be installed within the park bounded by Redfern and Norham Streets, North Perth.

DETAILS:

Drinking Fountain

A report was presented to the Council on 27 May 2008, which indicated various upgrade works associated with accessibility issues and the Playground Upgrade Program.

Included in these works was the installation of drinking fountains close to playground areas where there was currently no drinking water available. The playground at Redfern/Norham Street Reserve is listed on the program in 2009/10 for the installation of a drinking fountain.

The funding for these works is sourced from the Park Furniture/Facilities upgrade budget and \$48,000 has again been listed in the draft 2009/10 capital works budget for consideration. Part 1 of this program was completed in 2008/09.

Barbeque

Redfern/Norham Street Reserve is a small community park with a playground and seating areas. Whilst installation of a barbeque would be a welcome addition, up until this point in time this has not been seen by the Town's Administration as a high priority location for a new barbeque.

A total of four (4) new electric barbeques have been listed (requests from residents/community groups) in the 2009/10 budget for consideration by the Council at the following locations:

- Menzies Park
- Robertson Park
- Kyilla Park
- Britannia Road Reserve (South)

Therefore it is recommended that this item be listed for consideration by Council as part of the 2010/11 budget process.

CONSULTATION/ADVERTISING:

Adjacent owner/occupiers will be consulted prior to the installation should the Council approve of the barbeque.

LEGAL/POLICY:

Nil.

STRATEGIC IMPLICATIONS:

In accordance with the objective of Strategic Plan 2006-2011 – 1.1.6 Enhance and maintain parks and community facilities; *“(b) Implement infrastructure improvements for public open space, including the Wetlands Heritage Trail/Greenway.”*

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

An amount of \$1,500 has been allocated within the 2009/10 Park Furniture/Facilities upgrade budget for the installation of a drinking fountain at Redfern/Norham Street Reserve.

The estimated cost for supply and installation of a (single plate) electric barbeque with power supply provided is \$15,000 and this project will be noted and listed for consideration in the 2010/11 draft capital works budget.

COMMENTS:

Given the current economic situation and the electric barbeques already listed for consideration/installation as part of the 2009/10 capital works budget, it is recommended that the Council lists this particular project for consideration as part of the 2010/11 capital works budget.

9.4.1 Use of the Council's Common Seal

Ward:	-	Date:	6 May 2009
Precinct:	-	File Ref:	ADM0042
Attachments:	-		
Reporting Officer(s):	M McKahey		
Checked/Endorsed by:	John Giorgi	Amended by:	-

OFFICER RECOMMENDATION:

That the Council NOTES the use of the Council's Common Seal on the documents listed in the report, for the month of April 2009.

COUNCIL DECISION ITEM 9.4.1

Moved Cr Messina, Seconded Cr Ker

That the recommendation be adopted.

CARRIED "EN BLOC" (8-0)

(Mayor Catania was an apology for the meeting.)

BACKGROUND:

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

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

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

Date	Document	No of copies	Details
02/04/09	Withdrawal of Caveat	1	Town of Vincent and Downings Legal of Level 11, 2 Mill Street, Perth WA 6000 re: Nos. 257-261 (Lots 1 and 2) Oxford Street, corner Bourke Street, Leederville
06/04/09	Licence	3	Town of Vincent and North Perth Out of School Care Centre Incorporated of PO Box 243, North Perth WA 6906 - <i>To use the storage space in North Perth Town Hall and Use of the Hall weekdays from 2.00pm to 6.30pm and during school holidays on week days from 7.00am to 6.30pm</i>

Date	Document	No of copies	Details
14/04/09	Notification under Section 70A	2	Town of Vincent and Schnapper Developments Pty Ltd of PO Box 458 Wembley re: Nos. 59-61 (Lots 10, 16, 17, 18, 19 and 20) Brewer Street and Thorley Street, Perth (to be known as "Pavilion Apartments") - <i>To satisfy Clause (v) of Conditional Approval of Ordinary Meeting of Council held on 12/06/07 relating to demolition of existing Warehouse Buildings and construction of four (4) storey Residential Building comprising forty (40) Multiple Dwellings and Basement Car Parking. (NB: Original Notification signed on 23/03/09, however Landgate did not accept document as it was dated. Replacement document completed.)</i>
15/04/09	Deed of Consent to Mortgage	4	Town of Vincent and Aralia Investments Pty Ltd of 1 Aralia Place, Dianella, WA 6059 and Bank of Western Australia Ltd of 108 St George's Terrace, Perth WA 6000 re: Nos. 257-261 (Lots 1 and 2) Oxford Street, Corner Bourke Street, Leederville WA 6007 - <i>Owners have refinanced the project and Deed required to ensure the Bank, of which the owner is desirous of mortgaging the property, agrees to adopt the covenants of the original deed for the Amalgamation of the property.</i>
20/04/09	Notification under Section 70A	2	Town of Vincent and Pride Land Holdings Pty Ltd of 17 Wittenoom Street, East Perth re: Nos. 209-213 (Lot: 1 D/P: 5813, Lot: 44 D/P: 384/1) Bulwer Street, Dual Frontage to Edith Street, Perth - <i>Demolition of Existing Two (2) Single Houses, Warehouses and Shop and Construction of Three (3) Storey Mixed Use Development comprising Six (6) Grouped Dwellings and Three (3) Offices - Conditional Approval granted at Ordinary Meeting of Council held on 19 December 2006.</i>
20/04/09	Deed of Licence	1	Town of Vincent and Allia Venue Management Pty Ltd of Unit 25, 257 Balcatta Road, Balcatta WA 6021 and Spotless Services Ltd of Gate 7, Subiaco Oval, Subiaco Road, Subiaco WA 6008 re: Alliance/Spotless Trade Show - 21 April 2009 (Gareth Naven Room and Members Equity Bank Lounge)
22/04/09	Deed of Licence	2	Town of Vincent and Allia Venue Management Pty Ltd of Unit 25, 257 Balcatta Road, Balcatta WA 6021 and The Frontier Touring Co. Pty Ltd of 135 Forbest Street, Woolloomooloo, NSW 2011 re: Eagles Concert on 20 November 2009 and, if required, 21 November 2009 (Stadium)
23/04/09	Contract Documents	2	Town of Vincent and Leederville Gardens Retirement Estate of 37 Britannia Road, Leederville and Mrs L M Chute re: Unit 21, Leederville Gardens
24/04/09	Withdrawal of Caveat	2	Town of Vincent and Downings Legal of Level 11, 2 Mill Street, Perth WA 6000 re: Nos. 150-154 (Lot 124 D/P 3730 and Lots 1 and 2 D/P 688) Oxford Street, Leederville (<i>Relating to Amalgamation of Lots in respect of Deposited Plan 50976</i>)
30/04/09	Deed of Licence	1	Town of Vincent and Allia Venue Management Pty Ltd of Unit 25, 257 Balcatta Road, Balcatta WA 6021 and Spotless Services Ltd of Gate 7, Subiaco Oval, Subiaco Road, Subiaco WA 6008 re: Australian Appeal - Launch of West Australian Component of Abruzzo Earthquake Appeal - 1 May 2009 (Gareth Naven Room)

Date	Document	No of copies	Details
30/04/09	Deed of Licence	1	Town of Vincent and Allia Venue Management Pty Ltd of Unit 25, 257 Balcatta Road, Balcatta WA 6021 and Spotless Services Ltd of Gate 7, Subiaco Oval, Subiaco Road, Subiaco WA 6008 re: Future Now Meeting/Seminar - 7 May 2009 (Gareth Naven Room)
30/04/09	Deed of Covenant	3	Town of Vincent and R M Iustini of 25 Clieveden Street, North Perth re: Deed in relation to conservation of existing dwelling at No. 25 (Lot: 130 D/P: 3784) Clieveden Street, North Perth

The Chief Executive Officer advised that Cr Youngman had declared a proximity interest in Item 9.1.2. He departed the Chamber at 6.42pm. He did not speak or vote on this matter.

9.1.2 No. 14A (Lot: 262 D/P: 38560) Scott Street, Leederville - Proposed Two-Storey Single House with Loft

Ward:	North	Date:	4 May 2009
Precinct:	Leederville; P3	File Ref:	PRO4470; 5.2008.303.1
Attachments:	001		
Reporting Officer(s):	D Bothwell		
Checked/Endorsed by:	H Smith, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES the application submitted by Ormos Property Developments on behalf of the owner S A Pinesi-O'Brien & G F O'Brien for proposed Two-Storey Single House with Loft, at No. 14A (Lot: 262 D/P: 38560) Scott Street, Leederville, and as shown on plans stamp-dated 24 March 2009, subject to:

- (i) all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating any new street/front fence and gate within the Scott Street area, including along the side boundaries within this street setback area, complying with the following:*
 - (a) the maximum height being 1.8 metres above the adjacent footpath level;*
 - (b) maximum height of piers with decorative capping being 2.0 metres above the adjacent footpath level;*
 - (c) the piers having a maximum width of 355 millimetres and a maximum diameter of 500 millimetres;*
 - (d) the maximum height of the solid portion being 1.2 metres above the adjacent footpath level, and a minimum of fifty percent visually permeable above 1.2 metres;*
 - (e) the distance between piers should not be less than the height of the piers except where pedestrian gates are proposed; and*
 - (f) the provision of a minimum 1.5 metres by 1.5 metres truncation where walls, fences and gates adjoin vehicle access points, or where a driveway meets a public street or right of way; and a minimum 3.0 metres by 3.0 metres truncation where two streets intersect. Walls, fences and gates may be located within this truncation area where the maximum height of the solid portion is 0.65 metre above the adjacent footpath level.*

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

- (iii) *first obtaining the consent of the owners of No. 66 Bourke 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. 66 Bourke Street in a good and clean condition;*
- (iv) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
 - (a) *the building wall height of the proposed dwelling being reduced to a maximum height of 6 metres from the natural ground level;*
 - (b) *the height to the top of the pitched roof being reduced to a maximum of 9 metres from the natural ground level; and*
 - (c) *the boundary wall on the eastern elevation being reduced to a maximum average height of 3 metres from natural ground level.*

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

- (v) *the proposed swimming pool is subject to a separate Swimming Pool Licence being applied to and obtained from the Town.*

ADVISORY NOTE:

The applicant/owner is advised that under the requirements of the Dividing Fences Act, they are required to reach an agreement with the affected adjoining land owners should there be a need to remove the existing dividing fence prior to the construction of the parapet wall.

The structural integrity of the safety pool fencing at No. 66 Bourke Street, Leederville shall be maintained at all times as required under Section 245A of the Local Government Act and Part 10 of the Building Regulations 1989 as amended.

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

COUNCIL DECISION ITEM 9.1.2

Moved Cr Burns, Seconded Cr Maier

That the recommendation be adopted.

MOTION PUT AND CARRIED (7-0)

(Mayor Catania was an apology for the meeting. Cr Youngman was absent from the Chamber and did not vote.)

Cr Youngman returned to the Chamber at 6.44pm. The Presiding Member, Deputy Mayor, Cr Farrell advised that the item was carried, 7-0.

Landowner:	S A Pinesi-O'Brien & G F O'Brien
Applicant:	Ormos Property Developments
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Residential R40
Existing Land Use:	Vacant
Use Class:	Single House
Use Classification:	"P"
Lot Area:	230 square metres
Access to Right of Way	North Side, 3 metres wide, sealed, Town owned

BACKGROUND:

On 19 April 2002, the Western Australian Planning Commission approved the subdivision of No. 68 Bourke Street, corner Scott Street, Leederville, subject to standard and appropriate conditions.

On 22 May 2008, the Town under delegated authority from the Council, approved the construction of a two storey single house at No. 68 Bourke Street, subject to standard and appropriate conditions.

DETAILS:

The proposal involves the construction of a Two-Storey Single House with Loft.

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

ASSESSMENT:

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

Non-Compliant Requirements			
Requirements	Required	Proposed *	Officer Comments Pursuant to Clause 38(5) of TPS 1
Density	N/A	N/A	Noted.
Plot Ratio	N/A	N/A	Noted.
Buildings on the Boundary:	Walls not higher than 3.5 metres with an average of 3 metres.	3.3 metres	Not supported – undue impact on neighbouring property. Condition applied for proposed boundary wall to comply with the provisions of the Residential Design Codes.
Boundary Setbacks: Southern Boundary- Upper Floor	1.2 metres	1.0 metre	Supported – no undue impact on neighbouring property and affected neighbours to the South have signed the plans stating they have no objection to the proposed dwelling.
Eastern Boundary-	2.2 metres	1.020 – 1.520 metres	Supported – no undue impact on neighbouring property or surrounding amenity as there is compliant articulation on the subject wall, the proposed dwelling complies with the privacy and design for climate requirements of the Residential Design Codes and the subject property.

Building Height: Wall Height-	6.0 metres from natural ground level to the top of the pitched roof.	6.2 metres	Not supported – undue impact on neighbouring properties and surrounding amenity. Condition applied for the building wall height to be reduced to a maximum height of 6.0 metres.
Pitched Roof Height-	9.0 metres from natural ground level to the top of the pitched roof.	9.1 metres	Not supported – undue impact on neighbouring properties and surrounding amenity. Condition has been applied for the pitched roof height to be reduced to a maximum height of 9 metres.
Front Setbacks: Upper Floor	4 metres	2.559 – 3.059 metres	Supported – see ‘comments’.
Consultation Submissions			
Support	Nil		Noted.
Objection (2)	Buildings on the Boundary – objecting to proposed height variation. Boundary Setbacks: Southern Boundary - Upper Floor Eastern Boundary- Upper Floor		Supported – undue impact on neighbouring property. A condition has been applied for the proposed boundary wall to be reduced to comply with the requirements of the Residential Design Codes. Not supported – no undue impact on neighbouring property and affected neighbours adjoining to the south have signed the plans stating no objection to the proposal. Not supported – no undue impact on neighbouring property or surrounding amenity as there is compliant articulation on the subject wall, the proposed dwelling complies with the privacy and design for climate requirements of the Residential Design Codes.

	<p>Building Height: Wall Height-</p> <p>Pitched Roof Height -</p> <p>Roof pitch – concern over the proposed 35 degree roof pitch.</p> <p>Overlooking – concern that bathroom window will overlook their property.</p> <p>Overshadowing – concern that proposed dwelling will overshadow adjoining property.</p> <p>Landscaping – requesting that landscaping should be required between the two lots.</p>	<p>Supported – undue impact on neighbouring property. A condition has been applied for the building wall height to be reduced to a maximum height of 6.0 metres.</p> <p>Supported – undue impact on neighbouring properties and the surrounding amenity. A condition has been applied for the pitched roof height to be reduced to a maximum height of 9.0 metres.</p> <p>Not supported - no undue impact on neighbouring properties or surrounding amenity as the proposed roof pitch is compliant with the provisions of the Town’s Residential Design Elements Policy.</p> <p>Not supported – no undue impact on neighbouring property as a bathroom is not classified as a habitable room; therefore, the subject windows comply with the provisions of the Residential Design Codes.</p> <p>Not supported – no undue impact on neighbouring property as the proposal complies with the overshadowing requirements of the Residential Design Codes.</p> <p>Not supported – there is no requirement for landscaping to be provided between the two subject lots.</p>
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	<p>Plans do not indicate clothes drying area or bin storage area.</p> <p>Plans do not indicate possible placement of air conditioner.</p> <p>Plans do not indicate where pump for proposed pool will be located.</p> <p>Loft – concern that proposed loft will increase the height, scale and bulk of the dwelling.</p> <p>Closeness and scale of both new dwellings.</p> <p>Garage opening – would prefer garage opening to be setback 1 metre from boundary.</p>	<p>Noted – applicant has advised that the clothes drying area will be located outside the laundry, situated lower than the fence line and the bins will be stored under the stair void inside the garage.</p> <p>Noted – a standard condition will be applied for any air conditioner to be located so as not to be visually obtrusive.</p> <p>Noted – a condition has been included by the Town’s Health Services for the air conditioner <u>pool pump</u> to be located in a suitable position that will not result in the emission of unreasonable noise levels.</p> <p>Not supported – no undue impact on neighbouring property or surrounding amenity as proposed loft is contained within the roof space as required in the Town’s Residential Design Elements Policy.</p> <p>Not supported – the proposed dwelling and dwelling previously approved under delegated authority from the Council on 22 May 2008 at No. 68 Bourke Street comply with the overshadowing and privacy requirements of the Residential Design Codes.</p> <p>Not supported – no undue impact on neighbouring property and proposed garage door has been assessed to the satisfaction of the Town’s Technical Services.</p>
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	<p>Request that condition be applied for the owner to reach an agreement with affected adjoining land owner in regard to the removal of a dividing fence.</p> <p>Requesting that condition be applied for the proposed pool to have adequate safety fencing.</p> <p>Window to family room on northern elevation – concern over size and privacy implications of subject window.</p>	<p>Not supported – dividing fences are a civil matter to be resolved between the two affected landowners and is governed by separate legislation.</p> <p>Noted – the pool fencing will be dealt with at the Building Licence Stage and will be required to comply with the Building Code of Australia.</p> <p>Not supported – subject window complies with the privacy requirements of the Residential Design Codes.</p>
Other Implications		
Legal/Policy	TPS 1 and associated Policies, and Residential Design Codes (R Codes).	
Strategic Implications	Nil	
Sustainability Implications	Nil	
Financial/Budget Implications	Nil	

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

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

COMMENTS:

The proposed upper floor street setback variation is not considered to have an undue impact on the streetscape, given that Scott Street does not have a consistent established streetscape and as a significant portion of the street block acts as a secondary street to Bourke Street and Galwey Street. The dwelling on the subdivided block immediately abutting to the south at No. 68 Bourke Street was approved under delegated authority from the Council on 22 May 2008 with a 1.6 metre upper floor setback to Scott Street (secondary street) and the dwelling immediately opposite the subject property at No. 13A Scott Street has a upper floor setback of 1 metre.

The upper floor street setback of the proposed development is non-compliant with the acceptable development criteria of SADC. 10 (Dual Street Frontages and Corner Sites). The applicant proposes an upper floor setback to Scott Street of 2.559-3.059 metres, in lieu of 4 metres, in order to facilitate the effective use of the site and to complement the approved development at the front of the corner site. It is considered the proposed street setback to the upper floor is compliant with the Performance Criteria, as the Scott Street Elevation is staggered with varying heights creating an element of interest and visual articulation when viewed from the street.

Summary

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

9.1.4 Adding/Deleting/Amending Places Listed on the Municipal Heritage Inventory (MHI) - Nos. 79-81 (Lots: 11 and 12 D/P: 59211) Brisbane Street, Perth

Ward:	South	Date:	4 May 2009
Precinct:	Beaufort; P13	File Ref:	PRO4489; PLA 0098
Attachments:	001 002 003 004 005		
Reporting Officer(s):	T Woodhouse		
Checked/Endorsed by:	H Smith , R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the report relating to Adding/Deleting/Amending Places Listed on the Town's Municipal Heritage Inventory (MHI);*
- (ii) *RECEIVES the Application for Deletion Form to remove the places from the Municipal Heritage Inventory submitted by the owners of Nos. 79 & 81 (Lots 11 & 12) Brisbane Street, Perth as shown in Appendix 9.1.4 (a);*
- (iii) *ACKNOWLEDGES the three (3) submissions received during the advertising period as summarised in Appendix 9.1.4 (b);*
- (iv) *CONSIDERS the Heritage Assessments undertaken by the Town dated August 2008 and the Independent Heritage Assessment dated September 2008, shown in Appendices 9.1.4 (c) and 9.1.4 (d) respectively; and*
- (v) *DELETES the pair of single storey dwellings at Nos. 79-81 (Lots 11 & 12 D/P: 59211) Brisbane Street, Perth from the Town's Municipal Heritage Inventory (MHI) for the following reasons:*
 - (a) *inability to provide any on-site car parking should the existing former dwellings be retained and any new use be approved;*
 - (b) *retention of existing dwellings limits the opportunity to meet the key objectives of the Beaufort Precinct to encourage the intensification of mixed use development within the locality; and*
 - (c) *acknowledgement that the community consultation process undertaken to list Nos. 79 - 81 (Lots 11 & 12 D/P 59211) onto the Town's Municipal Heritage Inventory as part of the Town's review of the Town's Municipal Heritage Inventory in 2006 was incomplete with regards to notifying the current owners.*

Moved Cr Messina, Seconded Cr Burns

That the recommendation be adopted.

Debate ensued.

AMENDMENT NO 1

Moved Cr Ker, Seconded Cr Youngman

That subclause (v)(a) be deleted.

Debate ensued.

Cr Burns departed the Chamber at 6.55pm.

Debate ensued.

AMENDMENT NO 1 PUT AND CARRIED (5-2)

<u>For</u>	<u>Against</u>
Cr Doran-Wu	Presiding Member, D/Mayor Cr Farrell
Cr Ker	Cr Messina
Cr Lake	
Cr Maier	
Cr Youngman	

(Mayor Catania was an apology for the meeting. Cr Burns was absent from the Chamber and did not vote.)

Debate ensued.

Cr Burns returned to the Chamber at 6.57pm.

Debate ensued.

AMENDMENT NO 2

Moved Cr Ker, Seconded Cr Youngman

That subclause (v)(b) be deleted.

Debate ensued.

AMENDMENT NO 2 PUT AND CARRIED (8-0)

(Mayor Catania was an apology for the meeting.)

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

For: Presiding Member, D/Mayor Cr Farrell (two votes – deliberative and casting vote),
Cr Maier, Cr Messina, Cr Youngman

Against: Cr Burns, Cr Doran-Wu, Cr Ker, Cr Lake

(Mayor Catania was an apology for the meeting.)

COUNCIL DECISION ITEM 9.1.4

OFFICER RECOMMENDATION:

That the Council;

- (i) ***RECEIVES the report relating to Adding/Deleting/Amending Places Listed on the Town's Municipal Heritage Inventory (MHI);***
- (ii) ***RECEIVES the Application for Deletion Form to remove the places from the Municipal Heritage Inventory submitted by the owners of Nos. 79 & 81 (Lots 11 & 12) Brisbane Street, Perth as shown in Appendix 9.1.4 (a);***

- (iii) ***AKNOWLEDGES the three (3) submissions received during the advertising period as summarised in Appendix 9.1.4 (b);***
- (iv) ***CONSIDERS the Heritage Assessments undertaken by the Town dated August 2008 and the Independent Heritage Assessment dated September 2008, shown in Appendices 9.1.4 (c) and 9.1.4 (d) respectively; and***
- (v) ***DELETES the pair of single storey dwellings at Nos. 79-81 (Lots 11 & 12 D/P: 59211) Brisbane Street, Perth from the Town's Municipal Heritage Inventory (MHI) for the following reason:***
 - (a) ***acknowledgement that the community consultation process undertaken to list Nos. 79 - 81 (Lots 11 & 12 D/P 59211) onto the Town's Municipal Heritage Inventory as part of the Town's review of the Town's Municipal Heritage Inventory in 2006 was incomplete with regards to notifying the current owners.***

PURPOSE OF REPORT:

The purpose of this report is to consider deleting the properties at Nos. 79 and 81 (Lots 11 and 12) Brisbane Street, Perth from the Town's Municipal Heritage Inventory (MHI) in accordance with the Town's Policy relating to *Heritage Management - Adding/Deleting/Amending Places Listed on the Town's Municipal Heritage Inventory (MHI)*.

BACKGROUND:

Following the review of the Town's Municipal Heritage Inventory undertaken in 2006, all proposed amendments to the Town's Municipal Heritage Inventory are to be considered in accordance with the procedures set out in the Town's Policy relating to *Heritage Management - Adding/Deleting/Amending Places Listed on the Town's Municipal Heritage Inventory (MHI)*. The background to the request for the current owner to remove the subject place from the Town's Municipal Heritage Inventory (MHI) is detailed chronologically below.

- | | |
|-----------------|--|
| 1 February 2006 | At the Special Meeting of Council, reference to previous resolutions is made within Item 7.1 stipulating that the Draft Municipal Heritage Inventory is to remain confidential until the commencement of the formal community consultation period. |
| 6 May 2006 | Siho Development Pty. Ltd (current owners of subject properties) put in an offer for the subject properties at an auction conducted by Roy Weston Real Estate. |
| 21 June 2006 | Community Consultation of the Town of Vincent Municipal Heritage Inventory Review commenced. Letter sent to the owners Melsom Robson Superannuation Fund, advising of the proposed heritage listing of the subject properties onto the Municipal Heritage Inventory (MHI). |
| 30 June 2006 | According to the Town's Rates Database, the date of settlement of the subject properties was 30 June 2006. Settlement of the two subject properties was completed and new ownership details updated on the Town's Rates Database. MHI Review ownership database not updated. |

- 31 August 2006 MHI consultation period closed.
- 7 September 2006 Letter sent to the Melsom Robson Superannuation Fund, the previous owner of the subject properties, advising that as no submissions were received relating to the proposed listing of the subject properties onto the Town's MHI, the properties would be considered for entry onto the MHI at the Ordinary Meeting of Council on 12 September 2006.
- 8 December 2006 Letter sent to the Melsom Robson Superannuation Fund, the previous owner of the subject properties, advising of the resolution of the Ordinary Meeting of Council held on 12 September 2006 to enter the subject properties onto the MHI as a Management Category B - Conservation Recommended.
- All correspondence relating to the proposed heritage listing detailed above were not forwarded to Siho Development Pty. Ltd., the new owner of the subject properties.
- 1 July 2008 Mo Zhai, on behalf of Siho Development Pty. Ltd., submitted a Development Application proposing the demolition of two (2) existing single houses and construction of three-storey mixed use development comprising four (4) multiple dwellings, three (3) offices and associated car parking. Siho Development Pty. Ltd. was notified that the subject properties are on the MHI list.
- 28 August 2008 Draft Heritage Assessment undertaken on the subject properties by the Town's Officers indicating that the properties met the threshold for entry onto the Town's Municipal Heritage Inventory, as a Management Category B - Conservation Recommended. A copy of the Draft Heritage Assessment was forwarded to the applicant for consideration and forms an attachment to this report.
- 15 September 2008 Submission objecting to the heritage listing of the subject properties received by the Town from the owner and applicant of the proposed development, Siho Development Pty Ltd.
- 22 September 2008 Independent Heritage Assessment undertaken by Architect Ronald Bodycoat indicating that the subject properties have little cultural heritage value and do not warrant entry onto the Town's Municipal Heritage Inventory (MHI).
- 4 November 2008 The Council at its Ordinary Meeting refused an application for the proposed demolition of two (2) existing single houses and construction of three-story mixed use development comprising four (4) multiple dwellings, three (3) offices and associated car parking for the following reasons:
- “1. *The development is not consistent with the orderly and proper planning and preservation of the amenities of the locality;*
 2. *The existing place has cultural heritage significance in terms of its aesthetic, historic and rarity values and is listed on the Town's Municipal Heritage Inventory/Heritage List as a Management Category B - Conservation Recommended'; and*
 3. *Consideration of the objections received.”*

- 24 November 2008 The applicant lodged an application to the State Administrative Tribunal to review the Council decision of 4 November 2008.
- 5 December 2008 The Town's Officers attended a direction hearing at the SAT.
- 19 December 2008 The Town submitted a witness statement, issues statement and accompanying Section 24 Bundle to the State Administrative Tribunal.
- 29 December 2008 The Chief Executive Officer, under delegation from the Council during the December/January recess period endorsed and forwarded a series of 'without prejudice' conditions to the State Administrative Tribunal.
- 4 February 2009 The Town's Officer's attended the Final hearing at the SAT. Site visit undertaken to subject properties. Member ordered to defer the matter to mediation.
- 27 March 2009 The Town's Officers attended a mediation held at the SAT.
- 31 March 2009 The Town received an Application for Deletion Form requesting that the subject properties be removed from the Town's Municipal Heritage Inventory.
- 7 April 2009 Advertising of the proposed deletion of the properties from the Town's Municipal Heritage Inventory commenced.
- 24 April 2009 Advertising of the proposed demolition of the properties from the Town's Municipal Heritage Inventory closed.

DETAILS:

Heritage Significance

In accordance with the Town's Policy No. 3.6.2 relating to Heritage Management - Assessment, the place has *some historic value* as the only remnant pair of purpose-built residential dwellings along Brisbane Street between Stirling and Beaufort Streets contributing to the historical context of the complementary commercial and residential land use within this inner-city area of Perth and; *some aesthetic value* as a good example of an intact identical pair of vernacular Federation Georgian style dwellings constructed in 1898. In accordance with Clause (4) of the Town's Policy relating to Heritage Management - Assessment, the place is listed on the Town's Municipal Heritage Inventory (MHI) as Management Category B - Conservation Recommended. A copy of the Heritage Assessment forms an attachment to this report.

Contrary to the above, the applicant submitted a Heritage Assessment dated 22 September 2008 undertaken by Heritage Architect, Ronald Bodycoat. This Heritage Assessment recommended that the place had little aesthetic, historic, scientific, social, rarity and representativeness value and supports the proposed development on the subject lots. A copy of this Heritage Assessment forms an attachment to the report.

Municipal Heritage Inventory Review Process

In 2006, the Town underwent an extensive review of its Municipal Heritage Inventory. This review process involved a comprehensive community consultation process in which individual letters were sent to all affected owners at the onset of the consultation period. The consideration of the properties entered onto the Town's Municipal Heritage Inventory was undertaken in a staged process to the Council. All affected owners were provided individual letters advising of the Council date in which their properties were to be considered for entry onto the Municipal Heritage Inventory.

In this particular case, due to the ownership change of the subject property during the consultation period, the current owners were not provided notification of the Council date in which their property was being considered for entry onto the Town's Municipal Heritage Inventory. As such, the current owners were unaware of the heritage status of the property when plans were submitted for the demolition and redevelopment of the subject place in July 2008.

SAT Mediation Considerations

At the mediation held at the SAT on 27 March 2009, various development options for the site were discussed. The applicant presented a proposal for the site, which included the retention of the existing properties to continue as office use and construct a new backpacker hostel to the rear of the site. A copy of the concept plans are attached to this report. Several issues were raised relating to the proposal including:

- No on-site car parking bays being provided;
- Incompatibility to accommodate both office use and backpackers hostel to the rear; and
- Safety issues with access to proposed backpackers to rear of property, given the existing driveway access from the primary street measured at 2.12 metres is non-compliant with the Australian Standards.

CONSULTATION/ADVERTISING:

As authorised by the Director Development Services the proposed amendments to the Town's Municipal Heritage Inventory were advertised in accordance with Clause 3 of the Town's Policy No. 3.6.5 relating to *Heritage Management - Adding/Deleting/Amending Places Listed on the Town's Municipal Heritage Inventory* with the advertising period reduced to 18 days to meet the orders issued by the State Administrative Tribunal.

Three (3) submissions were received during the advertising period, objecting to the proposed removal of the place from the Town's Municipal Heritage Inventory.

LEGAL/POLICY:

Town of Vincent Town Planning Scheme No. 1 and associated Policies.

STRATEGIC IMPLICATIONS:

Strategic Plan 2006-2011: Strategic Objectives - 1. Natural and Built Environment "... 1.1.3 (b) *Implement and promote the Municipal Heritage Inventory and Heritage Management Policies*".

Heritage Strategic Plan 2007-2012: Key Result Area 2 - Statutory Provisions and Policies "*Objective: Ensure that legislative obligations are met by the Town in clear and effective ways, using documented policies and procedures.*"

FINANCIAL/BUDGET IMPLICATIONS:

The current 2008/2009 Budget allocates \$62,000 for Town Planning Scheme Amendments and Policies.

COMMENTS:

Three (3) submissions were received during the advertising period, objecting to the proposed removal of the place from the Town's Municipal Heritage Inventory. The key concerns raised in the submissions were as follows:

- Subject dwellings contribute to the historical context of the intersection of Brisbane and Beaufort Streets;

- The locality in which the subject dwellings are located is rapidly losing heritage buildings that strongly contribute to the character and understanding of the area;
- Good example of heritage cottages that are in good condition and should be retained;
- If places are removed from the heritage list, it is likely that the properties will be demolished, in turn negatively impacting on the historical context of the intersection of Brisbane and Beaufort Streets; and
- Subject dwellings have heritage value to the community.

Officer Comment

In support of the above comments received from the community, the Heritage Assessment undertaken by the Town dated August 2008 indicates that in accordance with the Town's Policy No. 3.6.5 relating to Heritage Management - Assessment, the subject properties do have cultural heritage value and contribute to the historical understanding of the Beaufort Street and Brisbane Street intersection. Measuring community value of private properties however, is difficult to substantiate through the criteria used to undertake heritage assessments.

Furthermore, a site visit undertaken as part of the preparation of the Heritage Assessment indicates that the properties are in good condition. To properly substantiate this however, would require the preparation of a structural engineers report.

To substantiate reason for the subject properties to be removed from the Municipal Heritage Inventory, the owners of the subject property engaged Ronald Bodycoat Architects to prepare an Independent Heritage Assessment on the subject properties. The Independent Heritage Assessment disputed the findings of the Town's Heritage Assessment and considered the properties had insufficient cultural heritage value to warrant inclusion on the Town's Municipal Heritage Inventory.

Despite the findings detailed within the Independent Heritage Assessment, the Town's Officers position on the recognised cultural heritage value of the place has not altered. However, it is requested that the Council consider the owners request for the properties to be removed from the Municipal Heritage Inventory, in the context of the development options for the site, particularly the inability to provide any on-site compliant car bays if the existing dwellings are retained. Furthermore, it is requested that the Council further consider the situation in which the current owners settled the purchase of the property with the understanding that neither property was listed on the Town's Municipal Heritage Inventory.

In light of the above, it is recommended that the Council receives and supports the proposed amendments to the Town's Municipal Heritage Inventory, in line with the Officer Recommendation.

9.1.1 No. 50 (Lot: 97 D/P: 6064) Tasman Street, Mount Hawthorn - Proposed Five (5), Two-Storey Single Bedroom Grouped Dwellings

Ward:	North	Date:	4 May 2009
Precinct:	N/A	File Ref:	PRO4126; 5.2009.92.1
Attachments:	001		
Reporting Officer(s):	D Bothwell		
Checked/Endorsed by:	H Smith, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

in accordance with the provisions and powers of both the Local Government (Change of Districts Boundaries) Order 2007 and the Local Government (Constitution) Regulations 1998, allowing the Town of Vincent to, in effect, administer the City of Stirling District Planning Scheme No. 2 as if it were its own Scheme, and the Metropolitan Region Scheme, RECOMMENDS APPROVAL to the Western Australian Planning Commission for the application submitted by KED & Associates on behalf of the owner Department of Housing, for proposed Five (5), Two-Storey Single Bedroom Grouped Dwellings, at No. 50 (Lot: 97 D/P: 6064) Tasman Street, Mount Hawthorn, and as shown on plans stamp-dated 23 March 2009, and site plan dated 2 April 2009, subject to the following condition(s):

- (i) *all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) *any new street/front wall, fence and gate within the Tasman Street setback area, including along the side boundaries within this street setback area, shall comply with the following:*
 - (a) *the maximum height being 1.8 metres above the adjacent footpath level;*
 - (b) *the maximum height of piers with decorative capping being 2.0 metres above the adjacent footpath level;*
 - (c) *the maximum height of the solid portion of the wall being 1.2 metres above the adjacent footpath level, and a minimum of fifty percent visually permeable above 1.2 metres;*
 - (d) *the piers having a maximum width of 355 millimetres and a maximum diameter of 500 millimetres;*
 - (e) *the distance between piers should not be less than the height of the piers except where pedestrian gates are proposed; and*
 - (f) *the provision of a minimum 1.5 metres by 1.5 metres truncation where walls, fences and gates adjoin vehicle access points, or where a driveway meets a public street or right of way; and a minimum 3.0 metres by 3.0 metres truncation where two streets intersect. Walls, fences and gates may be located within this truncation area where the maximum height of the solid portion is 0.65 metre above the adjacent footpath level;*

- (iii) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Tasman Street verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. The landscaping of the verge shall include details of the proposed watering system to ensure the establishment of species and their survival during the hot, dry summer months. The Council encourages landscaping methods which do not rely on reticulation. Where reticulation is not used, the alternative method should be described. All such works shall be undertaken prior to the first occupation of the development and maintained thereafter by the owner(s)/occupier(s);*
- (iv) *the street verge tree(s) adjacent the development shall remain, unless written approval has been received from the Town's Parks Services. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s); and*
- (v) *prior to the issue of a Building Licence for the single bedroom dwellings, the owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the single bedroom dwellings that:*
- (a) *a maximum of one (1) bedroom and two (2) occupants are permitted in each single bedroom dwelling at any one time; and*
- (b) *the floor plan layout of each single bedroom dwelling shall be maintained in accordance with the Planning Approval plans.*

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

Cr Messina departed the Chamber at 7.00pm.

COUNCIL DECISION ITEM 9.1.1

Moved Cr Ker, Seconded Cr Maier

That the recommendation be adopted.

Debate ensued.

Cr Messina returned to the Chamber at 7.03pm.

Debate ensued.

MOTION PUT AND CARRIED (8-0)

(Mayor Catania was an apology for the meeting.)

SUBSEQUENT MOTION

Moved Cr Ker, Seconded Cr Lake

That the Town's Officers liaise with the Western Australian Local Government Association to clarify whether land with freehold title (or other forms of title in 'fee simple') held by government agencies can be treated as Crown Land for the purposes of development applications.

SUBSEQUENT MOTION PUT AND CARRIED (8-0)

(Mayor Catania was an apology for the meeting.)

Information Provided by Cr Ian Ker:

That the Public Works Act 1902 defines Crown Land as follows:

Crown land means and includes all land of the Crown, whether designated for any public purpose or not, except land granted or agreed to be granted in fee simple, or held or occupied under the Crown by lease or licence, or for any other estate or interest, or land reserved and

classified as a class A reserve under the Land Administration Act 1997, or any national park referred to in section 6(3)(b) of the Conservation and Land Management Act 1984 or land in relation to which native title exists;

and that this definition specifically excludes “land granted or agreed to be granted in fee simple”, which may hinge, therefore, on the definition of 'granted' and, specifically, whether this includes purchase with moneys granted by the Parliament for purchase of land in fee simple.

Landowner:	Department of Housing
Applicant:	KED & Associates
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1)/City of Stirling District Planning Scheme No. 2 (COSDPS 2): Residential R50
Existing Land Use:	Vacant Land
Use Class:	Grouped Dwelling
Use Classification:	"P"
Lot Area:	731 square metres
Access to Right of Way	Not applicable

BACKGROUND:

The site was previously located within the City of Stirling and there is no specific background that directly relates to the proposal.

DETAILS:

The proposal involves the construction of five two-storey single bedroom grouped dwellings.

ASSESSMENT:

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

Non-Compliant Requirements			
Requirements	Required	Proposed *	Officer Comments Pursuant to Clause 38(5) of TPS 1
Density	6 Single Bedroom dwellings R50	5 Single Bedroom dwellings R45	Supported – no variation.
Plot Ratio	N/A	N/A	Noted.
Boundary Setbacks: Eastern Boundary- <u>Ground Group</u> Floor Unit 1	1.5 metres	1.2 metres	Supported – no undue impact on adjoining properties or surrounding amenity, the proposal complies with the privacy and design for climate requirements of the Residential Design Codes and no objection received from affected neighbour abutting immediately to the east.

Western Boundary-Ground Floor Unit 5	1.5 metres	1.2 metres	Supported – no undue impact on adjoining properties or surrounding amenity, the proposal complies with the privacy and design for climate requirements of the Residential Design Codes and no objection received from affected neighbour abutting immediately to the west.
Consultation Submissions			
Support (1)	No comments provided.		Noted.
Objection (3)	Objecting to western boundary setback variation of 1.2 metres in lieu of 1.5 metres – stating it is too close and too high, obtrusive to fenceline/building and light.		Not supported – no undue impact on adjoining properties or surrounding amenity, the proposal complies with the privacy and design for climate requirements of the Residential Design Codes and no objection received from affected neighbour abutting immediately to the west.
Other Implications			
Legal/Policy		TPS 1 and associated Policies, and Residential Design Codes (R Codes).	
Strategic Implications		Nil	
Sustainability Implications		Nil	
Financial/Budget Implications		Nil	

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

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

COMMENTS:

The application for five two-storey single bedroom grouped dwellings was submitted by the Department for Housing and Works. Given the subject property is on Crown Land, the Western Australian Planning Commission is the determining authority with the application being referred to the Town for its recommendation. The subject property is currently vacant land and is located in the area formally under the jurisdiction of the City of Stirling and has been assessed against the provisions of the City of Stirling District Planning Scheme No. 2.

Conclusion

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

9.1.5 LATE ITEM – Nos. 59-61 (Lots 10, 16, 17, 18, 19 and 20) Brewer Street, Corner Pier Street and Thorley Street, Perth - Proposed Strata Form 7 Certificate of Local Government to Previously Approved Construction of Four (4) Storey Residential Building Comprising Forty (40) Multiple Dwellings and Basement Car Parking – Building Encroachments

Ward:	North	Date:	12 May 2009
Precinct:	Beaufort; P13	File Ref:	PRO3797; 6.2009.168.1
Attachments:	001 ; 002 ; 003		
Reporting Officer(s):	B Tran		
Checked/Endorsed by:	H Smith, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the report regarding the Proposed Strata Form 7 Certificate of Local Government to Previously Approved Construction of Four (4) Storey Residential Building Comprising Forty (40) Multiple Dwellings and Basement Car Parking - Building Encroachments;*
- (ii) *GRANTS ITS PERMISSION, and RECOMMENDS that the Minister for Local Government gives his approval, under the provisions of s400(1b) of the Local Government (Miscellaneous Provisions) Act 1960, for the encroachments 1, 18, 31 and 32 inclusive, as follows:*
 - *“Encroachment 1: Brewer Street: Column. At ground level, one corner of the concrete column encroaches 10mm into Brewer Street. The column encroaches to a maximum of 20mm on the first floor and second floor of the new building. The column rises then to form portion of a balcony wall on the third floor. As a result, one corner of this balcony wall on the third floor encroaches to a maximum of 20mm into Brewer Street. The height of this balcony wall is approximately 11000mm above ground level.*
 - *Encroachment 18: Brewer Street: Balcony Wall. At 3700mm – 4900mm above ground level. The balcony wall encroaches a maximum of 10mm into Brewer Street.*
 - *Encroachment 31: Thorley Street: Roof line. At 13900mm above ground level. Projecting out 140mm from Thorley Street boundary.*
 - *Encroachment 32: Pier Street: Roof line. At 14300mm above ground level. Projecting out 300mm from Pier Street boundary”;*
- (iii) *prior to the issue of the Strata Form 7 Certificate of Local Government, a Management Statement shall be submitted and approved, in accordance with section 5C of the Strata Titles Act 1985, to include the follow additions to the by-laws contained in Schedules 1 and 2 of the Strata Titles Act:*
 - (a) *the subject Strata Owners and/or Occupier/s, of the property situated at Nos. 59-61 Brewer Street, Perth (Lots 10, 16, 17, 18, 19 and 20), shall be responsible for all future maintenance of the subject building encroachments;*

- (b) *the Town reserves the right to request the subject Strata Owner/s and/or Occupier/s, of the property Nos. 59-61 Brewer Street, Perth (Lots 10, 16, 17, 18, 19 and 20), to repair and/ or make good the building encroachments at any time;*
- (c) *the Town being indemnified by the subject Strata Owner/s and/or Occupier/s , of the Nos. 59-61 Brewer Street, Perth (Lots 10, 16, 17, 18, 19 and 20), against any damage, injury or loss, that may be sustained, to persons or property as a result of the building encroachments; and*
- (d) *the subject Strata Owner/s and/or occupier/s, of the property Nos. 59-61 Brewer Street, Perth (Lots 10, 16, 17, 18, 19 and 20), shall not amend or repeal any of the above provisions without the agreement of the Town of Vincent;*
- (iv) *prior to clearance of the Certificate of Local Government (Form 7) under Section 23 of the Strata Title Act 1985, the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town's solicitors or other solicitors agreed upon by the Town, removing all liability to the Town of Vincent for any claims in compensation for the encroachments indicated on the relevant sheets of the (unapproved) Strata Plan 52828, in any event requiring the removal of the encroachments, and stating that the use of and development on the land shall not be taken into consideration in determining any cost or compensation which may be payable by the Town. All costs associated with this condition shall be borne by the applicant/owner(s);*
- (v) *NOTES the "Additional Matters to be resolved prior to clearance of Strata Form 7 as detailed in this report"; and*
- (vi) *EXPRESSES its strong concern to Psaros Builders with regard to building encroachments, as the Town has consistently taken a strict approach with respect to encroaching building structures, except for awnings, in that they are required to be contained solely within the subject lot boundaries, and that the Council's decision to support the subject building encroachments should not be viewed as a precedent for any future developments in the future.*

COUNCIL DECISION ITEM 9.1.5

Moved Cr Burns, Seconded Cr Maier

That the recommendation be adopted.

Debate ensued.

A number of Councillors expressed the view that the report was lengthy and they therefore had not had sufficient time to read the report in detail and therefore it should be deferred.

PROCEDURAL MOTION

Moved Cr Maier, Seconded Cr Ker

That the item be DEFERRED for further consideration and to allow Council Members sufficient time to consider the matter.

PROCEDURAL MOTION PUT AND CARRIED (8-0)

(Mayor Catania was an apology for the meeting.)

PURPOSE OF REPORT:

The purpose of this report is to inform the Council of building encroachments and related matters to be resolved prior to issuing the Strata Form 7 Certificate of Local Government for the development at Nos. 59-61 Brewer Street (corners Thorley and Pier Streets), Perth.

BACKGROUND:

19 September 2006 The above proposal was presented to an Elected Members Forum by the applicants.

24 October 2006 The Council at its Ordinary Meeting considered the matter relating to the sale of Lot 10 corner of Brewer and Pier Streets, Perth.

5 December 2006 The Council at its Ordinary Meeting re-considered the matter relating to the sale of Lot 10 corner of Brewer and Pier Streets, Perth.

27 February 2007 The Council resolved to Defer the application.

10 April 2007 The Council at its Ordinary Meeting resolved to refuse an application for the Proposed Demolition of Existing Warehouse Buildings and Construction of Four (4) Storey Residential Building Comprising Forty (40) Multiple Dwellings and Basement Car Parking at Nos. 59-61 (Lots 10, 16, 17, 18, 19 and 20) Brewer Street, corner Pier Street and Thorley Street, Perth for the following reasons:

1. *Not consistent with the proper and orderly planning and the preservation of the amenity of the locality.*
2. *Non-compliance with the Residential Design Codes and the Town's policies relating to density, bulk and scale, parking, plot ratio, building height and number of storeys.*
3. *Not in keeping with the development of the surrounding area.*
4. *Non compliance with the Beaufort Precinct Policy 3.1.13."*

12 June 2007 The Council approved the Demolition of Existing Warehouse Buildings and Construction of Four (4) Storey Residential Building Comprising Forty (40) Multiple Dwellings and Basement Car Parking at Nos. 59-61 (Lots 10, 16, 17, 18, 19 and 20) Brewer Street, corner Pier Street and Thorley Street, Perth and as shown on site survey stamp dated 2 November 2006, and site, basement, ground floor, first floor, second floor, third floor plans and roof elevation plans dated 17 May 2007 and sections dated 28 May 2007, subject to the following conditions:

- (i) *all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, solar panels, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) *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 Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (iv) *in keeping with the Town's practice for multiple dwellings, commercial, retail and similar developments, the footpaths adjacent to the subject land shall be upgraded, by the applicant, to a brick paved standard to the Town's specification. A refundable footpath upgrading bond and/or bank guarantee of \$18,660 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing facilities have been reinstated to the satisfaction of the Town's Technical Services Division. An application to the Town for the refund of the upgrading bond must be made in writing;*
- (v) *prior to the issue of a Building Licence, the owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the property of the following:*
 - (a) *the use or enjoyment of the property may be affected by noise, traffic, car parking and other impacts associated with nearby commercial, non-residential activities and adjacent stadium; and*
 - (b) *the Town of Vincent will not issue a visitor or residential car parking permit to any owner or occupier of the units. This is because at the time the planning application for the development was submitted to the Town, the developer claimed that the on-site parking provided would adequately meet the current and future parking demands of the development.*

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

- (vi) *any new street/front wall, fence and gate between the Brewer Street, Pier Street and Thorley Street boundaries and the main building, including along the side boundaries within this front setback area, shall comply with the following:*
 - (a) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
 - (b) *decorative capping on top of posts and piers may extend the total maximum height of the posts and piers to 2.0 metres above the adjacent footpath level;*
 - (c) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*
 - (d) *the maximum height of the solid portion being 1.2 metres above the adjacent footpath level, and the section above this solid portion being visually permeable, with a minimum 50 per cent transparency; and*

- (e) *the provision of a minimum 1.5 metres by 1.5 metres truncation where walls, fences and gates adjoin vehicle access points, or where a driveway meets a public street or right of way; and a minimum 3.0 metres by 3.0 metres truncation where two streets intersect. Walls, fences and gates may be located within this truncation area where the maximum height of the solid portion is 0.65 metre above the adjacent footpath level;*
- (vii) *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;*
- (viii) *all signage that does not comply with the Town's Policy relating to Signs and Advertising shall be subject to a separate Planning Application, and all signage shall be subject to a separate Sign Licence application, being submitted and approved prior to the erection of the signage;*
- (ix) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Brewer and Thorley Streets 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);*
- (x) *prior to the issue of a Building Licence, a Construction Management Plan addressing noise, hours of construction, traffic and heavy vehicle access, dust and any other appropriate matters, shall be submitted to and approved by the Town, and thereafter implemented and maintained;*
- (xi) *the car parking area(s) on the subject land shall be sealed, drained, paved and line marked in accordance with the approved plans prior to the first occupation of the development and maintained thereafter by the owner(s)/occupier(s) to the satisfaction of the Town. All tandem car bays are to be allocated for a specific multiple dwelling;*
- (xii) *the proposed vehicular gate for the basement car park being a minimum 50 percent visually permeable when viewed from rear right-of-way;*
- (xiii) *prior to the issue of a Building Licence, the subject land shall be amalgamated into one lot on Certificate of Title; OR alternatively, prior to the issue of a Building Licence the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town's solicitors or other solicitors agreed upon by the Town, undertaking to amalgamate the subject land into one lot within 6 months of the issue of the subject Building Licence. All costs associated with this condition shall be borne by the applicant/owner(s);*

- (xiv) *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;*
- (xv) *prior to the first occupation of the development, the full length and width of the rear right of way from Pier Street to Thorley Street abutting the subject land shall be resealed, to the specifications of and supervision under the Town, at the applicant's/owner(s)' full expense;*
- (xvi) *a bond and/or bank guarantee for \$9,720 for the full upgrade of the right-of-way shall be lodged prior to the issue of a Building Licence;*
- (xvii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating balconies of units 9, 19, 18, 17, 16, 20, 30, 29, 28, 27, 31, 40, 39, and 38, living room windows of units 9 and 20 and bedroom 2 windows of units 9 and 20 on the southern elevation facing the rear right-of-way on the first, second and third floors, being screened with a permanent obscure glazing and be non-openable to a minimum of 1.6 metres above the finished first floor level, OR alternatively the provision of on-site effective permanent horizontal screening or equivalent preventing direct sight within the cone of vision to ground level of adjoining properties. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be major openings as defined in the Residential Design Codes 2002. Alternatively, prior to the issue of a Building Licence, these revised plans are not required if the Town receives written consent from the affected owners of properties along Edward Street, respectively, stating no objections to the proposed privacy encroachment.*

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

- (xviii) *the provision of underground power along the Brewer Street, Pier Street and Thorley Street frontages to the property including the installation of lighting on the southern elevation of the building facing the rear right of way (ROW), and all costs associated with the provision of this underground power and lighting on the southern elevation of the building facing the ROW shall be met by the owner(s)."*

As requested by Psaros Builders, the Town's Officers carried out site inspections and discussed with Psaros Builders matters relating to the subject Strata Form 7 for the new development at Nos. 59 – 61 Brewer Street, Perth.

In particular, at a separate on-site meeting held on 7 May 2009, the Town's Officers attended an inspection at the "Tyne Square", located on the corner of Newcastle and Beaufort Streets, Perth, in the presence of the CEO/Director of Psaros Builders and his representatives. In this instance, the Officers reported that they were verbally threatened by the CEO/Director of Psaros Builders during the course of carrying out their duties as Officers of the Town.

The Town's Officers note previous experiences of confrontation with the CEO/Director on the 'Eastgate' development and in this respect; the Town's Officers are very concerned about the personal nature of the threats. The Town's Officers should not be subjected to any threats and/or coercion. The matter has been reported to the WA Police for their appropriate action.

Building Encroachments at Nos. 59-61 Brewer Street

With regard to Psaros Builder's current application for Strata Form 7, there are thirty two (32) building encroachments onto public thoroughfares. The Town has been advised that the Psaros Builders' Licensed Land Surveyor is seeking Ministerial Approval for clearance of these encroachments. A copy of the Land Surveyor's letter is attached.

The Town has advised Psaros Builders that the Town has consistently taken a strict approach with respect to building structures, except for awnings, in that they are required to be contained solely within the subject lot boundaries. Awnings can be supported by the Town, provided that they are not part of a building structure.

The Town's Officers conveyed via an email attachment to Psaros Builders on 20 April 2009, the following in this respect:

- There have been rare occasions when balconies have been approved over the road reserve. In these cases, it is then the applicant's responsibility to obtain the necessary approvals from the relevant State Government agencies. The State agencies (DPI, WAPC, State Land Services and Minister for Lands) have indicated reluctance to support encroachments into road reserves. The Town would take the stance that all construction should be contained within the lot, except for awnings. String courses, cornices, copings, eaves or window sills, as defined in Section 400 (1a) of Local Government (Miscellaneous Provisions) Act 1960, with an encroachment of not more than 230 millimetres, would be considered and may be supported by the Town Officers. Approval for encroachments of this nature will not be required to be obtained from the relevant State Minister. Likewise, any other structures, such as balconies constructed of iron and cantilevered greater than 230 millimetres, will require approval to be obtained from the Minister for Lands.
- The Town's Technical Services will require, prior to any future reconsideration of its current stance, to assess any proposal against its streetscape plans for the roadway and possible changes to future road or intersection alignment. There are also issues relating to maintenance of encroaching structures and liability for damages both personal and real.
- Previous advice from the Department of Housing and Works indicates that the Minister cannot approve existing encroachments such as walls or the like under the provisions of s.400 of the Local Government (Miscellaneous Provisions) Act 1960. The intent of s.400 is not to allow encroachments other than in special circumstances, and only on proposed developments, not existing buildings. Therefore, on this basis, the Town will not support the Builders' request for Ministerial approval of existing encroachment into road reserves.

On 8 May 2009, the Town wrote to Psaros Builders and advised that in this instance, the Town's Officers are of the opinion that the retention of the subject sunscreen canopies/awnings superficially attached to the building will have minimum effect to the public or unreasonably interfere with the general amenity. Therefore, the Town does not object to the existing sunscreen canopies/awnings, as identified in the Consultant's submission (Peter Driscoll & Associates Pty Ltd) dated 24 April 2009, as attached, to the Minister Office, as encroachments 2 to 17, and 19 to 30. The Town also advised that it did not support encroachments 1, 18, 31 and 32 inclusive, and as detailed in the attached plans, as follows:

- *“Encroachment 1: Brewer Street: Column. At ground level, one corner of the concrete column encroaches 10mm into Brewer Street. The column encroaches to a maximum of 20mm on the first floor and second floor of the new building. The column rises then to form portion of a balcony wall on the third floor. As a result, one corner of this balcony wall on the third floor encroaches to a maximum of 20mm into Brewer Street. The height of this balcony wall is approximately 11000mm above ground level.*
- *Encroachment 18: Brewer Street: Balcony Wall. At 3700mm – 4900mm above ground level. The balcony wall encroaches a maximum of 10mm into Brewer Street.*
- *Encroachment 31: Thorley Street: Roof line. At 13900mm above ground level. Projecting out 140mm from Thorley Street boundary.*
- *Encroachment 32: Pier Street: Roof line. At 14300mm above ground level. Projecting out 300mm from Pier Street boundary.”*

Accordingly, the above encroachments (1, 18, 31, and 32) are to be modified (cut back) and brought into compliance with the Local Government (Miscellaneous Provisions) Act 1960, unless otherwise approved by the Minister's Office.

Furthermore, on late evening of 8 May 2009, the Town received an advice letter, as attached, from the Executive Director – Building Industry Development – Department of Commerce advising the following key matters:

“Under the Act (the Strata Title Act 1985), if a local government is of the opinion that retention of the encroachments in its existing state will not endanger public safety or unreasonably interfere with the amenity of the neighbourhood and if it does not object to the encroachment, the local government must obtain the approval of the Minister before issuing a Certificate (Form 7) that the local government has inspected the building and is satisfied that it is consistent with the approved building plans and specifications ...

If the local government objects to the encroachment(s) it should to take action, which may include requiring that the encroachment(s) be removed ...

Local government may permit encroachments under Section 400 of the Local Government (Miscellaneous Provisions) Act 1960, ...

The Department has examined the encroachments associated with this development on the face of it there would be no reason to advise the Minister not to approve a resolution by the local government to permit (i.e. not to object to) the encroachments.”

In an email dated Tuesday, 12 May 2009 11:41AM, Paul Scalzi, Senior Regulations Officer, Building Industry Development, Department of Commerce, Government of Western Australia advised, *inter alia*, that:

“There is no provision in any legislation that allows the Minister's office to approve encroachments. Certain encroachments are permitted under Section 400 of the Act, some of which require the Minister's approval (section 400(1)(b)) or consent (section 400(1b)) – in either case only the local government can petition the Minister for his/her approval or consent and only when the local government has resolved to permit the encroachment(s).”

The provisions of Section 400 of the Local Government (Miscellaneous Provisions) Act 1960 state:

“400. Encroachment over, on, or under street

1. (a) *Except to the extent permitted, and in the manner prescribed, by any regulations made under this Part, a person shall not, without the permission of the local government granted only with the approval of the Minister -*
 - (i) *erect a building so as to encroach on, over, or under a street, way, or other public place, in its district;*
 - (ii) *rebuild an existing building which encroaches on, over, or under a street, way, or other public place in the district, so as to encroach on, over, or under a street, way, or other public place in the district.*
 - (b) *The local government shall not grant its permission and the Minister shall not give his approval unless each is of opinion that having regard to the size of the building, and the circumstances of the case it is necessary for the stability of the building that the permission should be granted and the approval should be given.*
 - (c) *The local government with the approval of the Minister may grant the permission subject to such conditions as the local government and the Minister think fit.*
 - (d) *A person who so erects or rebuilds a building in purported pursuance of permission so granted but does not observe the conditions, if any, on which it is granted, is to be regarded as having erected or rebuilt the building without the permission of the local government.*
- (1a) *For the purposes of subsection (1), a building that has thereon string courses, cornices, copings, eaves or window sills that project not more than 230 millimetres on or over a street way or public place in a district, shall be held not to encroach on or over the street way or public place by reason of that fact only.*
- (1b) *Where a local government is of opinion that for the purpose of making more effective use of any land within its district that is a pedestrian way, of not more than 10 metres in width, or in the interest of attractive development of the area where that land is situated, it is desirable so to do, the local government may, with the consent of the Minister, grant permission to a person to erect a building above or over that pedestrian way at such height as the local government may specify and upon and subject to such conditions as the local government may impose.*
- (2) *Notwithstanding the provisions of subsection (1), a person with the permission of the local government and in accordance with plans and specifications settled and approved by the local government may -*
- (a) *place in front of his building, an awning or verandah, at least 2.75 metres above the footpath in a street, way, or other public place, in its district, and unless prohibited from so doing by local laws of the local government, may use posts for the support of the awning or verandah provided the posts are placed in such positions close to the outer edge of the footpath as the local government directs;*

(b) *place in front of his building a balcony of cantilever type having a framework constructed of iron securely fixed with iron brackets or other supports to the satisfaction of the building surveyor of the local government, at least 2.75 metres above the footpath in a street, way, or other public place in its district and so that it does not encroach over the street, way, or public place to a greater distance than -*

(i) *750 millimetres if the street is in a city; or*

(ii) *the outer edge of the footpath or such lesser distance as is prescribed from time to time by local laws in operation in the district if the street is in a shire or a town;*

but permission granted under this subsection does not relieve a person from complying with local laws operating in the district and relating to awnings, verandahs, or balconies, generally or to their removal in particular.

(3) *If, within 35 days after written notice by the local government to remove a building or part of a building or an awning, verandah, or balcony which is not erected, rebuilt, placed, or provided in conformity with the requirements of this section, or to alter it so that as altered it will conform with those requirements, has been served on the owner or occupier of the building, it is not removed or so altered, the Magistrates Court may grant a warrant to the local government, authorising the local government forthwith to cause the building or the awning, verandah, or balcony, to the extent to which it so encroaches, to be taken down or altered to comply with those requirements and may make such order as to the costs of and incidental to the proceedings as the court thinks fit, and the local government, by its agents, servants and workmen may by authority of a warrant so granted lawfully enter the land on which it stands and take down, and remove it, accordingly at the expense of the owner or occupier, and the local government may recover the amount of the expense of doing so from the owner or occupier in a court of competent jurisdiction, and a warrant so granted or an order so made is not subject to appeal. *

(4) *An occupier of property upon whom, under the provisions of this section, a penalty is imposed, or who is put to the expense, may sue for and recover the amount of the penalty and expense and costs ordered against him in connection with the penalty or expense from the owner of the property in a court of competent jurisdiction but if the owner proves an agreement by the occupier to carry out the work in respect of which the penalty or expense has been incurred, the agreement is a good defence to the owner in the proceedings brought against him by the occupier."*

Additional Matters to be resolved prior to clearance of Strata Form 7

The Town's Officers are continuing to liaise with Psaros Builders to resolve the outstanding Building Code and compliance certificate matters as follows:

1. Condition 37: Notification on Strata Management Plan to specifically address the Fire Safety Design Requirements, as detailed in the FSER by L Saracini, and also to include a clause stating that "Amendment to or repeal of the above proviso cannot be affected without the agreement of the Town of Vincent";
2. Condition 22: Certification by an ABSA accredited assessor certifying that the required Energy Efficiency measures have been implemented and comply with BCA Part J;

3. Certification for balustrades to be provided;
4. Stair 4: Barriers and signage “*Ground Floor Exit to Outside*” (25 mm word/size), as detailed on approved Drawing 1663 A5.01 dated 23/08/07;
5. The ceiling heights to the ‘Gymnasium’ and ‘Lounge’ must not be less than 2.4 metres (BCA Part F3.1);
6. Satisfaction of condition (xviii) of the Planning Approval relating to underground power and the provision of lighting to the Right of Way; and
7. FESA advised the Town on 1 May 2009 that there are concerns in relation to insufficient fire safety measures to the fire sliding doors and inadequate water flow/pressure to service the operational fire fighting to the development. It is not clear whether these matters have now been resolved to FESA’s satisfaction.

The applicant's submission to the Minister’s Office and advice letter from the Executive Director – Building Industry Development – Department of Commerce forms an attachment to this report.

CONSULTATION/ADVERTISING:

Not required.

STRATEGIC IMPLICATIONS:

This matter is in keeping with the Town’s Strategic Plan 2006 – 2011 Objective 4.1 – “*Provide good strategic decision-making, governance, leadership and professional management*”, in particular:

- 4.1.2 *Manage the organisation in a responsible and accountable manner.*
- 4.1.4 *Deliver services in ways that accord with the expectations of the community, whilst maintaining statutory compliance”.*

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The Building Footnote 3 to the Building Licence dated 22 October 2007 for the above development issued by the Town states:

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

Of the thirty two (32) building encroachments onto public thoroughfares, the Town does not object to the subject sunscreen canopies/awnings given they are superficially attached to the building and will have minimum effect to the public or unreasonably interfere with the general amenity. Accordingly, the Town does not object to encroachments 2 to 17, and 19 to 30.

In regard to the building wall/column and balcony encroachments 1, 18, 31 and 32 inclusive, and these are constructed in conflict with the Building Licence and are non-compliant with the Local Government (Miscellaneous Provisions) Act 1960, as follows:

- *“Encroachment 1: Brewer Street: Column. At ground level, one corner of the concrete column encroaches 10mm into Brewer Street. The column encroaches to a maximum of 20mm on the first floor and second floor of the new building. The column rises then to form portion of a balcony wall on the third floor. As a result, one corner of this balcony wall on the third floor encroaches to a maximum of 20mm into Brewer Street. The height of this balcony wall is approximately 11000mm above ground level.*
- *Encroachment 18: Brewer Street: Balcony Wall. At 3700mm – 4900mm above ground level. The balcony wall encroaches a maximum of 10mm into Brewer Street.*
- *Encroachment 31: Thorley Street: Roof line. At 13900mm above ground level. Projecting out 140mm from Thorley Street boundary.*
- *Encroachment 32: Pier Street: Roof line. At 14300mm above ground level. Projecting out 300mm from Pier Street boundary.”*

Having regard to the size of the building, that the encroachments may be considered necessary for the stability of the building and considering the circumstances, the Town’s Officers are of the opinion that the retention of the above encroachments will not endanger public safety or unreasonably interfere with the amenity of the neighbourhood. Accordingly, it is recommended that the Council grants its permission, and recommends that the Minister for Local Government gives his approval, under the provisions of s400(1b) of the Local Government (Miscellaneous Provisions) Act 1960, for the encroachments 1, 18, 31 and 32 inclusive.

However, it is recommended that the Council supports the applicant to obtain approval from the Minister’s Office for these building encroachments, and note that this support must not be used as precedent for future developments.

The Council should note that Section 401 of the Local Government (Miscellaneous Provisions) Act 1960 allows the Town to serve Notice of required alterations for the building work that contravenes this Act, or for building works that are not in compliance with, or have departed from the approved plans and specifications issued by the Town. The Notice, once issued by the Town, would be subject to review by the State Administrative Tribunal.

Accordingly, until the subject building encroachments, approval granted by the Minister’s Office, and outstanding Certifications are resolved, the Strata Form 7 cannot be issued by the Town.

9.2.1 Further Report- Proposed Traffic Parking Improvements - Lincoln Street and Bulwer Avenue, Highgate, Outside Highgate Primary School

Ward:	South Ward	Date:	5 May 2009
Precinct:	Hyde Park P12	File Ref:	PKG0142 & TES0043
Attachments:	001		
Reporting Officer(s):	A Brown, R Lotznicker		
Checked/Endorsed by:	-	Amended by:	

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the further report on Proposed Traffic and Parking Improvements in Lincoln Street and Bulwer Avenue, Highgate, outside the Highgate Primary School;*
- (ii) *NOTES;*
 - (a) *the submissions/comments received during the consultation period as outlined in the report;*
 - (b) *that a number of changes have been made to the plans to incorporate the relevant comments received; and*
 - (c) *that some of the suggestions made, which do not specifically relate to the current proposal, will be further investigated;*
- (iii) *APPROVES the proposal, estimated to cost \$130,000, as outlined on attached amended Plan Nos. 2584-CP-01D, 2584-CP-01H and 2584-CP-01G;*
- (iv) *REFERS the proposal to convert Bulwer Avenue from two (2) way to one (1) way to Main Roads WA for approval; and*
- (v) *ADVISES the respondents of its decision.*

COUNCIL DECISION ITEM 9.2.1

Moved Cr Maier, Seconded Cr Ker

That the recommendation be adopted.

Debate ensued.

MOTION PUT AND CARRIED (8-0)

(Mayor Catania was an apology for the meeting.)

PURPOSE OF REPORT:

The purpose of this report is to advise the Council of the results of the community consultation with regard to proposed traffic and parking improvements in Lincoln Street and Bulwer Avenue, Highgate, outside the Highgate Primary School.

BACKGROUND:

Following a request from by the Highgate Primary School for improvements to traffic safety and parking adjacent to the school in Lincoln Street and Bulwer Avenue, the matter was considered by the Council in October 2008 and referred to the Town's Local Area Traffic Management (LATM) Advisory Group. Following consideration by the LATM advisory group, the Council considered a further report on the matter on 10 March 2009, where the following decision was made (in part):

"That the Council;

(ii) *NOTES that;*

(a) *the Town's Local Area Traffic Management Advisory Group met with the Highgate Primary School's Traffic Management Working Party, where both parties agreed on a strategy to refine the concept plans Nos. 2584-CP-01C and 2584-CP-01D;*

(b) *the Local Area Traffic Management Advisory Group and the school representatives considered that a "community workshop" should be held with adjacent residents to further progress the matter;*

(c) *a workshop was subsequently held at the Highgate Primary School on 17 February 2009; and*

(d) *Plan No. 2584-CP-01C has been modified, as a result of comments made at the public workshop, and superseded by Plan No. 2584-CP-01F, and Plan No. 2584-CP-01G has been prepared to extend a treatment on Lincoln Street to William Street;*

(iii) *APPROVES IN PRINCIPLE the proposal as shown on Plan Nos. 2584-CP-01D, 2584-CP-01F and 2584-CP-01G and advertises the proposal to the residents in Lincoln Street, Bulwer Avenue, Cavendish Street south of St Albans Street and Knebworth Avenue for public comment for a period of 14 days; and*

(iv) *RECEIVES a further report at the conclusion of the community consultation."*

DETAILS:

Community Consultation

On 19 March 2009, in accordance with clause (iv) of the Council decision, 208 letters, including comment sheets, were distributed to residents of Knebworth Avenue, Bulwer Avenue, Lincoln Street and Cavendish Street, requesting them to provide comments regarding the proposal. In addition, the information was posted on the Town's Community Consultation Website.

At the close of consultation, nineteen (19) submissions were received (which is a 9.13% return) (*refer summary attached*) with the results as follows:

- In Favour 8 (42%)
- Partially in Favour 5 (26%)
- Against 6 (32%)

Discussion on 'relevant' comments *In Favour of proposal*

I was assured at the meeting that the faded road marking of "No Parking" either side of the entry/exit gates to Lincoln Towers would be re-done.

Officer Comment:

This has been arranged.

As owner of No. 5, I would request the relocation of the speed hump outside my property as it is directly in front of bedroom windows. In addition, I would ask if more trees could be continued into the island in front of the bus bay.

Officer Comment:

Supported: Speed hump will be low profile. Additional tree included in plan.

Comments from Highgate Primary School P&C Association:

On Plan 2584-CP-01D the pedestrian crossing point is on the west side of the speed hump. We believe that it may be better to have it on the east side to ensure cars turning into Lincoln St from Cavendish St slow down.

Officer Comment:

Supported and Plan amended.

Also, on Plan 2584-CP-01D there are ramps marked on the pedestrian route across Lincoln St outside the school. If they do not already exist, it would be useful to have similar ramps on the corner of Cavendish and Lincoln Sts and Bulwer Ave and Lincoln St to facilitate access for prams, bikes and scooters.

Officer Comment:

Supported: Additional pedestrian ramp included on Bulwer Avenue. Additional crossing points at Cavendish/Lincoln Not supported as on crossing point at Lincoln (east of Cavendish) will avoid additional conflict points. Also difficult to accommodate additional crossing points due to the staggered intersection layout (Bulwer/Lincoln/Cavendish).

We believe that landscaping is critical to softening the urban appearance surrounding the school, providing additional shade and visually narrowing the streets to encourage reduction in traffic speed. As such, we support the proposed tree plantings on Bulwer Ave and request that additional street trees be provided on Lincoln St to provide continuous avenues of shade down that street.

Officer Comment:

Supported: Will be accommodated wherever possible. Due to the presence of services (high pressure gas main) may be difficult on south side of street.

Highgate Primary is a Water Wise school. We believe that the proposed road improvements are a great opportunity to consider the best way of retaining storm water within "rain gardens" on the Lincoln St verge and Bulwer Ave. This would provide a practical demonstration of innovative water management, tying in with the school's "Water Wise" education programs.

Officer Comment:

Supported in principle: However, this is beyond the scope of this project and available funding.

We are in favour of this upgrade but also believe that Lincoln St from Bulwer Ave to William St should be upgraded with landscaping to the centre of the road and verge.

Officer Comment:

Supported in principle: However, this is beyond the scope of this project and available funding.

Discussion on ‘relevant’ comments for those *partially in favour of the proposal*:

I am in general agreement to the parking and one way street, provided the following points are agreed:

- *The raised speed hump in front of No. 15 Bulwer Ave does not obstruct the driveway.*
- *The angle parking is available for residents and visitors with a Council pass and parking is unlimited. All other parking is prohibited except for 30 minutes during school drop off times.*

Officer Comment:

Speed hump relocated slightly. Low profile to be installed. Comments regarding parking times and availability will be further explored should the proposal be approved.

Any changes must include the addition of timed parking restrictions at the western end of Lincoln St between Knebworth and William Sts. I propose a 2 hour limit between 8.00 am and 6.00 pm on weekdays. We have two busy stores - deli and bakery - near our homes and have city workers using our parking bays every day, making it very hard for us to park near our homes. Time restrictions are already in place on Knebworth and it would seem logical to extend them into Lincoln. With the addition of timed parking and resident permit holders exempted, our problems will be solved.

Officer Comment:

To be further investigated: Residents in this section of Lincoln Street to be further consulted regarding the proposal.

We are generally in favour of the proposal but have serious concerns on the possible further restriction to parking outside our property at 197 Lincoln St. We have no access to off-street parking and at present constantly lose parking if we leave the property in early morning. The culprits are obviously city commuters who occupy the parking area all day. We are forced to park illegally on the verge or some distance from our property. We estimate the upgrade would take away at least one parking spot. An alternative would be to introduce a 2 hour parking limit outside Nos. 197 and 195 with non restricted resident access.

Officer Comment:

To be further investigated: Beyond the scope of the current proposal. Residents in this section of Lincoln Street will be further consulted regarding the proposal.

Just make it a one way street as angle parking will create accidents as people cannot see through cars that are parked next to them and will pull out onto oncoming traffic. Speed humps are a great idea - maybe one or two more.

Officer Comment:

Not supported: This was considered, however, the proposal is for children to remain on the school side of the street when being dropped off to minimise crossing the street and being in conflict with vehicles.

The proposal is singularly focussed on car parking. Lincoln St is one of the major links to Hyde Park yet there is no net increase in street trees in Lincoln St. No indication of pre-laying electrical conduits for future underground power or irrigation distribution network for street tree irrigation. Digging up recently completed works to install new cables would disrupt the street and in some instances destroy expensive infrastructure, which could all be avoided by considering future needs. Water sensitive urban design principles do not play a role in this proposal.

Officer Comment:

Supported in principle: However, this is beyond the scope of this project and available funding.

Discussion on 'relevant' Comments Against the proposal:

We don't need yet another speed hump on Lincoln St. There is no need to further slow down traffic. A zebra crossing (flat) may be a better alternative.

Officer Comment:

Comments noted: Zebra crossing not supported nor would be approved by MRWA.

Not in favour of proposal - inconvenience of turning Bulwer Ave into a one way street; increased noise from one way traffic being closer to my residence and from the noise of cars going over speed humps; inconvenience from having to park my car across the road in dim street lighting (less secure than being outside my house).

Officer Comment:

Comments noted: No additional noise as speed humps would be low profile. Street light globes can be increased in wattage. To be investigated.

Changes will impact on us 7 days a week. Speed humps create traffic noise and do not slow down those you wish them to. One is located just over 10 metres from our bedroom. Angled parking will not create any additional parking but will have people backing into traffic. Parallel parking as exists now will be sufficient if the road is made one way. Residents need parking directly outside their properties. Bulwer St is difficult to turn right into. If all traffic must exit via Bulwer St, there will be traffic back logs and this will necessitate the modification of Bulwer St/Bulwer Ave intersection (such as a roundabout). The "pattern pave infill" is a cheap alternative, whereas a heritage style of paving such as cobbles/flagstone would be more in keeping with the heritage value of Bulwer Ave. Inadequate landscaping - no allowance for plantings on the residents' side of the street.

Officer Comment:

Comments noted: No additional noise as speed humps would be low profile. Street light globes can be increased in wattage. Alternative paving to be investigated. Leaving parallel parking and making one way was considered, however, the proposal is for children to remain on the school side of the street when being dropped off to minimise crossing the street and being in conflict with vehicles.

I recently bought my property on the basis that it was a quiet and private street without public parking. I appreciate that this street is a public street during school hours but feel that the minimal timeframes of picking up and setting down children do not account for the need to change the face of the street. I also cannot fully appreciate that this street needs to be modified at all with such a large public street at the front of the school to do such works. My issues are as follows;

- *Public parking after school hours*

- *Opening the street to crime on owner's car in the public parking area away from the houses*
- *Access parking in front of my own residence - I don't feel the council can discriminate between home owners who get parking.*

Officer Comment:

Comments noted: Increased lighting will be further investigated.

Strongly oppose the one-way street proposal. Do not feel as residents of 40 plus years we should have our lives turned upside down due to parents who drop off and pick up their children twice a day for 30 minutes. We are one of a few owner occupiers left residing in the street so I think our opinion and situation should be highly considered. Strongly suggest making Lincoln St a one-way street as it is wide enough AND long enough for drop offs and pick ups. There are already two entry points at either end of the school and a third gate could be installed in between. As a one way street, traffic can then filter into all the side streets, without the cars causing excessive congestion. Lincoln St is definitely more suitable for a one way street than Bulwer Ave - after all, the school address is 147 Lincoln St!.

Officer Comment:

Comments noted: Making Lincoln Street one way not considered relevant as it would impact on the wider area.

Comments/Conclusion:

The LATM Advisory Group considered that angle parking together with the implementation of a one way proposal for Bulwer Avenue would reduce congestion and improve the safety of the residents of Bulwer Avenue and children who attend the Highgate Primary School.

Some residents of Bulwer Avenue raised concerns regarding the loss of parallel parking adjacent to their residences and a revised concept plan was prepared which included a number of parallel parking bays on the west side of the street.

Following consultation, the plans have been modified to accommodate the suggestions made wherever possible and some of the comments made will be further investigated.

Of the nineteen (19) responses received, only three (3) respondents were against the one way proposal for the reasons outlined above.

CONSULTATION/ADVERTISING:

Residents be advised of the Council decision.

LEGAL/POLICY:

Approval from Main Roads WA is required to change the road from two way to one way.

STRATEGIC IMPLICATIONS:

In accordance with the objective of Strategic Plan 2006-2011 - 1.1.6 Enhance and maintain the Town's infrastructure to provide a safe, healthy and functional environment. "9e) Review, implement and promote the car parking strategy".

FINANCIAL/BUDGET IMPLICATIONS:

The estimated cost of the proposal is in the order of \$130,000.

The funds allocated in the 2008/2009 budget of \$68,500 are to be carried forward to the 2009/2010 budget and additional funds of \$62,000 have been included in the draft 2009/2010 budget.

COMMENTS:

The majority of respondents (68%) were either in favour or partially in favour of the proposal.

While a small number of respondents were against the one way proposal for Bulwer Avenue, it is considered that the arguments raised in opposing the proposal do not outweigh the overall positive outcomes the proposal would bring to both the residents and children attending the Highgate Primary School.

It is therefore recommended that the Council approves the proposed traffic and parking improvements in Lincoln Street and Bulwer Avenue, Highgate, outside the Highgate Primary School, as outlined on attached amended Plans Nos 2584-CP-01D, 2584-CP-01H and 2584-CP-01G.

The Chief Executive Officer advised that Cr Burns and Cr Messina had declared a financial interest in Item 9.3.1. They departed the Chamber at 7.31pm. They did not speak or vote on this matter.

9.3.1 Investment Report as at 31 March 2009

Ward:	Both	Date:	1 April 2009
Precinct:	All	File Ref:	FIN0033
Attachments:	001 ; 002		
Reporting Officer(s):	B Wong		
Checked/Endorsed by:	B Tan	Amended by:	

OFFICER RECOMMENDATION:

That the Council RECEIVES the Investment Report for the month ended 31 March 2009 as detailed in Appendix 9.3.1.

COUNCIL DECISION ITEM 9.3.1

Moved Cr Ker, Seconded Cr Youngman

That the recommendation be adopted.

Debate ensued.

MOTION PUT AND CARRIED (6-0)

(Mayor Catania was an apology for the meeting. Cr Burns and Cr Messina were absent from the Chamber and did not vote on this matter.)

Cr Burns Cr Messina returned to the Chamber at 7.34pm. The Presiding Member, Deputy Mayor, Cr Farrell advised that the item was carried.

PURPOSE OF REPORT:

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.

BACKGROUND:

Interest from investments is a significant source of funds for the Town, where surplus funds are deposited in the short term money market for various terms. Details are attached in Appendix 9.3.1.

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

DETAILS:

Total Investments for the period ended 31 March 2009 were \$13,973,265 compared with \$14,973,265 at 28 February 2009. At 31 March 2008, \$16,689,958 was invested.

Total accrued interest earned on Investments as at 31 March 2009:

	Budget	Actual	%
	\$	\$	
Municipal	650,000	417,758	64.27
Reserve	485,710	400,878	82.53

COMMENT:

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

The report comprises of:

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

9.3.2 Fees and Charges 2009/2010

Ward:	-	Date:	5 May 2009
Precinct:	-	File Ref:	FIN0025
Attachments:	001		
Reporting Officer(s):	M Rootsey		
Checked/Endorsed by:	J. Giorgi	Amended by:	

OFFICER RECOMMENDATION:

That the Council APPROVES BY AN ABSOLUTE MAJORITY to adopt the Schedule of Fees and Charges, as shown in Appendix 9.3.2 for the 2009/2010 financial year.

Moved Cr Ker, Seconded Cr Messina

That the recommendation be adopted.

Debate ensued.

AMENDMENT

Moved Cr Ker, Seconded Cr Youngman

That the Officer Recommendation be amended to read as follows:

“That the Council APPROVES BY AN ABSOLUTE MAJORITY to adopt the Schedule of Fees and Charges, as shown in Appendix 9.3.2 for the 2009/2010 financial year, subject to page 8.1 of the Fees and Charges 2009/2010 being amended to read as follows:

DOG POUND			
Seizure and Impounding	\$60.00	\$70.00	
Daily Maintenance (after 24 hours)	\$12.00	\$15.00	
Euthanasia	\$50.00	\$55.00	✓
Release of dogs outside normal working hours – Additional Fee	On Shift \$45.00 Call Out \$100.00	On Shift \$45.00 Call Out \$100.00	✓
Pound Fee - Abandoned Shopping Trolleys, Signs and Items charged per day	\$15.00	\$20.00 \$75.00	
Daily Fee per Trolley	\$8.00	\$8.00	

”

Debate ensued.

AMENDMENT PUT AND CARRIED (7-1)

For: Presiding Member, D/Mayor Cr Farrell, Cr Burns, Cr Doran-Wu, Cr Ker, Cr Lake, Cr Maier, Cr Youngman

Against: Cr Messina

(Mayor Catania was an apology for the meeting.)

Debate ensued.

Cr Youngman departed the Chamber at 7.45pm.

Debate ensued.

Cr Youngman returned to the Chamber at 7.46pm.

Debate ensued.

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

(Mayor Catania was an apology for the meeting.)

COUNCIL DECISION ITEM 9.3.2

That the Council APPROVES BY AN ABSOLUTE MAJORITY to adopt the Schedule of Fees and Charges, as shown in Appendix 9.3.2 for the 2009/2010 financial year, subject to page 8.1 of the Fees and Charges 2009/2010 being amended to read as follows:

“

DOG POUND			
Seizure and Impounding	\$60.00	\$70.00	
Daily Maintenance (after 24 hours)	\$12.00	\$15.00	
Euthanasia	\$50.00	\$55.00	✓
Release of dogs outside normal working hours – Additional Fee	On Shift \$45.00 Call Out \$100.00	On Shift \$45.00 Call Out \$100.00	✓
Pound Fee - Abandoned Shopping Trolleys, Signs and Items charged per day	\$15.00	\$20.00 \$75.00	
Daily Fee per Trolley	\$8.00	\$8.00	

”

PURPOSE OF REPORT:

To obtain the Council’s approval of the Fees and Charges for the financial year 2009/2010.

BACKGROUND:

The Town of Vincent, as all other local governments, applies charges for services provided and for the use of facilities available for hire. All such fees are required to be reviewed annually.

The Local Government Act (1995) allows fees and charges to be adopted and included in the Annual Budget without having to be gazetted separately.

DETAILS:

The attached schedule outlines details of Fees and Charges proposed for the 2009/2010 year in bold with a comparison to last year’s fees, where there has been an increase from last year the value is highlighted in bold and shaded.

A number of fees are determined by legislation, these include; Dogs, Planning/Building Fees and a number of fees are raised under the Health Act.

Fees and Charges that are raised where the Town is engaged in, what is deemed to be commercial activity, GST must be applied. Fees where GST is applicable are marked with a tick in the last column of the schedule. Local Government Fees and Charges that are raised under legislation or Local Laws are in general GST free by way of exemption through Division 81 of the GST legislation.

New fees recommended for 2009/2010 include:

Rubbish Charges – Pages 8.6:

The following new charges for Rubbish Collection have been introduced for non-rated properties:

Non-rated Properties	Waste 140L	(Weekly Collection)
Non-rated Properties	Recycling 240L	(Fortnightly Collection)
Non-rated Properties	Recycling 140L	(Fortnightly Collection)

Bonds for Bins at Events

New fees have been planned for refundable bonds for the use of bins at events. The bonds are not refundable if the bin is damaged or in the case of the recycling bins, the bond is not refundable if it contains material that the Town considers to be contaminated.

Library – Page 8.8:

The following new fees are proposed to be introduced in the new financial year:

Internet

A new fee is to be introduced for the use of the internet in the Library by non Town of Vincent residents.

Administration Fee

An administration fee is to be implemented to cover the cost of the preparation of overdue notices on outstanding books.

Earbuds

A charge is planned for the used of earbuds in the use of Playaway books.

Sundry Information – Page 8.8:

A new fee is to be introduced to cover the administration involved in the refund of overpaid rates.

Beatty Park Leisure Centre – Page 8.22:

The fees listed below are new, which are to be introduced in the forthcoming financial year at the Centre.

Vacation Classes/In Term Classes

A new fee for the Cycle Fitness is included in the Health and Fitness programme, this was introduced mid-way through the last financial year.

A new fee is to be implemented for Casual Gym/Swim for Senior's (this is a discounted fee on the normal fee).

A Senior's discounted membership price is proposed for the following membership categories:

Individual	-	12 Months
Individual	-	6 Months
Individual	-	3 Months
Individual	-	1 Month

Multi-entry cards – New Fees

A new fee is proposed for Pensioner's swim Multi-entry for 10 and 20 entries.

A new fee to cover the multi-entry charges for RPMTM/swim is to be introduced this year.

In addition to multi-entry charges is the introduction of Personal Training for 10 and 20 sessions.

Reserve Hire Rates – Page 8.27:

A new fee is planned for a minimum daily hire charge for pavilions.

Increased charges have been recommended for the majority of fees, but is particular in the following areas:

Car parks fees - -Page 8.1:

Increases are proposed for all fees for the car parks with exception of the Stadium Car Park, where the proposed fees have been reduced to increase usage.

Kerbside parking fees:

Kerbside parking fees increases have been applied to the majority of locations. However, at Brewer and Pier Street the price has been reduced in an attempt to stimulate increased used at these locations.

Health Services

The Executive Director of Public Health reviews prescribed fees on an annual basis to prevent periodic substantial increases.

Beatty Park Leisure Centre:

An annual review of the Beatty Park Leisure Centre fees is undertaken to benchmark against other local government leisure centres. Beatty Park Leisure Centre fees and charges are adjusted each year to minimise a significant increase in any one year and to ensure that the Centre remains financially sustainable as well as maintaining its community obligations. There has been an increase in the majority of the fees charged this year. However, Beatty Park fees continue to remain at the lower end of the scale when compared to other centres.

Hall Hire:

There has been a significant increase in the proposed fees for the hire of halls.

Sporting Grounds and Reserves:

Significant increases are proposed for Sports Grounds and Reserve Hire for the next financial year.

CONSULTATION/ADVERTISING:

Advertised as part of the Annual Budget document.

LEGAL/POLICY:

In accordance with Local Government Act (1995) Sections 6.16, 6.17 and 6.18.

STRATEGIC IMPLICATIONS:

The new and amended charges have been included in the preparation of the Draft 2009/2010 Budget.

SUSTAINABILITY IMPLICATIONS:

The Fees and Charges represent a major component of the Town's revenue and require to be adjusted annually to ensure the Town's financial sustainability.

FINANCIAL/BUDGET IMPLICATIONS:

N/A.

COMMENTS:

It is recommended that the Fees and Charges contained in the attached schedule be adopted for the 2009/2010 Budget so that Council can apply these from 1 July 2009 (or subsequent date where nominated).

9.4.2 Adoption and Consideration of Submission relating to the Town of Vincent Plan for the Future 2009-2014

Ward:	-	Date:	5 May 2009
Precinct:	-	File Ref:	ADM0038
Attachments:	001		
Reporting Officer(s):	John Giorgi		
Checked/Endorsed by:	-	Amended by:	-

OFFICER RECOMMENDATION:

That the Council:

- (i) *CONSIDERS the one submission received concerning the Town of Vincent Plan for the Future 2009-2014 as outlined in the report; and*
- (ii) *APPROVES BY AN ABSOLUTE MAJORITY to adopt the Town of Vincent Plan for the Future 2009-2014, as shown in Appendix 9.4.2,*

COUNCIL DECISION ITEM 9.4.2

Moved Cr Messina, Seconded Cr Doran-Wu

That the recommendation be adopted.

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

(Mayor Catania was an apology for the meeting.)

PURPOSE OF REPORT:

The purpose of the report is to advise the Council of the one submission that was received at the conclusion of the public consultation period and to adopt the Town of Vincent Plan for the Future 2009-2014.

BACKGROUND:

At the Ordinary Meeting of the Council held on 16 December 2008, the Council considered the matter and resolved inter alia as follows:

“That the Council;

- (i) *RECEIVED the report on the review of the Town of Vincent Plan for the Future;*
- (ii) *APPROVES of the following process for the review of the Plan for the Future:*
 - 1. *the draft Town of Vincent Strategic Plan 2009-2014, as shown in Appendix 9.4.1, to be used as a basis of the draft document;*
 - 2. *the Chief Executive Officer, Directors and Town Managers/key Officers to further review the draft document from December 2008 – January 2009;*

3. *Council Members to submit their comments to the Chief Executive Officer by 31 January 2009;*
 4. *a workshop/Forum with Council Members and Town Senior Officers be conducted in February 2009 to further consider and refine the draft document;*
 5. *report to Council in March 2009 to Adopt in Principle the Draft Plan for the Future 2009-2014;*
 6. *draft document to be advertised for a period of six (6) weeks in March/April 2009;*
 7. *the Council to consider submissions and adopt the Plan for the Future in May 2009; and*
 8. *the draft document to be placed on the Town's website and copies provided at the Administration Centre and in the Town's Library and Local History Centre; and*
- (iii) *NOTES that further reports will be submitted to the Council in early 2009, after the completion of the review and after the public consultation has been carried out."*

DETAILS:

The Plan for the Future was advised on a statewide basis on 14 March 2009.

At the close of the consultation period on 1 May 2009, one submission was received as follows:

Cleaver Precinct Action Group:

"In view of limited time left for submission with the deadline of May 1, following is brief submission on the Strategic Plan 2009-2014 from Cleaver Precinct Action Group

- 1.1.2 *Develop and Implement a Town Planning Scheme and associated policies, guidelines and initiatives that deliver the community vision.*
 - (c) *Cleaver Precinct Action Group fully supports continuing to implement Vincent Vision 2024 objectives, without further dilution.*

Chief Executive Officer's Comments:

This comment is self explanatory and is supported.

- 1.1.3 *Enhance, maintain the character and heritage of the Town*
 - (b) *CPAG fully supports and encourages promotion of the MHI and the Heritage Management Policies as well as the Character Streetscapes Policy Amendment 43 with decision being as put out in the amended policy of 50% of the owners in a street being agreeable to retaining the streetscape and not 80% as was sprung upon the Council meeting on April 28, 2009. and also (c)*

Chief Executive Officer's Comments:

This matter was considered and determined at the Ordinary Meeting of Council held on 28 April 2009 (Item 9.1.11).

- 1.1.4 *Minimize negative impacts on the community and environment*
(d) *are supported by CPAG*

Chief Executive Officer's Comments:

This comment is self explanatory and is supported.

- 1.1.6 *Enhance and maintain the Town's Infrastructure it provide a safe, healthy, sustainable and functional environment*
(a) *CPAG encourages Town to implement all programs cited*
(c) (d) (e) and (f) *we believe are imperative*
(g) *CPAG considers is critical to all treescapes in Cleaver Precinct. We have been requesting this for the past 6 years.*

Chief Executive Officer's Comments:

This comment is self explanatory and is supported.

- 3.1.3 *Determine the requirements of the Community etc*
(a) *Need for much greater community consultation and encouragement to Precinct groups in order to learn what those needs are. This has been sadly dying off in TOV.*

Chief Executive Officer's Comments:

This comment is self explanatory and is supported.

- 3.1.4 *Continued Implementation of the principles of universal access*
(a) *Need to implement.*

Chief Executive Officer's Comments:

This comment is self explanatory and is supported. This matter was considered and determined at the Ordinary Meeting of Council held on 20 May 2008. An Implementation Program 2008-2028 has been adopted.

Thank you for the opportunity for our Group to make this submission. We are all aware of just how important community consultation is the well being of our Council.

CONSULTATION/ADVERTISING:

The Plan for the Future was advised on a statewide basis from 14 March 2009 to 1 May 2009.

It is a legal requirement for each local government to have a Plan for the Future.

The Council has previously resolved that the Plan for the Future will consist of the Strategic Plan and Associated Plans, Strategic Policies and other documents as outlined in this report. No change to this is recommended (other than updating – where required).

The Local Government Act and regulations do not prescribe the format for the required Plan for the Future. The Town's Plan for the Future will continue to be a combination of various plans, such as Strategic Plan, long term financial plans etc.

1. The Local Government Act (section 5.56) states as follows:

"Local Government Act 1995

5.56 Planning for the future

- (1) *A local government is to plan for the future of the district.*

- (2) *A local government is to ensure that plans made under subsection (1) are in accordance with any regulations made about planning for the future of the district.*

It requires each local authority to prepare a Plan for the Future in respect of each financial year after the financial year ending 30 June 2006. The Plan must cover a minimum period of at least two years.

2. Consultation is required with electors and ratepayers during the development of the Council's future Plan and any review (or modification) of such Plan.
3. The specific matters that the Local Government (Administration) Regulations require to be included in the future Plan are set out in Regulation 19C which reads as follows:

“Regulation 19C

- (a) *In this regulation and regulation 19D:*

‘Plan for the future’ means a Plan made under Section 5.56.

- (b) *A local government is to make a Plan for the future of its district in respect of the period specified in the Plan (being at least 2 financial years).*
- (c) *A Plan for the future of a district is to set out the broad objectives of the local government for the period specified in the Plan.*
- (d) *A local government is to review its current Plan for the future of its district every 2 years and may modify the Plan, including extending the period the Plan is made in respect of.*
- (e) *A Council is to consider a Plan, or modifications, submitted to it and is to determine* whether or not to adopt the Plan, or the modifications, as is relevant.*
**Absolute majority required*
- (f) *If a Plan, or modified Plan, is adopted by the Council then the Plan or modified Plan is to apply to the district for the period of time specified in the Plan.*
- (g) *A local government is to ensure that the electors and ratepayers of its district are consulted during the development of a Plan for the future of the district, and when preparing any modifications of a Plan.*
- (h) *A Plan for the future of a district is to contain a description of the involvement by the electors and ratepayers in the development of the Plan, and any modifications to the Plan.*
- (i) *A local government is to ensure that a Plan for the future made in accordance with this regulation applies in respect of each financial year after the financial year ending 30 June 2006.*

4. Regulation 19D sets out requirements for given public notice of the Council's future Plan.

STRATEGIC IMPLICATIONS:

Progress reports on the Strategic Plan are reported to Council for each quarter as follows:

Period	Report to Council
1 January - 31 March	April
1 April - 30 June	July
1 July - 30 September	October
1 October - 31 December	February

The quarterly progress reports will continue to be provided and will also include quarterly reports on the Annual Plan (previously the Capital Works Program). The Strategic Plan provides the elected Council and administration with its aims, goals and objectives (key result areas) for the next five (5) years.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

SUSTAINABILITY IMPLICATIONS

The Council's Plan for the Future is probably one of the most important documents for the Town. It details the future direction of the Town of Vincent and details how and when matters will be carried.

COMMENTS:

It is recommended that the Town of Vincent Plan for the Future 2009-2014 be adopted.

9.4.3 Review and Adoption of Members Fees and Expenses 2009/2011

Ward:	Both	Date:	6 May 2009
Precinct:	All	File Ref:	ADM0051
Attachments:	001		
Reporting Officer(s):	John Giorgi		
Checked/Endorsed by:		Amended by:	

OFFICER RECOMMENDATION:

That the Council APPROVES BY AN ABSOLUTE MAJORITY the financial support that will be provided to Council Members through the payment of allowances, fees and reimbursement of expenses incurred and insurance cover while performing their official functions and duties of office as detailed in Policy 4.2.7 - "Council Member - Allowances, Fees and Re-imburement of Expenses" (as shown in Appendix 9.4.3), for the period 1 July 2009-30 June 2011.

Moved Cr Messina, Seconded Cr Ker

That the recommendation be adopted.

Debate ensued.

AMENDMENT NO 1

Moved Cr Ker, Seconded Cr Messina

That the Officer Recommendation be amended to read as follows:

"That the Council APPROVES BY AN ABSOLUTE MAJORITY the financial support that will be provided to Council Members through the payment of allowances, fees and reimbursement of expenses incurred and insurance cover while performing their official functions and duties of office as detailed in Policy 4.2.7 - "Council Member - Allowances, Fees and Re-imburement of Expenses" (as shown in Appendix 9.4.3), for the period 1 July 2009-30 June 2011, subject to clause 2.2 of Policy No 4.2.7 being amended to read as follows:

- "2.2 (a) All lease costs, insurance, vehicle registration costs shall be paid by the Town.*
- (b) Clause 2.2(a) is subject to the Mayor claiming no expense allowances under this Policy other than mobile phone and call costs specified in Policy Clause 3.4 – Mobile Phone. only claiming;*
- (i) ~~mobile phone and call costs specified in Policy Clause 3.4 – Mobile Phone.~~"*

AMENDMENT NO 1 PUT AND CARRIED (8-0)

(Mayor Catania was an apology for the meeting.)

Debate ensued.

AMENDMENT NO 2

Moved Cr Maier, Seconded Cr Lake

That clause 1.3 of Policy 4.2.7 be amended to read as follows:

“1.3 Deputy Mayoral Allowance

The Deputy Mayor shall be entitled to an annual local government allowance of \$1,000. ~~equivalent to 25% of the Mayoral Allowance.~~ (Section 5.98A, Regulation 33A of Local Government (Administration) Regulations 1996).”

Debate ensued.

AMENDMENT NO 2 PUT AND LOST (1-7)

For: Cr Maier

Against: Presiding Member, D/Mayor Cr Farrell, Cr Burns, Cr Doran-Wu, Cr Ker, Cr Lake, Cr Messina, Cr Youngman

(Mayor Catania was an apology for the meeting.)

**MOTION AS AMENDED PUT AND CARRIED
BY AN ABSOLUTE MAJORITY (6-2)**

For: Presiding Member, D/Mayor Cr Farrell, Cr Burns, Cr Doran-Wu, Cr Ker, Cr Messina, Cr Youngman

Against: Cr Lake, Cr Maier

(Mayor Catania was an apology for the meeting.)

COUNCIL DECISION ITEM 9.4.3

That the Council APPROVES BY AN ABSOLUTE MAJORITY the financial support that will be provided to Council Members through the payment of allowances, fees and reimbursement of expenses incurred and insurance cover while performing their official functions and duties of office as detailed in Policy 4.2.7 - "Council Member - Allowances, Fees and Re-imbursment of Expenses" (as shown in Appendix 9.4.3), for the period 1 July 2009-30 June 2011, subject to clause 2.2 of Policy No 4.2.7 being amended to read as follows:

“2.2 (a) All lease costs, insurance, vehicle registration costs shall be paid by the Town.

(b) Clause 2.2(a) is subject to the Mayor claiming no expense allowances under this Policy other than mobile phone and call costs specified in Policy Clause 3.4 – Mobile Phone. ~~only claiming;~~

(i) ~~mobile phone and call costs specified in Policy Clause 3.4 – Mobile Phone.~~”

PURPOSE OF REPORT:

The purpose of this report is to review and adopt the fees and expenses applicable to Council Members for the period 1 July 2009-30 June 2011, as required by the Local Government Act 1995.

BACKGROUND:

At the Ordinary Meeting of the Council held on 5 June 2007, the Council approved the Policy - Council Members Allowance, Fees and Re-imburement of Expenses, policy number 4.2.7.

CONSULTATION/ADVERTISING:

The Council's Policy relating to Council Member Fees and Expenses was previously advertised for public comment in May 2003.

Recommended Change – Home Office Furniture

The current Policy at clause 9(c) allows for reimbursement of expenses for office furniture to a maximum value of \$250 (one-off during each 4 year term). The current amount is considered insufficient. It is recommended this be increased to \$750 (one-off during each 4 year term and no additional allowance/reimbursement is claimable if a Council Member is re-elected). The increase can be justified on the following basis:

Desk	\$300
Bookcase	\$150
Filing Cabinet	\$150
Chair	<u>\$150</u>
TOTAL	\$750

Whilst the increase is significant, it more accurately reflects the actual cost of purchase of the items. It should be noted that since the inception of the Town, very few Council Members have claimed home office furniture. If approved, it is unlikely that the cost to the Town will be significant.

As there is only one minor change to the Policy, it is recommended that the Policy not be advertised separately for public comment.

LEGAL/POLICY:

The Local Government Act provides that a Member has a legal right to be reimbursed for rental on one telephone line and one facsimile line and in addition, can claim child care costs incurred whilst attending to Council business.

The Local Government (Administration) Regulations also provide:

“The extent to which an expense ...can be reimbursed is the actual amount, verified by sufficient information”.

The above criteria must be met before any reimbursement can be made. That is:

- the Council must first approve the types of expenses which can be reimbursed (and may set limits to these);
- the expense must be incurred in performing a function as a council member;
- reimbursement is limited to the actual expense incurred; and
- the expense must be verified by sufficient information.

STRATEGIC IMPLICATIONS:

This matter is in keeping with the Strategic Plan 2006 – 2011 – Leadership, Governance and Management – Objective 4.1.2 “*Manage the organisation in a responsible, efficient and accountable manner*”.

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

The above costs associated with this policy are included in the Annual Budget 2009/2011.

COMMENTS:

The expenses and allowances approved by the Town of Vincent are comparable with other local governments of a similar size and budget to the Town of Vincent. The Policy has been most satisfactory over the preceding years and therefore only one minor change is recommended to the Policy.

9.4.4 Information Bulletin

Ward:	-	Date:	5 May 2009
Precinct:	-	File Ref:	-
Attachments:	001		
Reporting Officer(s):	A Radici		
Checked/Endorsed by:	John Giorgi	Amended by:	-

OFFICER RECOMMENDATION:

That the Information Bulletin dated 12 May 2009, as distributed with the Agenda, be received.

Moved Cr Ker, Seconded Cr Messina

That the recommendation be adopted.

Debate ensued.

AMENDMENT

Moved Cr Ker, Seconded Cr Messina

That the Officer Recommendation be amended to read as follows:

“That the Information Bulletin dated 12 May 2009, as distributed with the Agenda, be received, and a letter be written to the Minister for Local Government; Heritage; Citizenship and Multicultural Interests in response to IB03, objecting to the tone of the third and forth last paragraphs of the letter, which the Town finds offensive and stating that the Local Government Act requires Council’s to approve budget provision each year to meet the community’s needs and the Town of Vincent complies with this requirement.”

Debate ensued.

AMENDMENT PUT AND CARRIED (5-3)

For: Presiding Member, D/Mayor Cr Farrell, Cr Burns, Cr Doran-Wu, Cr Ker, Cr Messina

Against: Cr Lake, Cr Maier, Cr Youngman

(Mayor Catania was an apology for the meeting.)

Debate ensued.

MOTION AS AMENDED PUT AND CARRIED (8-0)

(Mayor Catania was an apology for the meeting.)

COUNCIL DECISION ITEM 9.4.4

That;

- (i) *the Information Bulletin dated 12 May 2009, as distributed with the Agenda, be received; and*

- (ii) *a letter be written to the Minister for Local Government; Heritage; Citizenship and Multicultural Interests in response to IB03, objecting to the tone of the third and forth last paragraphs of the letter, which the Town finds offensive and stating that the Local Government Act requires Council's to approve budget provision each year to meet the community's needs and the Town of Vincent complies with this requirement.*
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DETAILS:

The items included in the Information Bulletin dated 12 May 2009 are as follows:

ITEM	DESCRIPTION
IB01	Letter of Appreciation from the Australian Red Cross regarding donation for the Victorian Bushfire Appeal 2009
IB02	Letter of Appreciation from The Returned and Services League of Australia W.A. Branch (Inc). regarding the Anzac Service 25 April 2009 at Axford Park
IB03	Letter from Minister for Local Government; Heritage; Citizenship and Multicultural Interests regarding Challenging Economic Times
IB04	Letter from the Motor Vehicle Industry Board regarding Motor Vehicle Repair Business Licensing
IB05	Letter from State Administrative Tribunal (SAT) regarding Matter No. DR/505 of 2008 – Purdie v Town of Vincent (No. 126 Buxton Street, Mount Hawthorn)
IB06	Letter from State Administrative Tribunal (SAT) regarding Matter No. DR/49 of 2009 – Gerrans v Western Australian Planning Commission (No. 363 Walcott Street, Coolbinia)
IB07	Document on WA Food Regulation: New Approach to Food Regulation Explained dated 25 February 2009.
IB08	Register of Petitions - Progress Report - May 2009
IB09	Register of Notices of Motion - Progress Report - May 2009
IB10	Register of Reports to be Actioned - Progress Report - May 2009
IB11	Register of Legal Action - Progress Report - May 2009
IB12	Register of State Administrative Tribunal Appeals - Progress Report – May 2009
IB13	Forum Notes - 21 April 2009
IB14	Notice of Forum - 19 May 2009

Cr Lake requested the item regarding the confirmation of Minutes of the Ordinary Meeting of Council held on 28 April 2009 be recommitted, as she misunderstood the process that was followed.

The Presiding Member, Deputy Mayor, Cr Farrell asked Cr Lake to clarify what she did not understand.

Cr Lake stated she misunderstood that the issue that had been raised by Cr Maier was taken as a Motion and the Council voted on the Motion. She thought the vote was on confirming the Minutes.

The Presiding Member, Deputy Mayor, Cr Farrell stated the Motion was to correct the Minutes.

Cr Lake stated there were two votes she had written down that Cr Burns moved and Cr Maier seconded that the Minutes be confirmed. Then there was discussion where Cr Maier raised a point and then there was a vote which she then understood to mean that the issue that Cr Maier had raised was being taken as a Motion, which was lost on the Presiding Members casting vote. Then the Minutes were confirmed, with the vote being 6-2.

The Presiding Member, Deputy Mayor, Cr Farrell conferred with the Chief Executive Officer regarding the Standing Orders. He stated that the Minutes had been received and confirmed and had been signed. Therefore, the matter would remain as is and would not be recommitted.

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

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

Nil.

12. REPRESENTATION ON COMMITTEES AND PUBLIC BODIES

Nil.

13. URGENT BUSINESS

Nil.

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

Nil.

15. CLOSURE

The Presiding Member, Deputy Mayor Steed Farrell, declared the meeting closed at 8.08pm with the following persons present:

Cr Steed Farrell (Acting Mayor)	Presiding Member, North Ward
Cr Anka Burns	South Ward
Cr Helen Doran-Wu	North Ward
Cr Ian Ker	South Ward
Cr Sally Lake	South Ward
Cr Dudley Maier	North Ward
Cr Izzi Messina	South Ward
Cr Noel Youngman	North Ward
John Giorgi, JP	Chief Executive Officer
Rob Boardman	Director Development Services
Rick Lotznicker	Director Technical Services
Mike Rootsey	Director Corporate Services
Anita Radici	Executive Assistant (Minutes Secretary)

No Members of the Public or journalists present.

These Minutes were confirmed by the Council as a true and accurate record of the Ordinary Meeting of the Council held on 12 May 2009.

Signed:Presiding Member
Mayor Nick Catania

Dated this day of 2009