



TOWN OF VINCENT

"Enhancing and celebrating our diverse community"

MINUTES

24 MARCH 2009

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Minutes of the Ordinary Meeting of Council of the Town of Vincent held at the Administration and Civic Centre, 244 Vincent Street, Leederville, on Tuesday 24 March 2009, commencing at 6.00pm.

1. DECLARATION OF OPENING

The Presiding Member, Mayor Nick Catania, declared the meeting open at 6.07pm.

2. APOLOGIES/MEMBERS ON APPROVED LEAVE OF ABSENCE

(a) Apologies:

Nil.

(b) Present:

Mayor Nick Catania, JP	Presiding Member
Cr Anka Burns	South Ward
Cr Helen Doran-Wu	North Ward
Cr Steed Farrell (<i>Deputy Mayor</i>)	North Ward
Cr Sally Lake	South Ward
Cr Dudley Maier	North Ward
Cr Noel Youngman	North Ward
John Giorgi, JP	Chief Executive Officer <absent from approx 7.40pm until approx 8.25pm>
Rob Boardman	Director Development Services
Rick Lotznicker	Director Technical Services
Mike Rootsey	Director Corporate Services
Anita Radici	Executive Assistant (Minutes Secretary) <absent from approx 7.40pm until approx 8.25pm>
Phynea Papal	Journalist – “ <i>The Guardian Express</i> ” (until approximately 8.52pm)

Approximately 16 Members of the Public

(c) Members on Approved Leave of Absence:

Cr Ian Ker due to personal commitments.
Cr Izzi Messina due to personal commitments.

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

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

1. David Hartree of 34 Queen Street, Perth – Item 9.1.2. Stated they have worked successfully with Council staff on a number of items regarding conditions. Regarding (xxix)(d) – solar shading facing Fitzgerald Street, advised it was agreed that the banks of extruded aluminium louvers composed as a box to the street would be inappropriate visually. Stated it was not agreed to delete the solar screens all together in fact, confirmed they require some form of screening to achieve the energy rating facing west. Proposes, they could develop concepts for this element to be approved by the Manager Building Services. Stated the solar screen to the tenancies on level 1 was proposed as a series of folded perforated metal panels and

perhaps these could be horizontal and believes this can be developed to the approved of the Manager Building Services as opposed to rejecting them all together. Regarding car stacker clause (xxx)(i), believes many conditions would be covered by the Australian Standard and is not aware that a requirement for emergency power is going to assist. Regarding (xxxvi), stated it has been four months since meeting in December (2008) and also they intend to start the process as soon as possible. They have presales and finance to seek in a fairly challenging market and considers the 2 years for the validity of the DA should start from today.

2. Sandra Bransby on behalf of owners of 375-377 Charles Street – Item 9.1.1. Supported the Officer Recommendation. Reiterated that development of the site provides an opportunity for the under utilised commercial site to be developed to provide high quality office suites in this part of Charles Precinct. Stated effective design has minimised the bulk of the building from the street and the adjoining residential property to the north. Stated no overshadowing will occur on any residential property. Advised the redevelopment would most likely result in the use of the building during standard office times with significantly less traffic after hours and on weekends. Stated the previous fast food outlet was open 7 days a week until about 10.00pm. Advised appropriate articulation and design features ensure an active and interactive relationship with the street is definitely provided. Furthermore significant separation between the proposed building and the adjoining residential property ensures there is no unreasonable loss of amenity. Requested support for the development. Asked for clarification on condition (iii)(b)(2), which seems to have missing words.
3. Barry Baker of 98B Third Avenue, Mt Lawley – Item 9.1.6, ex member of the Vincent Heritage Advisory Committee and is the patron of the Mt Lawley Society. Advised the estate bounded by the railway line, Windsor, Lord Streets and Old Guildford Road was opened for development by the WA Norwood Estate Company in August 1889 and no development took place until after the Kalgoorlie gold rush of 1893, in 1895 there was only one house occupied being on Lord Street (then called Old Guildford Road). Stated the shop at 288 Lord Street was built for a Charles Wog in 1897 and it was the first shop open in Norwood and among the first buildings – general store which operated mostly as a grocery until approx. 1940 when it became a fish mongers. Advised for years in 1970s to 1990s it was a boot maker shop run by a gentle, little, simply man called Russell – a well liked local identity. Stated Norwood had a distinct village feel with many inhabitants working at Perth Gas Works, East Perth Power Station and the large railway running sheds. Advised there was the recently demolished hotel, catholic church and school, Norwood Primary School (now Mt Lawley TAFE Campus), the old fashioned pharmacy on the other side of Lord Street and the small commercial centre at the corner of Lincoln Street. Stated this shop is the oldest authentic remaining property in Norwood, it is a lovely intact shop which has not changed in external appearance basically since it was built and is a unique example of a Victorian corner store. Advised it has a small foot print right at the front of the built and believes the little building could be incorporated into a new building at its rear. Believes it is a definite feature of the Norwood area whose character buildings are going down fast. Urged Council to consider asking developer to submit plans involving its retention.
4. Toby Whittington of 20 Gladstone Street, Perth – Item 14.3. Stated he is a new resident of the area but did grow up in the East Perth area. Believes both Hanson and Cemex Concrete Plants are the last “bastions” of heavy industry in this area and instead of giving approval to build more silos, the Town should talk to the plants about what is going to be done with their closing time of 2012. Believes it is a very inappropriate use for this inner city area and believes the land could be used better.

The Presiding Member, Mayor Nick Catania clarified that the Town is not supporting the plants at all.

5. Jessica Patterson of Lavan Legal, 1 William Street, Perth – Item 9.1.8. Spoke on behalf of the Licensee. Stated the Recommendations refers to 12 resident objections and reports of which the Licensee has not had the benefit of seeing or considering. Requests Council reject the Recommendation. Stated the Officer's comments on page 60 do not seem to support the Recommendations. Stated the Application is under the Liquor Control to renew trading hours after midnight and between 10pm and 12 on a Sunday which already exists, to maintain status quo on Wednesday to Sunday but in fact is an application that seeks to reduce some existing trading hours and does not include trading hours already approved after midnight from Monday and Tuesday. Stated the 12 alleged objections represent a very small minority and there is a much larger section of the community that is happily patronising the Tavern on a regular basis and during Extended Trading Permit (ETP) hours. Advised the complaints were news to Licensee as no complainants complained to them. Stated the operation of the ETP (after midnight) is not during times when there are apparently parking problems which seem to be a main issue amongst objections, however it is not an issue during times the ETP is operating and it is the ETP that is being dealt with in this Agenda. Stated the Licensee has an excellent trading record, operating very well with the Tavern in terms of its security and incident record, no work orders, no outstanding infringement notice, no objections from Police or Health Authorities and it has operated in this successful manner with the ETP privileges for close to 9 years. Stated the premises are physically of high quality in terms of fittings, fit out, style and there are many quality control practices already operating together with measure and strategies already undertaken by the Licensee to deal with any potential noise omission or unruly behaviour which simply does not occur. Stated the Licensee has implemented many noise emission controls, strategies and suppressions, it regularly monitors noise outside but without any consequence as there simply is no noise problem. Believes the Tavern contributes very positively to the entertainment precinct of Beaufort Street. Believes it offers excellent hospitality services for the large section of the public that require it and helps to support and enhance other businesses immediately around it. Believes the size of the public and regular patronage at the Tavern shows there is a large section of community already using it. The objections represent a minority, deal with issues that don't relate to the ETP and the Liquor Licensing is well equipped to determine the Application and the Licensee asks the Council to reject any possibility of intervening or objecting to the Application.

6. Ryonen Butcher of 20 Gladstone Street, Perth – Item 9.1.6 and 14.3. 9.1.6: Supported the retention of shop front being a building she cycle pasts regularly and has admired for many years. Believes it'd be a shame to see this original building get demolished and if the intention is to put a café in then the shop front should be utilised. 14.3: aware the Town does not support the concrete plants and looking back through City of Perth (COP) and the Town's Council Meetings dating back to 1995 when both plants were rebuilt as the freeway was put in, COP and the Town have consistently said it is inappropriate land use and incompatible with the local area. Stated the Town talks about a vision for the area but they have not seen specific plans come forward and seems to be a little weak which SAT may note. Stated there are approx. 200 teenagers from Youth With a Mission that seem to miss out on representation in the area. Agrees with Toby (husband), if there is a closing date of 2012, expansion seems illogical. Is aware when Hanson plant was built it was licensed as a 3 silo building, Storm from Dancing Design says the 4th building went up without approval. Asked if there was a change to the licensing condition to have a 5th silo containing new material which hasn't been on the site before. Stated in 2006 a similar plant had a malfunction in the dust emission unit and poured 3,000 pounds of raw powdered concrete into the local area covering a school bus depot, hospitalising 61 people with respiratory problems just because of a malfunction. Stated the

Manager of Hanson went to them on one of the community consultation visits to see if they were happy and Toby let him know they weren't. Stated they can see the area change and they don't want them there.

The Presiding Member, Mayor Nick Catania advised that at mediation, he stated he would give permission to build the fifth silo if it was given in writing by Hanson that they would be out in 2012, however the assurance was not given.

7. David Cohen of 123 Claisebrook Street, Perth – President of the WA Journalist Association and WA Branch President of Media, Entertainment and Arts Alliance, the federally registered trade union that represents, amongst others, journalists. Stated he has five questions for the Mayor and Chief Executive Officer:
- (a) Why isn't Voice reporter Andrei Buters permitted to sit at the designated media table at this meeting?
 - (b) Who made this decision and when?
 - (c) Were the Town's Councillors informed of this decision?
 - (d) If there are concerns with the Voice's accuracy, have steps been taken to address those?
 - (e) Do you agree that this decision could be interpreted as an attack on free speech and keeping the Town's ratepayers informed?

The Presiding Member, Mayor Nick Catania answered the last question as "no" and the other questions would be taken "on notice" and a reply sent.

8. Kym Lendich of 11C Little Russell Street, North Perth – Item 9.1.4. Stated they have made an application for the subdivision and development of 42 Waugh Street which includes the significant refurbishment of an existing weather board cottage. Advised they have sent background information about the application and whilst most is not materially relevant they wanted to address the matters. Stated prior to the meeting they were given an amendment and Town has recommended the application for approval and they seek the support for that recommendation. Stated the application complies with the Town Planning Scheme and R Codes save for the under width driveway by 117mm and otherwise there is nothing unusual in the application. Advised that they also submitted a planning and engineers report which demonstrate that the development and subdivision including the under width driveway comply with the performance criteria of the R Codes further, there are no access or safety issues with the under width driveway. Seeks Council's support and asked that discretion is used regarding the under width driveway as they are retaining and improving the existing weatherboard dwelling and from an access and egress point of view there are not concerns and the driveway can be comfortably used by the rear dwelling.
9. Chris Moreno of 26A Brentham Street, Leederville – Item 9.1.3. Agrees with the Officer's evaluation and assessment and is happy to meet conditions outlined in the Recommendations. Advised he has put a lot of time and effort into the design of the house and feels he has made a large contribution in fitting it in with the current and planned streetscape of Leederville. Stated dwellings on Brentham are inconsistent in style and varying in height, width, material, age, colour and the street is segmented by parks and schools all leading to a dynamic and emerging contemporary landscape that he is excited to be part of. Advised he has made every effort to comply with Codes and performance criteria of the State and Town. Believes the design will contribute significantly to the emerging style of the area. Stated the small block has provided challenges, however the design endeavours to maximise not only the inside and outside living areas but also security and safety of his family and the public. Stated the design displays a contemporary façade which is staggered and has varying heights, a select range of external wall surfaces that provide articulation and interest on Brentham Street, which avoids any bland walls at the front to ensure no negative

impact to the street appeal. All these features lead to an aesthetically pleasing, not dominating style and should add to the street appeal and be in line with the Park development currently being built just to the other side of Aranmore Catholic Primary as well as dwellings directly opposite the property. Stated overall the design compliments the current landscape on Brentham and aims to strengthen the upmarket contemporary style of the street, block and area.

10. Nick Way of Channel 10, Cottonwood Crescent, Dianella – Item 9.1.8. Supported the Flying Scotsman as he believes it is a great venue and place to maintain the character and a lot of the artworks and communication between artists. It provides a real alternative venue in that area. Noted looking at some complaints they seem to relate to parking, a considerable distant from that venue. He doesn't believe they are associated specifically with patrons of the Flying Scotsman. Believes it is a very valuable part of the Mt Lawley strip.

There being no further speakers, public question time was closed at approx. 6.35pm.

(b) RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil.

4. APPLICATIONS FOR LEAVE OF ABSENCE

- 4.1 Cr Noel Youngman requested leave of absence from 8 April 2009 to 15 April 2009 (inclusive), 30 April 2009 to 6 May 2009 (inclusive) due to personal commitments and 27 April 2009 to 29 April 2009 due to attendance at conference on behalf of the Council.

Moved Cr Farrell, Seconded Cr Burns

That Cr Noel Youngman's request for leave of absence be approved.

CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

5. THE RECEIVING OF PETITIONS, DEPUTATIONS AND PRESENTATIONS

Nil.

6. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

- 6.1 Minutes of the Ordinary Meeting of Council held on 10 March 2009.

Moved Cr Farrell, Seconded Cr Maier

That the Minutes of the Ordinary Meeting of Council held 10 March 2009 be confirmed as a true and correct record.

CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

6.2 Minutes of the Special Meeting of Council held on 16 March 2009.

Moved Cr Farrell, Seconded Cr Burns

That the Minutes of the Special Meeting of Council held 16 March 2009 be confirmed as a true and correct record.

CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

7. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

7.1 Traffic Safety Award

I am pleased to announce that the Town, along with Main Roads WA, received a Joint Commendation Award for "Innovation in Traffic Safety Management" for the trial to reduce speed on Fitzgerald Street, North Perth. As you may be aware this trial involved the installation of synthetic speed humps in the street and trials to date have revealed that they have proven most successful in reducing speed (however, have also proven extremely unpopular with motorists).

The award was presented to the Town's Director Technical Services, Rick Lotznicker, at the Institute of Public Works Engineering Australia (IPWEA) State Conference Awards Evening held at The Esplanade Hotel in Fremantle on 13 March 2009.

Congratulations to Technical Services and Main Roads.

A report will be submitted to the Council at the end of the trial.

7.2 Leederville Cricket Club

The Town was recently presented with a framed Cricket Bat by the Leederville Cricket Club, signed and certified by the "Retravisio Warriors" Squad for 2008/09, as a token of their gratitude to the "fantastic team" at the Town.

The Leederville Cricket Club have passed on their thanks and congratulations to the Town for the tremendous financial support and co-operative assistance it has offered the Club over the last two years in undertaking completion and renovations to the Britannia Road Clubrooms.

This facility will benefit tremendously the ratepayers and community groups throughout the Town.

7.3 Late Item 9.1.10 – Sub-Standard Buildings

Please be advised that I have approved of a late item for consideration by the Council - Item 9.1.10 relating to Sub-Standard Buildings.

7.4 Withdrawal of Item 9.4.1 – Appointment of Acting Member – Tamala Park Regional Council

Please be advised that Item 9.4.1 has been withdrawn as the meeting listed by the Tamala Park Regional Council has been rescheduled to an alternative date and an Acting Member is no longer required.

8. DECLARATIONS OF INTERESTS

Nil.

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

Nil.

10. REPORTS

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

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

Items 9.1.2, 9.1.1, 9.1.6, 9.1.8, 9.1.4 and 9.1.3.

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:

Item 14.2.

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

Nil.

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

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

Cr Farrell	Nil
Cr Youngman	Items 9.1.10, 9.2.2 and 9.2.4.
Cr Doran-Wu	Nil.
Cr Lake	Nil.
Cr Burns	Nil.
Cr Maier	Items 9.1.7, 9.2.1 and 9.2.3
Mayor Catania	Nil.

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

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

Items 9.1.5, 9.1.9, 9.2.5, 9.3.1, 9.3.2 and 9.4.2.

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

Items 14.1, 14.2, 14.3 and 14.4.

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 9.1.5, 9.1.9, 9.2.5, 9.3.1, 9.3.2 and 9.4.2.

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

Items 9.1.2, 9.1.1, 9.1.6, 9.1.8, 9.1.4 and 9.1.3.

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

Moved Cr Farrell, Seconded Cr Youngman

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

Items 9.1.5, 9.1.9, 9.2.5, 9.3.1, 9.3.2 and 9.4.2.

CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

ITEM WITHDRAWN AS THE TAMALA PARK COUNCIL MEETING HAS BEEN CANCELLED

9.4.1 Appointment of Acting Member for Tamala Park Regional Council

Ward:	-	Date:	18 March 2009
Precinct:	-	File Ref:	ADM0078
Attachments:	-		
Reporting Officer(s):	John Giorgi		
Checked/Endorsed by:	-	Amended by:	-

OFFICER RECOMMENDATION:

That the Council APPROVES BY AN ABSOLUTE MAJORITY the appointment of Deputy Mayor Councillor Steed Farrell to be its Member for the Tamala Park Regional Council Chief Executive Officer (CEO) Performance Review Committee Meeting to be held on 2 April 2008, due to the unavailability of the Mayor Nick Catania.

PURPOSE OF REPORT:

For the Council to appoint an Acting Member to the Tamala Park Regional Council (TPRC) CEO Performance Review Committee Meeting, due to the unavailability of its normal Member, Mayor Nick Catania, who is unable to attend the meeting to be held on 2 April 2009.

BACKGROUND:

The Town has previously received advice that the Local Government Act 1995 does not contain any provision to appoint a Deputy Member to be its Member on a Regional Council. However, it may appoint an alternative Member if the regular Member is unable to attend the meeting. Mayor Catania is unable to attend due to another important previous commitment.

A CEO Performance Review Committee Meeting has been called for 2 April 2009, with the specific purpose of receiving a report from the CEO on proposals for structuring of the Tamala Park Regional Council Administration for future stages of development. This report was requested following the last Ordinary Meeting of the TPRC, when the CEO advised that he would not be seeking an extension of his contract. It is important for the Town to be represented at the Meeting, as the subject matter will set the framework for the success of Council operations into the future.

CONSULTATION/ADVERTISING:

N/A.

LEGAL/POLICY:

Section 52(1) and (2) of the Interpretation Act confers power to appoint a person to a position including an Acting Appointment. The Local Government Act is deficient as it does not allow the appointment of a Deputy Member and an urgent amendment is currently being considered.

STRATEGIC IMPLICATIONS:

This is in keeping with the Town's Strategic Plan 2006-2011, Key Objective 4.1 - *"Provide good strategic decision making, leadership and professional management."*

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The Local Government Act is being amended, so that deputy Members can be appointed for prescribed periods, therefore deleting the matter to be determined by a Council for each occasion.

It is important that the Town be represented at this Meeting.

9.1.5 No. 8 (Lot: 13 D/P: 269) Somerville Street, Perth – Partial Demolition of Existing Building, Change of Use from Light Industry to One (1) Multiple Dwelling, One (1) Office, One (1) Showroom and Associated Car Parking, Alterations and Additions, and Second-Storey Addition for a Multiple Dwelling – Amended Planning Approval

Ward:	South	Date:	17 March 2009
Precinct:	Claisebrook Road North; P15	File Ref:	PRO4227 5.2009.24.1
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 Perth City Planning Scheme No. 2, as appropriate as if it were its own Scheme, and the Metropolitan Region Scheme, APPROVES the application submitted by A Cuccovia on behalf of the owner N M Koenig & A Cuccovia for Partial Demolition of Existing Building, Change of Use from Light Industry to One (1) Multiple Dwelling, One (1) Office, One (1) Showroom and Associated Car Parking, Alterations and Additions, and Second-Storey Addition for a Multiple Dwelling – Amended Planning Approval at No. 8 Somerville Street, Perth, and as shown on plans stamp-dated 28 January 2009, subject to the following condition(s):

- (i) 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;*
- (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) prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the bedroom window of the multiple dwelling on the eastern elevation being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be major openings as defined in the Residential Design Codes. Alternatively, prior to the issue of a Building Licence, these revised plans are not required if the Town receives written consent from the owners of No. 10 Somerville Street, stating no objection to the respective proposed privacy encroachments.*

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

- (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) *first obtaining the consent of the owners of No. 10 Somerville Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the new boundary (parapet) walls facing No. 10 Somerville Street in a good and clean condition;*
 - (vi) *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;*
 - (vii) *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;*
 - (viii) *doors, windows and adjacent floor areas on the ground floor fronting Somerville Street shall maintain an active and interactive relationship with this street;*
 - (ix) *the maximum total gross floor area of the showroom and office components shall be limited to 55.4 square metres and 47.45 square metres respectively;*
 - (x) *prior to the first occupation of the development, a minimum of one (1) car parking space provided for the residential component of the development shall be clearly marked and signposted for the exclusive use of the residents of the development;*
 - (xi) *the on-site car parking area for the non-residential component shall be available for the occupiers of the residential component outside normal business hours;*
 - (xii) *the car parking area shown for the non-residential component shall be shown as 'common property' on any strata or survey strata subdivision plan for the property;*
 - (xiii) *prior to the issue of a Building Licence, the owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the property of the following:*
 - (a) *the use or enjoyment of the property may be affected by noise, traffic, car parking and other impacts associated with nearby commercial and non-residential activities; and*
 - (b) *the Town of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the 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;*
- (xiv) *prior to the first occupation of the development, the multiple dwelling shall be provided with a screened outdoor area for clothes drying or clothes tumbler dryer;*

- (xv) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition on the site;*
- (xvi) *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 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;*
- (xvii) *the hours of operation of showroom and office component shall be limited to 8 am to 6 pm on weekdays, and 8 am to 12 pm on Saturdays, inclusive; and*
- (xviii) *any new street/front wall, fence and gate between the Somerville Street boundary and the main building, including along the side boundaries within this front setback area, complying 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.*

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

COUNCIL DECISION ITEM 9.1.5

Moved Cr Farrell, Seconded Cr Youngman

That the recommendation be adopted.

CARRIED "EN BLOC" (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

Landowner:	N M Koenig & A Cuccovia
Applicant:	A Cuccovia
Zoning:	Metropolitan Region Scheme: Urban Town of Vincent Town Planning Scheme No. 1 (City of Perth City Planning Scheme No. 2)-East Perth Precinct (P15), EPRA Scheme
Existing Land Use:	Light Industry
Use Class:	Light Industry
Use Classification:	“Unlisted” under City of Perth City Planning Scheme No. 2
Lot Area:	233 square metres
Access to Right of Way	N/A

BACKGROUND:

On 21 May 2008, a development application for Change of Use from Light Industry to One (1) Multiple Dwelling, One (1) Office, One (1) Showroom and Associated Car Parking, Alterations and Additions, and Second-Storey Addition for a Multiple Dwelling was approved under delegated authority, subject to the following conditions:

- “(i) *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;*
- (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) *prior to the issue of the Building Licence, revised plan shall be submitted and approved demonstrating the bedroom window of the multiple dwelling on the eastern elevation being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be major openings as defined in the Residential Design Codes. Alternatively, prior to the issue of a Building Licence, these revised plans are not required if the Town receives written consent from the owners of No. 10 Somerville Street, stating no objection to the respective proposed privacy encroachments. The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*
- (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) *first obtaining the consent of the owners of No. 10 Somerville Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the new boundary (parapet) walls facing No. 10 Somerville Street in a good and clean condition;*
 - (vi) *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;*
 - (vii) *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;*
 - (viii) *doors, windows and adjacent floor areas on the ground floor fronting Sommerville Street shall maintain an active and interactive relationship with this street;*
 - (ix) *the maximum total gross floor area of the showroom and office components shall be limited to 55.4 square metres and 47.45 square metres respectively;*
 - (x) *prior to the first occupation of the development, a minimum of one (1) car parking space provided for the residential component of the development shall be clearly marked and signposted for the exclusive use of the residents of the development;*
 - (xi) *the on-site car parking area for the non-residential component shall be available for the occupiers of the residential component outside normal business hours;*
 - (xii) *the car parking area shown for the non-residential component shall be shown as 'common property' on any strata or survey strata subdivision plan for the property;*
 - (xiii) *prior to the issue of a Building Licence, the owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the property of the following:*
 - (a) *the use or enjoyment of the property may be affected by noise, traffic, car parking and other impacts associated with nearby commercial and non-residential activities; and*
 - (b) *the Town of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the 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;*
- (xiv) *prior to the first occupation of the development, the multiple dwelling shall be provided with a screened outdoor area for clothes drying or clothes tumbler dryer;*
 - (xv) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition on the site;*

- (xvi) *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 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;*
- (xvii) *the hours of operation of showroom and office component shall be limited to 8 am to 6 pm on weekdays, and 8 am to 12 pm on Saturdays, inclusive; and*
- (xviii) *any new street/front wall, fence and gate between the Sommerville Street boundary and the main building, including along the side boundaries within this front setback area, complying 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.*

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

DETAILS:

The only difference between this current application and the application originally approved by the Town on 21 May 2008 is the proposed deletion of the carbay which was originally located at the rear of the property and accessed via the rear right of way. The applicant does not have a legal right of access to use the right of way. Therefore, the car parking is the only requirement being re-assessed.

As per the City of Perth Local Planning Scheme No. 26 (CPLPS 26), the subject property site is zoned Residential R80 and is located within the Precinct EP: Claisebrook Road North.

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

ASSESSMENT:

Non-Compliant Requirements			
Requirements	Required	Proposed *	Officer Comments pursuant to CPLPS2
Density	R 80	R 42.9	Noted – no variation.
Plot Ratio	Maximum Plot Ratio = 1.0	0.7	Noted – no variation.
Car Parking	3 car bays	2 car bays	Supported – see comments section.

Consultation Submissions		
Support	Nil.	Noted.
Objection	Nil.	Noted.
Other Implications		
Legal/Policy	CPLPS 26 and associated Policies, and Residential Design Codes (R Codes).	
Strategic Implications	Nil	
Sustainability Implications	Nil	
Financial/Budget Implications	Nil	
Car Parking		
Requirements	Required	Provided
	As per CPLS26 the car parking requirements are as follows:	
Residential	One Multiple Dwelling=1 car bay	1 car bay
Office	Minimum car parking spaces = 0.67	
	Maximum exclusive use on-site parking = 0.95	1 car bay
Showroom	Minimum car parking spaces = 0.55	
	Maximum exclusive use on site parking = 0.79	0 car bays
	Total = 3 bays	Total = 2 bays

COMMENTS:

The owner of the subject property is currently in the process of acquiring a legal right to utilise the Right of Way (ROW) at the rear of the subject property. The current owner of the subject right of way has agreed to this; however, the transfer of title has not yet been achieved due to the current ROW owners' ill health.

In the event of the owners of No. 8 Somerville Street acquiring a legal right to utilise the ROW, it is their intention to have at least one car bay at the rear of the property accessed from the ROW as originally applied for, and approved by the Town on 21 May 2008. The deletion of the car bay at the rear of the subject property is a measure to allow commencement of the redevelopment of the lot.

Under the CPLPS 26, Officers have the discretion to approve variations to the minimum car parking spaces provided for the site, given that it meets the requirements of clause 3.6.3 of the CPLPS 26 relating to Relaxation of Car Parking Standards, which are as follows:

- “(a) such a relaxation will not prejudice the achievement of the objectives of the scheme;
- (b) such a relaxation will not detract from the amenity of the locality of the proposed development or the streetscape;
- (c) sufficient area is set aside in the form of additional landscaping to permit the subsequent construction of parking areas;
- (d) different uses on the land will generate parking demand at different times, allowing parking spaces to be shared;
- (e) the number of parking spaces required under Table 1 can only be provided in a manner which results in a built form in conflict with the existing development in the locality; or
- (f) contractual arrangements have been made for the parking or shared use of parking areas which are in the opinion of the City satisfactory.”

It is considered that the relaxation will not prejudice the achievement of the objectives of the Scheme or detract from the amenity of the locality of the proposed development or the streetscape, as the applicant intends to provide further parking bays at the rear of the subject property when access to the right of way is legally obtained.

Furthermore, there is sufficient area set aside in the form of landscaping to permit the subsequent construction of parking areas. The area marked "courtyard 03" on the ground floor plan was originally set aside for car parking on the plans approved on 21 May 2008. Once legal right to utilise the right of way has been obtained, it is the applicants intention to reinstate the car bay at the rear of the subject property.

The mixed use nature of the development will also generate parking demand at different times, allowing parking spaces to be shared. The owner of the subject property will be living in the residential component of the development as well as operating the showroom/office on the ground floor. Outside of office hours, the parking bay provided for the commercial can be utilised for residential purposes.

In addition, it is to be noted that if the proposal was assessed under the Town's requirements, a number of adjustment factors would have been applied which would have reduced the required amount of car bays, and if there was still a shortfall of one car bay after the adjustment factors were applied, the Town would have accepted a cash-in-lieu contribution for the shortfall in the required car parking.

Conclusion

In light of the above, the proposed variation to the car parking requirement is recommended for approval subject to standard and appropriate conditions.

9.1.9 Amendment No. 58 to Planning and Building Policies – Draft Amended Policy Relating to Multiple Dwellings

Ward:	Both Wards	Date:	11 March 2009
Precinct:	All Precincts	File Ref:	PLA0200
Attachments:	001		
Reporting Officer(s):	A Fox, T Woodhouse		
Checked/Endorsed by:	H Smith, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the Draft Amended Policy Relating to Multiple Dwellings, as shown in Attachment 001;*
- (ii) *ADOPTS the Draft Amended Policy Relating to Multiple Dwellings in the interim until the formal adoption of the Amended Policy;*
- (iii) *ADVERTISES the Draft Amended Policy Relating to Multiple Dwellings for public comment, in accordance with Clause 47 of the Town of Vincent Town Planning Scheme No. 1, including:*
 - (a) *advertising a summary of the subject Policy once a week for four consecutive weeks in a newspaper circulating in the locality;*
 - (b) *where practicable, notifying those persons who, in the opinion of the Town, might be directly affected by the subject Policy; and*
 - (c) *forwarding a copy of the subject Policy to the Western Australian Planning Commission; and*
- (iv) *after the expiry of the period for submissions:*
 - (a) *REVIEWS the Draft Amended Policy Relating to Multiple Dwellings, having regard to any written submissions; and*
 - (b) *DETERMINES the Draft Amended Policy Relating to Multiple Dwellings, with or without amendment, to or not to proceed with them.*

COUNCIL DECISION ITEM 9.1.9

Moved Cr Farrell, Seconded Cr Youngman

That the recommendation be adopted.

CARRIED “EN BLOC” (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

PURPOSE OF REPORT:

The purpose of this report is to present a Draft Amended Policy relating to Multiple Dwellings, to seek the Council's approval to advertise the Draft Amended Policy, and to advertise the Draft Amended Policy in the interim until formal adoption of the amended policy.

BACKGROUND:

In the preparation of the Local Planning Strategy, the Town initiated Scheme Amendment No. 25, to remove clauses relating to 'no multiple dwellings' in the Precincts of Cleaver, Smith's Lake, Norfolk, Hyde Park and Banks. This amendment was initiated in order to provide better utilisation of the land and greater diversity of housing choice within these Precincts, and in particular along major roads and within areas coded higher density residential, commercial and mixed use.

Upon initiation of Scheme Amendment No. 25, the Town's Officers prepared a Draft Multiple Dwellings Policy. The initial Multiple Dwellings Policy was developed in order to facilitate good quality, well designed multiple dwelling development that responds sensitively to the existing character of the area. The Multiple Dwellings Policy covers the whole of the Town, including the Precincts subject to Amendment No. 25 and is intended to be a generic basis from which multiple dwelling developments are controlled and managed.

The following background information details the progression of the Multiple Dwellings Policy:

26 February 2008 The Council considered a report outlining the initiation of an Amendment to Town Planning Scheme No. 1 and a Draft Policy relating to multiple dwellings at its Ordinary Meeting and resolved as follows:

"That the Item be DEFERRED to allow for further discussion within Council on this topic."

13 May 2008 The Council considered a further report relating to the proposed Scheme Amendment and Draft Policy relating to Multiple Dwellings and resolved as follows:

"That the item be DEFERRED to allow for further consideration."

27 May 2008 The Council considered a further report relating to the proposed Scheme Amendment and Draft Policy relating to Multiple Dwellings and resolved to initiate an amendment, subject to modifying the Scheme Text.

26 August 2008 The Council considered a report relating to the Draft Policy relating to Multiple Dwellings and resolved as follows:

"That the Item be DEFERRED to;

- (i) enable Council Members to provide feedback to the Chief Executive Officer and Directors;*
- (ii) have the public gallery's concerns that were voiced at tonight's meeting, referred to the Officers for investigation; and*
- (iii) analyse the submissions already received."*

28 October 2008 The Council considered a report relating to the Draft Policy relating to Multiple Dwellings and resolved to receive, adopt and advertise the final amended version of the Policy.

DETAILS:

Since the adoption of the Policy on 28 October 2008, the following issues have emerged that have required the Town's Officers to initiate amendments to the Policy.

Inclusion of a definition for a Multiple Dwelling

The Residential Design Codes gives the definition for a multiple dwelling as:

"A dwelling in a group of more than one dwelling on a lot where any part of a dwelling is vertically above part of any other but:

- does not include a grouped dwelling; and*
- includes any dwellings above the ground floor in a mixed use development."*

The application of this definition in the assessment of development applications has resulted in varying interpretations in development applications determined by the Town. Two such examples have been appealed to the State Administrative Tribunal (SAT), namely Filton Pty Ltd and Town of Vincent [2006] WASAT 70 and Metropolitan Management Pty Ltd and Town of Vincent [2008] WASAT 261.

In the matter Filton Pty Ltd and Town of Vincent, the Tribunal determined that the proposed development comprised "*grouped dwellings*" rather than "*multiple dwellings*". In considering this, the SAT, determined that in the context of the R Codes read as a whole, the words "*partly vertically above*" in the definition of "*grouped dwellings*" and the words "*any part of a dwelling*" in the definition of "*multiple dwellings*" mean "*in relation to a substantial part vertically above*" and "*any substantial part of a dwelling*", respectively. The minor and contrived projections of areas of bathrooms above garages of other units do not have the effect of transforming the development from "*grouped dwellings*" to "*multiple dwellings*".

Similarly, the SAT considered a matter between Metropolitan Management Pty Ltd and Town of Vincent [2008] WASAT 261 whereby the Tribunal reiterated its previous conclusion at the Filton and Town of Vincent matter and determined that it can be reasonably argued that the minor overlap of the loft floor spaces over the adjoining dwellings cannot be accepted as '*substantial*' and thus cannot constitute a '*multiple dwelling*'.

In both the situations discussed above, there was a discrepancy with regard to applying and interpreting what constitutes a '*multiple dwelling*'. In considering this, the SAT determined that the words '*any part of a dwelling*' in the R Codes definition of multiple dwellings should have the meaning '*any substantial part of a dwelling*' in order for the definition to be applied reasonably. In these cases, it was reasonably argued that minor overlaps shown in the proposed developments cannot be accepted as '*substantial*' and those were more accurately described as '*grouped dwellings*'.

Drawing on these two examples, it is considered appropriate that the Town develop a more specific definition of what constitutes a multiple dwelling than what appears in the R Codes to ensure clarity and transparency in the assessment and determination of development applications by the Town.

A revised definition of what constitutes a Multiple Dwelling is proposed to be incorporated into the Draft Policy as follows:

"A dwelling in a group of more than one dwelling on a lot where ~~any part of a dwelling~~ 50 per cent or greater of floor area of a dwelling is vertically above part of any other but:

- does not include a grouped dwelling; and*
- includes any dwellings above the ground floor in a mixed use development."*

Clause relating to minimum lot area of 1000 square metre

Policy No. 3.4.8 relating to Multiple Dwelling approved by the Council on 28 October 2008 requires that all multiple dwelling developments have a minimum total lot area of 1000 square metres. This clause stemmed from the original intention of the 'No Multiple Dwellings' Scheme provision to protect the low scale and residential character of the area, particularly in the Precincts of Cleaver, Smith's Lake, Hyde Park, Banks and Norfolk. Essentially, this provision was included in the Policy to ensure continued appropriate development within these areas.

Since the adoption of the Multiple Dwellings Policy No. 3.4.8, the Town has received a number of development applications for multiple dwellings in Precincts where multiple dwellings are permitted under the Town's Town Planning Scheme No. 1. Whilst the Town's Officers consider that this minimum area requirement is justified in certain areas for the reasons detailed above, in practice it has revealed that it is inappropriate for the provisions to apply across the whole of the Town, particularly in areas zoned District Centre, Local Centre, Commercial and Residential/Commercial and areas of high density residential coding.

The intent of Amendment No. 58 therefore, is to revise Policy No. 3.4.8 relating to Multiple Dwellings and to modify Clause (2) relating to the minimum lot area of 1000 square metres for Multiple Dwellings, to read as follows:

"2) Multiple Dwelling developments on Residential R20, R30, R40 and R50 zoned land within the Cleaver, Smith's Lake, Hyde Park, Banks and Norfolk Precincts are to have a minimum total lot area of 1000 square metres."

Removal of reference to 'recognised streetscape' and Residential Streetscapes Policy

As the draft Residential Streetscapes Policy has not been adopted by the Council, all reference to 'recognised streetscapes' and the related Residential Streetscapes Policy have been removed.

Clause (3) of the amended draft Multiple Dwellings Policy does however, require that multiple dwelling developments in areas characterised by single storey dwellings are cognisant of the streetscape character. This clause has been amended to ensure multiple dwelling developments in predominately single storey streetscape are respectful to the existing amenity and character of the streetscape, particularly in relation to bulk and scale of the development.

CONSULTATION/ADVERTISING:

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

LEGAL/POLICY:

Town Planning Scheme No. 1 and associated Policies.

STRATEGIC IMPLICATIONS:

Strategic Plan 2006-2011 – Strategic Objective: Natural and Built Environment

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

FINANCIAL/BUDGET IMPLICATIONS:

The current 2008/2009 Budget allocates \$60,000 for Town Planning Scheme Amendments and Policies.

COMMENTS:

It is considered that the proposed amendment to modify the Multiple Dwellings Policy will align the Multiple Dwellings Policy with the original intention of the '*No Multiple Dwellings*' provision, to ensure the preservation of the low scale and residential character within certain precincts, while still facilitating high quality multiple dwelling developments in appropriately located areas.

In light of the above, it is recommended that the Council receives, adopts in the interim and advertises the draft amended Multiple Dwellings Policy as outlined in this report. Following the advertising period, the Council are to consider any submissions made in relation to the draft amended Multiple Dwellings Policy No. 3.4.8.

9.2.5 Draft Strategic Waste Minimisation Plan 2008-2013 – Adoption

Ward:	Both	Date:	17 March 2009
Precinct:	All	File Ref:	ENS0008
Attachments:	001		
Reporting Officer(s):	R Lotznicker, J Lockley		
Checked/Endorsed by:	John Giorgi	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) **RECEIVES** the progress report on the Town of Vincent Draft Strategic Waste Minimisation Plan 2008-2013 and notes that no submissions were received;
- (ii) **ADOPTS** the Town of Vincent Strategic Waste Minimisation Plan 2008 -2013 as amended and “Laid on the Table”;
- (iii) **AUTHORISES** the Chief Executive Officer to prepare an action/implementation plan to implement the actions recommended in the Strategic Waste Minimisation Plan; and
- (iv) **ADVISES** the Mindarie Regional Council of its decision.

COUNCIL DECISION ITEM 9.2.5

Moved Cr Farrell, **Seconded** Cr Youngman

That the recommendation be adopted.

CARRIED “EN BLOC” (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

PURPOSE OF REPORT:

The purpose of this report is to seek the Council’s approval to adopt the Strategic Waste Minimisation Plan 2008-2013.

BACKGROUND:

At its Ordinary meeting held on 2 December 2008, the Council received the Draft Strategic Waste Minimisation Plan, where the following decision was made.

"That the Council;

- (i) **RECEIVES** the progress report on the Town of Vincent Draft Strategic Waste Minimisation Plan 2008-2013;
- (ii) **NOTES** that;
 - (a) *the Mindarie Regional Council (MRC) received funding from the Waste Authority, on behalf of the member Council’s, and engaged a consultant to work with individual member Council officers to develop a Strategic Waste Management Plan (SWMP) for the MRC and individual Strategic Waste Management Plans for each member Council; and*

- (b) *at the MRC Council meeting held in October 2008, the MRC Council considered a report on the MRC Strategic Waste Management Plan and authorised the MRC Administration to request Member Councils to review and obtain public comment on the individual Member Council Strategic Waste Minimisation Plans, preferably by the end of March 2009;*
- (iii) *APPROVES IN PRINCIPLE the Town of Vincent Draft Strategic Waste Management Plan 2008-2011 as attached at Appendix 9.2.8, including the summary of recommended actions as outlined in the report;*
- (iv) *ADVERTISES the Town's Draft Strategic Waste Management Plan 2008-2013 for public comment for a period of 28 days, commencing after 9 January 2009;*
- (v) *AUTHORISES the Chief Executive Officer to make minor/non material changes to the document prior to the plan being advertised;*
- (vi) *RECEIVES a further report on the Town's Draft Waste Minimisation Plan 2008-2013 at the close of the consultation period; and*
- (vii) *ADVISES the Mindarie Regional Council of its decision."*

DETAILS:

In accordance with the Council's decision, the Town's Draft Strategic Waste Management Plan 2008-2013 was advertised on 20 January 2009 for a period of 28 days for public comment.

At the close of consultation, no comments were received, however, the environmental officer reviewed the plan and has made minor changes to ensure the plan is accurate, current and relevant to the Town's specific requirements/operations.

As previously reported to the Council, the MRC received the funding on behalf of the member councils and engaged a consultant to work with individual Councils and develop a Strategic Waste Management Plan for the MRC and individual Strategic Waste Management Plans for each member Council.

Officers Comment – Changes:

The officer's changes to the plan have not changed the intent of the plan but have merely amended incorrect information and deleted parts that relate more to the Mindarie Regional Council Waste Plan than to the Town of Vincent's plan. **To save paper, the full Plan (105 pages) has not been provided to Council Members and is "Laid on the Table". The document is electronically attached to this report.**

CONSULTATION/ADVERTISING:

The Town's Draft Strategic Waste Management Plan 2008-2011 was advertised for public comment on 20 January 2009 for a period of 28 days.

LEGAL/POLICY:

The Health Act 1911 empowers the Town to collect household refuse.

STRATEGIC IMPLICATIONS:

In accordance with the objective of Strategic Plan 2006-2011 – *Key Result Area 1.1.4 Minimise negative impacts on the community and environment; and 1.1.4(e) “Prepare a Waste Minimisation Strategy that is aligned with State legislation and the Mindarie Regional Council’s Strategic direction”*.

SUSTAINABILITY IMPLICATIONS:

The Strategic Waste Minimisation Plan is similar to the action 5.1 “*develop a Waste Management Plan*” in the Town's Sustainable Environment Plan 2007- 2012. The sustainable implications of the management of waste that are covered in the SWMP will move the Town into a new dimension for waste management whereby the environment, community and economics are a concern when collection and generation of all wastes the Town must deal with are managed.

FINANCIAL/BUDGET IMPLICATIONS:

Funding for the development of Phase 1 and Phase 2, SWMPs was provided to the MRC by the Department of Environment and Conservation, with remaining funds being available for the implementation of actions as recommended in the SWMP.

As previously mentioned in the report to Council, the status of the finalised SWMPs will enable individual or groups of local governments, e.g. the MRC, to apply for Waste Authority funding for various waste minimisation projects.

COMMENTS:

The Town’s SWMP was prepared by a consultant appointed by the MRC and prescribes a baseline, setting out where the Town is positioned with regard to waste management and waste minimisation activities as at mid-2008. This information forms the baseline data from which future successes can be measured. These plans also provide a useful summary document on current waste management activities.

It is recommended that the Council adopts the amended *Town of Vincent Strategic Waste Minimisation Plan 2008 -2013*.

9.3.1 Financial Statements as at 28 February 2009

Ward:	Both	Date:	12 March 2009
Precinct:	All	File Ref:	FIN0026
Attachments:	001 , 002		
Reporting Officer(s):	B Tan		
Checked/Endorsed by:	M Rootsey	Amended by:	

OFFICER RECOMMENDATION:

That the Council RECEIVES the Financial Statements for the month ended 28 February 2009 as shown in Appendix 9.3.1.

COUNCIL DECISION ITEM 9.3.1

Moved Cr Farrell, Seconded Cr Youngman

That the recommendation be adopted.

CARRIED “EN BLOC” (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

PURPOSE OF REPORT:

The purpose of this report is to present the financial statements for the month ended 28 February 2009.

BACKGROUND:

Regulation 34(1) of the Local Government (Financial Management) Regulations 1996 requires a local government to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the budget.

A financial activity statements report is to be in a form that sets out:

- the annual budget estimates;
- budget estimates to the end of the month to which the statement relates;
- actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
- material variances between the year-to-date income and expenditure and totals and the relevant annual budget provisions for those totals from 1 July to the end of the period;
- includes such other supporting notes and other information as the local government considers will assist in the interpretation of the report.

A statement of financial activity and any accompanying documents are to be presented to the Council at the next Ordinary Meeting of the Council following the end of the month to which the statement relates, or to the next ordinary meeting of council after that meeting.

In addition to the above, under Regulation 34(5) of the Local Government (Financial Management) Regulations 1996, each financial year a local government is to adopt a percentage of value, calculated in accordance with AAS 5, to be used in statements of financial activity for reporting material variances.

DETAILS:

The following documents represent the Statement of Financial Activity for the period ending 28 February 2009:

- Income Statement;
- Summary of Programmes/Activities (pages 1-17);
- Income Statement by Nature & Type Report (page 18)
- Capital Works Schedule (pages 19-25);
- Balance Sheet and Statement of Changes in Equity (pages 26-27);
- Reserve Schedule (page 28);
- Debtor Report (page 29);
- Rate Report (page 30);
- Statement of Financial Activity (page 31);
- Net Current Asset Position (page 32);
- Beatty Park Report – Financial Position (page 33);
- Variance Comment Report (page 34-37).

Comments on the financial performance are set out below:

Income Statement and Detailed Summary of Programmes/Activities

Operating Result

The operating result is Operating Revenue – Operating Expenses

YTD Actual	-	\$8.3 million
YTD Budget	-	\$6.9 million
Variance	-	\$1.4 million
Full Year Budget	-	\$4.9 million

Summary Comments:

The current favourable variance is due to increase revenue received as outlined below.

Operating Revenue

YTD Actual	-	\$29.3 million
YTD Budget	-	\$29.0 million
YTD Variance	-	\$0.3 million
Full Year Budget	-	\$32.8 million

Summary Comments:

The total operating revenue is currently 1% over the year to date budget.

Major variances are to be found in the following programmes:

Governance - 33% over budget;

Law Order & Public Safety – 53% over budget;

Education and Welfare - 41% under budget;

Community Amenities – 10% over budget;

Other Property & Services - 22% over budget;

Administration General -259% over budget;

More details variance comments are included on the page 34 – 37 of this report.

Operating Expenditure

YTD Actual	-	\$22.1 million
YTD Budget	-	\$22.7 million
YTD Variance	-	-\$0.6 million
Full Year Budget	-	\$33.7 million

Summary Comments:

The operating expenditure is currently operating at 2% under the year to date budget.

The major under expenditure is located in the following programmes:

- Law Order and Public Safety- 12% below budget;
- Education & Welfare – 17% below budget;
- Community Amenities – 11% below budget;
- Other Property & Services – 22% over budget;
- Administration General- 21% below budget.

Detailed variance comments are included on the page 34 – 37 of this report.

Income Statement by Nature and Type Report

This income statement shows operating revenue and expenditure are classified by nature and type.

Capital Expenditure Summary

The Capital Expenditure summary details projects included in the 2008/09 budget and reports the original budget and compares actual expenditure to date against these.

Capital Works shows total expenditure including commitment for year to date at the 28 February 2009 of \$5,030,005 which represents 41 % of the revised budget of \$12,399,183.

	Budget	Revised Budget	Actual to Date	%
Furniture & Equipment	163,850	212,507	121,451	57%
Plant & Equipment	1,520,700	974,345	116,446	12%
Land & Building	3,952,834	2,936,664	1,342,099	45%
Infrastructure	8,502,612	8,275,667	3,014,176	36%
Total	14,139,996	12,399,183	4,594,172	37%

Balance Sheet and Statement of Changes in Equity

The statement shows the current assets of \$21,003,512 and non current assets of \$141,553,420 for total assets of \$162,556,931.

The current liabilities amount to \$7,669,130 and non current liabilities of \$13,128,568 for the total liabilities of \$21,797,698. The net asset of the Town or Equity is \$141,759,234.

Restricted Cash Reserves

The Restricted Cash Reserves schedule details movements in the reserves including transfers, interest earned and funds used, comparing actual results with the annual budget.

The balance as at 28 February 2009 is \$7.7m. The balance as at 30 June 2008 was \$6.8m.

General Debtors

Other Sundry Debtors are raised from time to time as services are provided or debts incurred. Late payment interest of 11% per annum may be charged on overdue accounts. Sundry Debtors of \$452,197 is outstanding at the end of February 2009.

Of the total debt \$206,427 (45%) relates to debts outstanding for over 60 days, of which \$124,196 is related to Cash in lieu Parking.

The Debtor Report identifies significant balances that are well overdue.

Finance has been following up outstanding items with debt recovery by issuing reminders when it is overdue and formal debt collection if reminders are ignored.

Rate Debtors

The notices for rates and charges levied for 2008/09 were issued on the 6 August 2008.

The Local Government Act 1995 provides for ratepayers to pay rates by four instalments. The due dates for each instalment are:

First Instalment	25 August 2008
Second Instalment	27 October 2008
Third Instalment	5 January 2009
Fourth Instalment	3 March 2009

To cover the costs involved in providing the instalment programme the following charge and interest rates apply:

Instalment Administration Charge	\$5.00
(to apply to second, third, and fourth instalment)	
Instalment Interest Rate	5.5% per annum
Late Payment Penalty Interest	11% per annum

Pensioners registered with the Town for rate concessions do not incur the above interest or charge.

Rates outstanding as at 28 February 2009 was \$1,479,449 which represents 7.9% of the outstanding collectable income compared to 12% at the same time last year.

Summary Comments:

The reduced percentage amount of outstanding rates in comparison to last year is due to the fact that the Rates Notices were distributed approximately one (1) month earlier than last year and a more efficient debt collection process.

The minimum rates are under budget due to increased valuations following the revaluation which has reduced the number of minimum rates assessments and resulted in the increased number of general rates.

The Interim rates are under budget due to significant refunds of contested valuation with the Valuer General Office.

Statement of Financial Activity

The closing surplus carry forward for the year to date 28 February 2009 was \$6,504,819.

Net Current Asset Position

The net current asset position \$6,504,819.

Beatty Park – Financial Position Report

As at 28 February 2009 the operating deficit for the Centre was \$136,856 in comparison to the annual budgeted deficit of \$524,517.

The cash position showed a current cash surplus of \$151,268 in comparison annual budget estimate of a cash deficit of \$65,488. The cash position is calculated by adding back depreciation to the operating position.

Variance Comment Report

The comments will be for the favourable or unfavourable variance of greater than 10% of the year to date budgeted.

9.3.2 Authorisation of Expenditure For The Period 1 – 28 February 2009

Ward:	Both	Date:	12 March 2009
Precinct:	All	File Ref:	FIN0009
Attachments:	001		
Reporting Officer(s):	Kara Ball		
Checked/Endorsed by:	Bee Choo Tan	Amended by:	

OFFICER RECOMMENDATION:

That the Council CONFIRMS the;

- (i) *Schedule of Accounts for the period 1 February – 28 February 2009 and the list of payments;*
- (ii) *direct lodgement of payroll payments to the personal bank account of employees;*
- (iii) *direct lodgement of PAYG taxes to the Australian Taxation Office;*
- (iv) *direct lodgement of Child Support to the Australian Taxation Office;*
- (v) *direct lodgement of creditors payments to the individual bank accounts of creditors; and*
- (vi) *direct lodgement of Superannuation to Local Government and City of Perth superannuation plans.*

as shown in Appendix 9.3.2.

COUNCIL DECISION ITEM 9.3.2

Moved Cr Farrell, Seconded Cr Youngman

That the recommendation be adopted.

CARRIED “EN BLOC” (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

DECLARATION OF INTEREST

Members/Officers	Voucher	Extent of Interest
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Nil.

PURPOSE OF REPORT:

To seek authorisation of expenditure for the period 1 – 28 February 2009.

BACKGROUND:

The Local Government Act provides for all payments to be approved by the Council. In addition the attached Schedules are submitted in accordance with Item 13 of the Local Government (Finance Management) Regulations 1996.

DETAILS:

The Schedule of Accounts to be passed for payment, cover the following:

FUND	CHEQUE NUMBERS/ PAY PERIOD	AMOUNT
Municipal Account		
Town of Vincent Advance Account	EFT	\$135,485.44
Total Municipal Account		\$135,485.44
Advance Account		
Automatic Cheques	64765-64927	\$319,398.32
EFT Batch		\$0.00
Municipal Account		
Transfer of Creditors by EFT Batch	884, 886-890, 892-895	\$2,199,048.35
Transfer of PAYG Tax by EFT	February 2009	\$200,173.05
Transfer of GST by EFT	February 2009	\$0.00
Transfer of Child Support by EFT	February 2009	\$751.42
Transfer of Superannuation by EFT:		
• City of Perth	February 2009	\$30,860.00
• Local Government	February 2009	\$105,122.14
Total		\$2,855,353.28
Bank Charges & Other Direct Debits		
Bank Charges – CBA		\$5,795.02
Lease Fees		\$3,121.37
Corporate Master Cards		\$5,478.87
Folding Machine Lease Equipment		\$0.00
Trace Fees – Audit Certificate		
Loan Repayment		\$59,208.28
Rejection Fees		\$7.50
System Disk Fee		\$0.00
Beatty Park - miscellaneous deposit		\$0.00
Total Bank Charges & Other Direct Debits		\$73,611.04
Less GST effect on Advance Account		-\$45,497.00
Total Payments		\$3,018,952.76

STRATEGIC IMPLICATIONS:

Strategic Plan 2006-2011 – Key Result Area 4.2 – Governance and Management

“Deliver services, effective communication and public relations in ways that accord with the expectations of the community, whilst maintaining statutory compliance and introduce processes to ensure continuous improvement in the service delivery and management of the Town.”

ADVERTISING/CONSULTATION:

Nil.

COMMENT:

Vouchers, supporting invoices and other relevant documentation are available for inspection by Councillors at any time following the date of payment and are laid on the table.

9.4.2 Information Bulletin

Ward:	-	Date:	17 March 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 24 March 2009, as distributed with the Agenda, be received.

COUNCIL DECISION ITEM 9.4.2

Moved Cr Farrell, Seconded Cr Youngman

That the recommendation be adopted.

CARRIED “EN BLOC” (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

DETAILS:

The items included in the Information Bulletin dated 24 March 2009 are as follows:

ITEM	DESCRIPTION
IB01	Letter from Minister for Planning; Culture & the Arts addressed to Mayor Nick Catania regarding State Administrative Tribunal (SAT) matter Cemex Australia Pty Ltd and Town of Vincent (No. 120 Claisebrook Road, East Perth)
IB02	Letter of confirmation from the Heritage Council of Western Australia in regards to the Towns support of the entry of Bowra and O’Dea, Beaufort Street and St Alban’s Church Highgate onto the State Register of Heritage Places on a permanent basis.
IB03	Letter from State Administrative Tribunal (SAT) regarding Matter No. DR/523 of 2008 – Iemma v Town of Vincent (No. 40 Melrose Street, Leederville)
IB04	Letter from State Administrative Tribunal (SAT) regarding Matter No. DR/252 of 2008 – Rata v Town of Vincent (No. 261 Bulwer Street, Perth)
IB05	Local Area Traffic Management Advisory Group Minutes of Meeting held on 26 February 2009
IB06	Safer Vincent Crime Prevention Partnership (SVCPP) Minutes of Meeting held on 4 February 2009

9.1.2 Nos. 152-158 (Lots: 1 and 3) Fitzgerald Street, Perth - Proposed Part Demolition of and Conversion of and Alterations and Additions to Existing Warehouse to Create a Six-Storey Mixed Use Development Comprising Twenty Two (22) Multiple Dwellings, Three (3) Offices and Associated Car Parking (Including Car Stackers) (Reconsideration of Conditions)

Ward:	South	Date:	16 March 2009
Precinct:	Beaufort P13;	File Ref:	PRO3278; 5.2009.29.1
Attachments:	001 002		
Reporting Officer(s):	R Rasiah		
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 Hartree & Associates Architects on behalf of the owner North Perth Developments Pty Ltd for proposed Conversion of Existing Warehouse to Six-Storey Mixed Use Development Comprising Twenty Two (22) Multiple Dwellings, Three (3) Offices and Associated Car Parking (Including Car Stackers) at Nos. 152-158 (Lots: 1 and 3) Fitzgerald Street, Perth, and as shown on plans stamp-dated 29 January 2009 , subject to the following conditions:

- (i) all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) prior to the issue of a Building Licence, the subject land shall be amalgamated into one lot on Certificate of Title; OR alternatively, prior to the issue of a Building Licence the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town's solicitors or other solicitors agreed upon by the Town, undertaking to amalgamate the subject land into one lot within 6 months of the issue of the subject Building Licence. All costs associated with this condition shall be borne by the applicant/owner(s);*
- (iii) the owner(s), or the applicant on behalf of the owner(s), shall comply with the Town of Vincent Percent for Public Art Policy No. 3.5.13 and the Percent for Public Art Guidelines for Developers, including:*
 - (a) within twenty – eight (28) days of the issue date of this 'Approval to Commence Development', elect to either obtain approval from the Town for an Artist to undertake a Public Art Project (Option 1) or pay the Cash in Lieu Percent for Public Art Contribution, of \$ 50,000 (Option 2), for the equivalent value of one per cent (1%) of the estimated total cost of the development (\$5,000,000); and*

- (b) *in conjunction with the above chosen option;*
- (1) *Option 1 –
prior to the approval and subsequent issue of a Building Licence for the development, obtain approval for the Public Art Project and associated Artist; and

prior to the first occupation of the development, install the approved public art project, and thereafter maintain the art work; OR*
- (2) *Option 2 –
prior to the approval and subsequent issue of a Building Licence for the development or prior to the due date specified in the invoice issued by the Town for the payment (whichever occurs first), pay the above cash-in-lieu contribution amount;*
- (iv) *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) *if entry to neighbouring land is required, first obtaining the consent of the owners of Nos. 146-150 Fitzgerald Street, No. 49 Stuart Street/corner Fitzgerald Street and the affected eastern (rear) side landowner(s) at Nos. 45-47 Stuart Street for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 146-150 Fitzgerald Street, No. 49 Stuart Street/corner Fitzgerald Street and the affected eastern (rear) side landowner(s) at Nos. 45-47 Stuart Street in a good and clean condition;*
- (vi) *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;*
- (vii) *prior to the issue of a Building Licence, a Construction Management Plan addressing noise, hours of construction, parking of trade person vehicles, footpath access, traffic and heavy vehicle access via Fitzgerald Street and the rear right- of- way (ROW), dust and any other appropriate matters (such as notifying all affected landowners/occupiers of the commencement of construction works), shall be submitted to and approved by the Town;*
- (viii) *prior to the first occupation of the development, six (6) class one or two plus end of trip bicycle parking facilities, shall be provided at a location convenient to the entrance and within the development. Details of the design and layout of the bicycle parking facilities shall be submitted and approved prior to the installation of such facilities;*
- (ix) *the on-site car parking area for the non-residential component shall be available for the occupiers of the residential component outside normal business hours;*
- (x) *prior to the issue of a Building Licence, the owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the property of the following:*
- (a) *the use or enjoyment of the property may be affected by noise, traffic, car parking and other impacts associated with nearby commercial and non- residential activities; and*

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

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

- (xi) 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;*
- (xii) doors, windows and adjacent floor areas of the office fronting Fitzgerald Street shall maintain an active and interactive relationship with this street;*
- (xiii) prior to the first occupation of the development, the car parking spaces provided for the residential component and visitors of the development shall be clearly marked and signposted for the exclusive use of the residents of the development ;*
- (xiv) 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;*
- (xv) all pedestrian access and vehicle driveway/crossover levels shall match into existing verge/footpath levels;*
- (xvi) the maximum gross floor area for the non-residential/office component shall be limited to 1191 square metres;*
- (xvii) the car parking area shown for the non-residential component shall be shown as 'common property' on any strata or survey strata subdivision plan for the property;*
- (xviii) any new street/front wall, fence and gate within the Fitzgerald Street setback area, including along the side boundaries within this street setback area, shall comply with the 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;*
- (xix) *prior to the issue of a Building Licence, the applicant/owner is required to obtain the support/approval of the Department for Planning and Infrastructure and/or Western Australian Planning Commission of the proposed development, and comply with its comments and conditions at the applicant(s)/owner(s)' full expense;*
- (xx) *prior to issue of a Building Licence, the applicant/owner shall comply with all requirements recommended by the Department for Planning and Infrastructure and/or Western Australian Planning Commission and Town of Vincent Technical Services with regard to traffic management, at the applicant(s)/owner(s)' full expense. Details of the traffic management measures shall be submitted to and approved by the Town prior to the works being undertaken;*
- (xxi) *any proposed vehicular entry gate off the Right of Way adjacent to the car parking area have a minimum 50 per cent visually permeable and shall be either open at all times or suitable management measures shall be implemented to ensure access is available for visitors for the non-residential and residential tenancies at all times. Details of the management measures shall be submitted to and approved by the Town prior to the first occupation of the development;*
- (xxii) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (xxiii) *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;*
- (xxiv) *in keeping with the Town's practice for multiple dwellings, commercial, retail and similar developments, the footpaths adjacent to the subject land shall be upgraded, by the applicant, to a brick paved standard to the Town's specification. A refundable footpath upgrading bond and/or bank guarantee of \$16,000 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing facilities have been reinstated to the satisfaction of the Town's Technical Services Division. An application to the Town for the refund of the upgrading bond must be made in writing;*
- (xxv) *the undergrounding of power line(s) adjacent to the subject site and the installation of lighting on the eastern 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 eastern elevation of the building facing the ROW shall be met by the owner(s);*
- (xxvi) *a pre-and post-dilapidation reports shall be carried out on the adjacent building to the north of the subject site at No. 49 Stuart Street/corner Fitzgerald Street;*

- (xxvii) *all at grade car-parking bays shall be dimensioned on the Building Licence application working drawings and all car parking facilities shall comply with the minimum specifications and dimensions specified in the Town's Parking and Access Policy and Australian Standards AS2890.1 – "Off Street Parking";*
- (xxviii) *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 (ROW) is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title or Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town;*
- (xxix) *prior to the issue of a Building Licence, revised plans shall be submitted to and approved by the Town demonstrating the following:*
- (a) *continuous and complementary awnings being provided over part of the Fitzgerald Street frontage adjacent to the office area in accordance with the Town's Local Government Property Law 2008 relating to awnings, balconies and verandahs with the awnings being a minimum height of 2.75 metres above the throughfare to the underside of the awning and a minimum of 500 millimetres from the kerb line of Fitzgerald Street . Details of the awning shall be submitted to and approved by Department for Planning and Infrastructure and/or Western Australian Planning Commission prior to the issue of a Building Licence;*
 - (b) *each multiple dwelling being provided with a balcony with at least one minimum dimension of being not less than 2.4 metres and the area being a minimum of 5.76 square metres ;*
 - (c) *the openings to all balconies, bedrooms and terraces to the residential tenancies, except north and south balconies 7 metres from lot boundaries, complying with the privacy requirements of the Residential Design Codes. These openings shall be screened with permanent obscure materials and be non-openable to a minimum of 1.6 metres above the respective finished floor levels; 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 2008. Alternatively, prior to the issue of a Building Licence, these revised plans are not required if the Town receives written consent from the owners of affected properties to the north, east and south of the subject site respectively, stating no objections to the proposed privacy encroachment; and*
 - (d) *the solar control shading along the Fitzgerald Street frontage being deleted from the plans.*

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

- (xxx) *prior to the issue of a Building Licence, revised plans and details shall be submitted to and approved by the Town addressing the following matters in relation to the proposed car stacking system:*
- (a) *the vertical clearance of the car stackers shall be an absolute minimum of 2.10 metres on the first parking level and the vertical clearance distance on the remaining levels is to be in accordance with the car stacker manufacture's specifications and is to comply with AS/NSZ 2890.1:2004;*
 - (b) *weight limitation for the car stacker shall be no less than 2,500 kilograms subject to the car stacker being fitted with an appropriate mechanism to restrict its use should a vehicle heavier than 2,500 kilograms enter the stacker. In addition, appropriate highly visible signage shall be installed at the entrance of the car stacker/s specifying the maximum weight of vehicle allowed to use the car stacking device;*
 - (c) *platform openings shall be an absolute minimum of 2.5 metres wide with a general minimum of 2.7 metres wide for each car bay, with a general minimum platform width of 2.9 metres for each bay. This may necessitate a redesign of some of the car stackers. Car bay No. 37 may need to be removed and the building lengthened by approximately 1 metre to accommodate the two proposed car stackers. The design shall be referred to the manufacturer for the exact dimensions required to comply with the Town's requirements;*
 - (d) *reversing car isle widths shall be an absolute minimum of 6.65 metres in accordance with AS/NSZ 2890.1:2004;*
 - (e) *rubber inserts shall be installed on all platforms on the drivers' side;*
 - (f) *walls for mounting shall be as per manufacturer's specification - floors and walls shall be made of concrete designed and certified by a structural Engineer;*
 - (g) *sliding doors shall be automatic;*
 - (h) *car stacker operation shall be by remote control;*
 - (i) *an emergency power generator shall be installed;*
 - (j) *the car stacker design and associated features, such as a suitable mechanical ventilation system and a suitable sprinkler system, shall be submitted to and approved by Fire and Emergency Services (FESA) prior to the issue of a Building Licence; and*
 - (k) *if feasible, without reducing the overall number of car bays provided, to reduce the incidence of bay loss in the event of a mechanical failure, the car stackers shall be redesigned to form a maximum of four (4) banks of parallel bays.*

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

(xxxi) *prior to the issue of a Building Licence, the applicant and future owners of the property to enter into a Legal Agreement with the Town, which is secured by a caveat on the certificate(s) of title of the subject land, in regard to the car stacker system and to address the following to the satisfaction of the Town;*

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

(xxxii) *prior to the issue of a Building Licence; a revised, corrected Traffic Impact Assessment shall be submitted to and approved by both the Town and the Department for Planning and Infrastructure (DPI);*

(xxxiii) *prior to the first occupation of the development, each multiple dwelling shall be provided with a screened outdoor area for clothes drying or clothes tumbler dryer;*

(xxxiv) *the provision of a minimum of 36 car bays on- site, of which 22 car bays are to be specifically allocated for the residential multiple dwellings;*

(xxxv) *the proposed crossover off Fitzgerald Street shall be designed to restrict traffic flow to left in and out only to the satisfaction of the Town's Director Technical Services; and*

(xxxvi) *the planning approval for this proposal serial 5.2009.29.1 is valid until 16 December 2010, to be consistent with planning expiry date of planning approval serial 5.2008.464.1 approved at the Ordinary Meeting of Council held on 16 December 2008.*

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

Cr Youngman departed the Chamber at 6.45pm.

Moved Cr Farrell, Seconded Cr Lake

That the recommendation be adopted.

Debate ensued.

Cr Youngman returned to the Chamber at 6.46pm.

Debate ensued.

AMENDMENT NO 1

Moved Cr Farrell, Seconded Cr Burns

That clause (xxix)(d) be deleted.

Debate ensued.

The Mover, Cr Farrell advised that he wished to withdraw his amendment and reword it. The Seconder, Cr Burns agreed. Cr Farrell withdrew his amendment.

AMENDMENT NO 2

Moved Cr Farrell, Seconded Cr Burns

That clause (xxix)(d) be amended to read as follows:

“(xxix)(d) the solar control shading along the Fitzgerald Street frontage being addressed to the satisfaction of the Chief Executive Officer at the building license stage. deleted from the plans.”

Debate ensued.

AMENDMENT NO 2 PUT AND CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

Debate ensued.

AMENDMENT NO 3

Moved Cr Farrell, Seconded Cr Youngman

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

“(xxxvi) the planning approval for this ~~proposal serial 5.2009.29.1~~ development is valid until 24 March 2011. ~~16 December 2010, to be consistent with planning expiry date of planning approval serial 5.2008.464.1 approved at the Ordinary Meeting of Council held on 16 December 2008.~~”

Debate ensued.

AMENDMENT NO 3 PUT AND CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

Debate ensued.

AMENDMENT NO 4

Moved Cr Lake, Seconded Cr Maier

That clause (xxx)(i) be deleted.

Debate ensued.

AMENDMENT NO 4 PUT AND LOST (2-5)

<u>For</u>	<u>Against</u>
Cr Lake	Mayor Catania
Cr Maier	Cr Burns
	Cr Doran-Wu
	Cr Farrell
	Cr Youngman

(Cr Ker and Cr Messina on approved leave of absence.)

MOTION AS AMENDED PUT AND CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

COUNCIL DECISION ITEM 9.1.2

That the Council;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES the application submitted by Hartree & Associates Architects on behalf of the owner North Perth Developments Pty Ltd for proposed Conversion of Existing Warehouse to Six-Storey Mixed Use Development Comprising Twenty Two (22) Multiple Dwellings, Three (3) Offices and Associated Car Parking (Including Car Stackers) at Nos. 152-158 (Lots: 1 and 3) Fitzgerald Street, Perth, and as shown on plans stamp-dated 29 January 2009 , subject to the following conditions:

- (i) all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) prior to the issue of a Building Licence, the subject land shall be amalgamated into one lot on Certificate of Title; OR alternatively, prior to the issue of a Building Licence the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town's solicitors or other solicitors agreed upon by the Town, undertaking to amalgamate the subject land into one lot within 6 months of the issue of the subject Building Licence. All costs associated with this condition shall be borne by the applicant/owner(s);*
- (iii) the owner(s), or the applicant on behalf of the owner(s), shall comply with the Town of Vincent Percent for Public Art Policy No. 3.5.13 and the Percent for Public Art Guidelines for Developers, including:
 - (a) within twenty – eight (28) days of the issue date of this 'Approval to Commence Development', elect to either obtain approval from the Town for an Artist to undertake a Public Art Project (Option 1) or pay the Cash in Lieu Percent for Public Art Contribution, of \$ 50,000 (Option 2), for the equivalent value of one per cent (1%) of the estimated total cost of the development (\$5,000,000); and**

- (b) *in conjunction with the above chosen option;*
- (1) *Option 1 –
prior to the approval and subsequent issue of a Building Licence for the development, obtain approval for the Public Art Project and associated Artist; and

prior to the first occupation of the development, install the approved public art project, and thereafter maintain the art work; OR*
- (2) *Option 2 –
prior to the approval and subsequent issue of a Building Licence for the development or prior to the due date specified in the invoice issued by the Town for the payment (whichever occurs first), pay the above cash-in-lieu contribution amount;*
- (iv) *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) *if entry to neighbouring land is required, first obtaining the consent of the owners of Nos. 146-150 Fitzgerald Street, No. 49 Stuart Street/corner Fitzgerald Street and the affected eastern (rear) side landowner(s) at Nos. 45-47 Stuart Street for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 146-150 Fitzgerald Street, No. 49 Stuart Street/corner Fitzgerald Street and the affected eastern (rear) side landowner(s) at Nos. 45-47 Stuart Street in a good and clean condition;*
- (vi) *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;*
- (vii) *prior to the issue of a Building Licence, a Construction Management Plan addressing noise, hours of construction, parking of trade person vehicles, footpath access, traffic and heavy vehicle access via Fitzgerald Street and the rear right- of- way (ROW), dust and any other appropriate matters (such as notifying all affected landowners/occupiers of the commencement of construction works), shall be submitted to and approved by the Town;*
- (viii) *prior to the first occupation of the development, six (6) class one or two plus end of trip bicycle parking facilities, shall be provided at a location convenient to the entrance and within the development. Details of the design and layout of the bicycle parking facilities shall be submitted and approved prior to the installation of such facilities;*
- (ix) *the on-site car parking area for the non-residential component shall be available for the occupiers of the residential component outside normal business hours;*
- (x) *prior to the issue of a Building Licence, the owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the property of the following:*
- (a) *the use or enjoyment of the property may be affected by noise, traffic, car parking and other impacts associated with nearby commercial and non- residential activities; and*

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

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

- (xi) 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;*
- (xii) doors, windows and adjacent floor areas of the office fronting Fitzgerald Street shall maintain an active and interactive relationship with this street;*
- (xiii) prior to the first occupation of the development, the car parking spaces provided for the residential component and visitors of the development shall be clearly marked and signposted for the exclusive use of the residents of the development ;*
- (xiv) 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;*
- (xv) all pedestrian access and vehicle driveway/crossover levels shall match into existing verge/footpath levels;*
- (xvi) the maximum gross floor area for the non-residential/office component shall be limited to 1191 square metres;*
- (xvii) the car parking area shown for the non-residential component shall be shown as 'common property' on any strata or survey strata subdivision plan for the property;*
- (xviii) any new street/front wall, fence and gate within the Fitzgerald Street setback area, including along the side boundaries within this street setback area, shall comply with the 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;*
- (xix) *prior to the issue of a Building Licence, the applicant/owner is required to obtain the support/approval of the Department for Planning and Infrastructure and/or Western Australian Planning Commission of the proposed development, and comply with its comments and conditions at the applicant(s)/owner(s)' full expense;*
- (xx) *prior to issue of a Building Licence, the applicant/owner shall comply with all requirements recommended by the Department for Planning and Infrastructure and/or Western Australian Planning Commission and Town of Vincent Technical Services with regard to traffic management, at the applicant(s)/owner(s)' full expense. Details of the traffic management measures shall be submitted to and approved by the Town prior to the works being undertaken;*
- (xxi) *any proposed vehicular entry gate off the Right of Way adjacent to the car parking area have a minimum 50 per cent visually permeable and shall be either open at all times or suitable management measures shall be implemented to ensure access is available for visitors for the non-residential and residential tenancies at all times. Details of the management measures shall be submitted to and approved by the Town prior to the first occupation of the development;*
- (xxii) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (xxiii) *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;*
- (xxiv) *in keeping with the Town's practice for multiple dwellings, commercial, retail and similar developments, the footpaths adjacent to the subject land shall be upgraded, by the applicant, to a brick paved standard to the Town's specification. A refundable footpath upgrading bond and/or bank guarantee of \$16,000 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing facilities have been reinstated to the satisfaction of the Town's Technical Services Division. An application to the Town for the refund of the upgrading bond must be made in writing;*
- (xxv) *the undergrounding of power line(s) adjacent to the subject site and the installation of lighting on the eastern 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 eastern elevation of the building facing the ROW shall be met by the owner(s);*
- (xxvi) *a pre-and post-dilapidation reports shall be carried out on the adjacent building to the north of the subject site at No. 49 Stuart Street/corner Fitzgerald Street;*

- (xxvii) *all at grade car-parking bays shall be dimensioned on the Building Licence application working drawings and all car parking facilities shall comply with the minimum specifications and dimensions specified in the Town's Parking and Access Policy and Australian Standards AS2890.1 – "Off Street Parking";*
- (xxviii) *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 (ROW) is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title or Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town;*
- (xxix) *prior to the issue of a Building Licence, revised plans shall be submitted to and approved by the Town demonstrating the following:*
- (a) *continuous and complementary awnings being provided over part of the Fitzgerald Street frontage adjacent to the office area in accordance with the Town's Local Government Property Law 2008 relating to awnings, balconies and verandahs with the awnings being a minimum height of 2.75 metres above the throughfare to the underside of the awning and a minimum of 500 millimetres from the kerb line of Fitzgerald Street . Details of the awning shall be submitted to and approved by Department for Planning and Infrastructure and/or Western Australian Planning Commission prior to the issue of a Building Licence;*
 - (b) *each multiple dwelling being provided with a balcony with at least one minimum dimension being not less than 2.4 metres and the area being a minimum of 5.76 square metres ;*
 - (c) *the openings to all balconies, bedrooms and terraces to the residential tenancies, except north and south balconies 7 metres from lot boundaries, complying with the privacy requirements of the Residential Design Codes. These openings shall be screened with permanent obscure materials and be non-openable to a minimum of 1.6 metres above the respective finished floor levels; 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 2008. Alternatively, prior to the issue of a Building Licence, these revised plans are not required if the Town receives written consent from the owners of affected properties to the north, east and south of the subject site respectively, stating no objections to the proposed privacy encroachment; and*
 - (d) *the solar control shading along the Fitzgerald Street frontage being addressed to the satisfaction of the Chief Executive Officer at the building license stage.*

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

(xxx) *prior to the issue of a Building Licence, revised plans and details shall be submitted to and approved by the Town addressing the following matters in relation to the proposed car stacking system:*

- (a) *the vertical clearance of the car stackers shall be an absolute minimum of 2.10 metres on the first parking level and the vertical clearance distance on the remaining levels is to be in accordance with the car stacker manufacture's specifications and is to comply with AS/NSZ 2890.1:2004;*
- (b) *weight limitation for the car stacker shall be no less than 2,500 kilograms subject to the car stacker being fitted with an appropriate mechanism to restrict its use should a vehicle heavier than 2,500 kilograms enter the stacker. In addition, appropriate highly visible signage shall be installed at the entrance of the car stacker/s specifying the maximum weight of vehicle allowed to use the car stacking device;*
- (c) *platform openings shall be an absolute minimum of 2.5 metres wide with a general minimum of 2.7 metres wide for each car bay, with a general minimum platform width of 2.9 metres for each bay. This may necessitate a redesign of some of the car stackers. Car bay No. 37 may need to be removed and the building lengthened by approximately 1 metre to accommodate the two proposed car stackers. The design shall be referred to the manufacturer for the exact dimensions required to comply with the Town's requirements;*
- (d) *reversing car aisle widths shall be an absolute minimum of 6.65 metres in accordance with AS/NSZ 2890.1:2004;*
- (e) *rubber inserts shall be installed on all platforms on the drivers' side;*
- (f) *walls for mounting shall be as per manufacturer's specification - floors and walls shall be made of concrete designed and certified by a structural Engineer;*
- (g) *sliding doors shall be automatic;*
- (h) *car stacker operation shall be by remote control;*
- (i) *an emergency power generator shall be installed;*
- (j) *the car stacker design and associated features, such as a suitable mechanical ventilation system and a suitable sprinkler system, shall be submitted to and approved by Fire and Emergency Services (FESA) prior to the issue of a Building Licence; and*
- (k) *if feasible, without reducing the overall number of car bays provided, to reduce the incidence of bay loss in the event of a mechanical failure, the car stackers shall be redesigned to form a maximum of four (4) banks of parallel bays.*

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

- (xxxix) *prior to the issue of a Building Licence, the applicant and future owners of the property to enter into a Legal Agreement with the Town, which is secured by a caveat on the certificate(s) of title of the subject land, in regard to the car stacker system and to address the following to the satisfaction of the Town;*
- (a) *all maintenance agreements/contracts to be current for the life of the building and renewed annually;*
 - (b) *a copy of updated and current maintenance agreements/contracts to be submitted to the Town on an annual basis;*
 - (c) *that the Town may act to ensure compliance with the car stacker conditions of approval, in the event that the Applicant/Owner fails to ensure that the car stacker is in good working order and maintained as such, and the conditions of approval are compliant;*
 - (d) *the Applicant/Owner undertakes to provide, maintain and ensure the car stacker system is operable and in good working order at all times, for the life of the building, to the satisfaction of the Town;*
 - (e) *the Applicant/Owner agrees to indemnify the Town for any claims, actions or litigation arising from the car stacker system; and*
 - (f) *the Legal Agreement shall be prepared by the Applicant/owner(s) and approved by the Town, or alternatively, the Applicant/owner(s) may request the Town's solicitor to prepare the Legal Agreement and associated caveat. All costs associated with this condition including the Town's cost for checking the legal documents and caveat if prepared by the applicant's/owner(s)solicitor shall be borne by the applicant/owner(s);*
- (xxxix) *prior to the issue of a Building Licence; a revised, corrected Traffic Impact Assessment shall be submitted to and approved by both the Town and the Department for Planning and Infrastructure (DPI);*
- (xl) *prior to the first occupation of the development, each multiple dwelling shall be provided with a screened outdoor area for clothes drying or clothes tumbler dryer;*
- (xli) *the provision of a minimum of 36 car bays on-site, of which 22 car bays are to be specifically allocated for the residential multiple dwellings;*
- (xlii) *the proposed crossover off Fitzgerald Street shall be designed to restrict traffic flow to left in and out only to the satisfaction of the Town's Director Technical Services; and*
- (xliii) *the planning approval for this development is valid until 24 March 2011.*

Landowner:	North Perth Developments Pty Ltd
Applicant:	Hartree & Associates Architects
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Residential/Commercial R80
Existing Land Use:	Unoccupied Warehouse Building
Use Class:	Office Building and Multiple Dwelling
Use Classification:	"AA" and "P"
Lot Area:	1411 square metres
Access to Right of Way	East side, 3.04 metres wide, sealed and Town owned.

BACKGROUND:

- 27 September 2005 The Council at its Ordinary Meeting considered a development proposal for the partial demolition of existing warehouse and construction of a two-storey mixed use development comprising four (4) offices, one (1) eating house, one (1) showroom, one (1) serviced apartment and associated undercroft car parking.
- 20 November 2007 The Council at its Ordinary Meeting considered the proposed demolition of existing warehouse and construction of a eight- storey mixed use development comprising thirty five (35) multiple dwellings (including 15 single bedroom dwellings and 20 two-bedroom dwellings), office, shop, eating house and associated basement car park at Nos. 152-158 (Lot: 1 D/P: 964, Lot: 3 D/P: 11783), Fitzgerald Street, Perth, and resolved the following:

"That this Item be DEFERRED for further investigation."
- 18 December 2007 The Council at its Ordinary Meeting considered the matter and resolved to refuse the application.
- 29 July 2008 The State Administrative Tribunal dismissed the appeal/review application (DR56 of 2008) lodged against the Town's refusal of the development application at the Ordinary Meeting of Council held on 18 December 2007.
- 16 December 2008 The Council at its Ordinary Meeting resolved to approve the application with conditions.
- 6 February 2009 The Town's Officers met with the applicants to discuss this application.
- 17 February 2009 Letter received from the Department for Planning and Infrastructure stating no further objection to the above proposal, based on the revised Traffic Impact Assessment dated 28 January 2009 (revision 4).

DETAILS:

At the Ordinary Meeting held on 16 December 2008, the Council conditionally approved an application for the proposed part demolition of and conversion of and alterations and additions to existing warehouse to create a six-storey mixed use development comprising twenty two (22) multiple dwellings, three (3) offices and associated car parking (including car stackers) subject to the conditions stated in the above "*BACKGROUND*" section.

The applicant has requested that the conditions of the approval imposed at the Ordinary Meeting of Council held on 16 December 2008 as stated in the "*COMMENTS*" section be deleted and/or amended.

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

ASSESSMENT:

The Assessment Table contained in the report for Item 9.1.10, which was considered at the Ordinary Meeting of Council held on 16 December 2008 remains consistent, except for the matters dealt in the "*COMMENT*" section below.

ADVERTISING:

No further advertising has been carried out, as there are no further variations proposed.

LEGAL/POLICY:

As per Item 9.1.10 considered at the Ordinary Meeting of Council held on 16 December 2008.

STRATEGIC IMPLICATIONS:

As per Item 9.1.10 considered at the Ordinary Meeting of Council held on 16 December 2008.

SUSTAINABILITY IMPLICATIONS:

As per Item 9.1.10 considered at the Ordinary Meeting of Council held on 16 December 2008.

COMMENTS:

The Town's Officers response to the applicant's request for reconsideration is as follows:

The underlined change to condition (v) **can be supported**, as entry is only needed if required during the construction phase:

"(v) if entry to neighbouring land is required, first obtaining the consent of the owners of Nos. 146-150 Fitzgerald Street, No. 49 Stuart Street/corner Fitzgerald Street and the affected eastern (rear) side landowner(s) at Nos 45-47 Stuart Street for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 146-150 Fitzgerald Street, No. 49 Stuart Street/corner Fitzgerald Street and the affected eastern (rear) side landowner(s) at Nos 45-47 Stuart Street in a good and clean condition;"

Condition (x) (b) – Deletion of this condition is **not supported**. A minor change is proposed to reflect the approved use on-site. This condition ensures all future owners are aware that the parking provided on-site is sufficient for the intended use. Applicant has agreed to retain the below condition.

"(x) *prior to the issue of a Building Licence, the owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the property of the following:*

(a) *the use or enjoyment of the property may be affected by noise, traffic, car parking and other impacts associated with nearby commercial and non- residential activities; and*

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

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

The underlined change to condition (xxi) is **partly supported** as this ensures that there is adequate car parking within the building at all times via the ROW.

"(xxi) any proposed vehicular entry gates off the Right of Way adjacent to the car parking area have a minimum 50 per cent visually permeable and shall be either open at all times or suitable management measures shall be implemented to ensure access is available for visitors for the non-residential and residential tenancies at all times. Details of the management measures shall be submitted to and approved by the Town prior to the first occupation of the development;"

Condition (xxv) – Deletion of this condition is **not supported**. This is a standard condition for large scale developments. The requirement to underground the power in front of the building is applied in accordance with the Town's Policy No. 2.2.2 and the Town's Officers view that there is no justification for variation from the Policy for this particular development. Applicant has agreed to retain the below condition.

"(xxv) the undergrounding of power line(s) adjacent to the subject site and the installation of lighting on the eastern 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 eastern elevation of the building facing the ROW shall be met by the owner(s);"

The underlined change to condition (xxvii) is **supported** as follows, as it relates to at grade car bays only. The applicant has agreed to this change.

"(xxvii) all at grade car-parking bays shall be dimensioned on the Building Licence application working drawings and all car parking facilities shall comply with the minimum specifications and dimensions specified in the Town's Parking and Access Policy and Australian Standards AS2890.1 – "Off Street Parking";"

The underlined change to condition (xxix) (b) can be **supported**, subject to each balcony being a minimum of 5.76 square metres (2.4 metres x 2.4 metres) in area. The applicant has agreed to this change.

"(xxix) prior to the issue of a Building Licence, revised plans shall be submitted to and approved by the Town demonstrating the following:....."

(b) each multiple dwelling being provided with a balcony with at least one minimum dimension of 2.4 metres and the area being a minimum of 5.76 square metres ;"

Condition (xxix) (c) – Deletion of this condition is **not supported** due to privacy implications. Applicant has agreed to the below condition being retained.

"(xxix) prior to the issue of a Building Licence, revised plans shall be submitted to and approved by the Town demonstrating the following:....."

(c) the openings to all balconies, bedrooms and terraces to the residential tenancies, complying with the privacy requirements of the Residential Design Codes. These openings shall be screened with permanent obscure materials and be non-openable to a minimum of 1.6 metres above the respective finished floor levels; 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 2008. Alternatively, prior to the issue of a Building Licence, these revised plans are not required if the Town receives written consent from the owners of affected properties to the north, east and south of the subject site respectively, stating no objections to the proposed privacy encroachment; and"

Condition (xxix) (d) – Deletion of this condition is **not supported**. Applicant has agreed to the below condition being retained.

"(d) the solar control shading along the Fitzgerald Street frontage being deleted from the plans."

The strikethrough change to condition (xxx) (a) is **supported** on the basis that the below requirement was previously addressed in the revised plans.

"(xxx) prior to the issue of a Building Licence, revised plans and details shall be submitted to and approved by the Town addressing the following matters in relation to the proposed car stacking system:

(a) ~~the vehicular entrance gate adjacent to the ROW is either setback 0.5 metre towards the ROW, or left open at all times, as car bays Nos 1 to 5 are not obstructed by the gate, and vehicles will not be able to exit the parking bay/s with the gate closed, including the provision of at grade parking for car bays Nos. 1 to 5;~~

The strikethrough/underlined changes to condition (xxx) (b) are **supported** as follows, as the change is considered acceptable.

"(b) the vertical clearance of the car stackers shall be an absolute minimum of 2.10 metres on the first two (2) parking levels; and the vertical clearance distance on the remaining levels is to be in accordance with the car stacker manufactures specifications and is to comply with AS/NSZ 2890.1:2004;"

The strikethrough/underlined changes to condition (xxx) (c) are **supported**, as the change is considered acceptable.

"(c) weight limitation for the car stacker shall be no less than ~~3,000~~ 2,500 kilograms subject to the car stacker being fitted with an appropriate mechanism to limit its use should a vehicle heavier than 2,500 kilograms enter the stacker. In addition, appropriate highly visible signage shall be installed at the entrance of the car stacker/s specifying the maximum weight of vehicle allowed to use the car stacking device;"

Condition (xxx) (d) – Change to this condition is **not supported**, as this refers to an opening between solid structures and cannot be compared to an at-grade situation with 2.5 metres wide line marked bays. The minimum widths of the bays, as well as the bay entrance between obstructions, is prescribed as per the below condition to ensure ease of access to the bay, and safety and comfort of the driver when alighting from the vehicle, within the stacker itself. The condition is retained.

"(d) platform openings shall be an absolute minimum of 2.5 metres wide with a general minimum of 2.7 metres wide for each car bay, with a general minimum platform width of 2.9 metres for each bay. This may necessitate a redesign of some of the car stackers. Car bay No. 37 may need to be removed and the building lengthened by approximately 1 metre to accommodate the two proposed car stackers. The design shall be referred to the manufacturer for the exact dimensions required to comply with the Town's requirements;"

The strikethrough/underlined change to condition (xxx) (e) is **supported** as follows, and agreed by applicant:

"(e) *reversing car isle widths shall be an absolute minimum of 7.0 6.65 metres in accordance with AS/NSZ 2890.1:2004.*"

The strikethrough/underlined change to condition (xxx) (f) is **supported** as follows, and agreed by applicant.

"(f) *walls for mounting shall be as per manufacturer's specification - floors and walls shall be made of concrete, ~~grade to be minimum of B25;~~ designed and certified by a structural Engineer;*"

The deletion of condition (xxx) (h) is **supported**, provided the stacker length is 5.5 metres long as stated and confirmed by applicant.

~~"(h) *car stacker platforms shall accommodate vehicles of 5.2 metres in length;*~~

The deletion of condition (xxx) (j) is **not supported** as the remote control requirement is necessary to minimise the time required to access a stacker bay, and alleviate queuing times, as when in motion to accommodate one user, the remaining allocated bays in the stacker system are unavailable for use. The applicant has agreed to retain the below condition.

"(j) *car stacker operation shall be by remote control;*"

The change to condition (xxx) (k) is **not supported**, as this is considered to be a minimum requirement for the effective operation of the stacker system. Power failure will render the entire parking stacker inaccessible. Although the applicant warrants that a technician will be on-site to operate the stacker manually if required, within one hour of call out, this is unlikely to be the case 24 hours a day, seven days a week. A generator will ensure power failure does not cause loss of the parking amenity. The applicant has agreed to retain the below condition.

"(k) *an emergency power generator shall be installed;*"

The deletion to condition (xxx) (l) is **supported** on the basis that the requirements have been incorporated into the updated condition (n) below, which will be renumbered accordingly. The applicant has agreed to this change.

~~"(l) *a suitable mechanical ventilation system shall be installed to the satisfaction of the Town;*~~"

The deletion of condition (xxx) (m) is **supported** on the basis that the requirements have been incorporated into the updated condition (n) below, which will be renumbered accordingly. The applicant has agreed to this change.

~~"(m) *a suitable sprinkler system, approved by a fire engineer, shall be installed;*~~"

The strikethrough/underline change to condition (xxx) (n) is **supported** as follows and agreed by applicant:

"(n) *the car stacker design ~~with and~~ associated features, as conditioned in clauses (xxx) (k), (l) and (m) such as a suitable mechanical ventilation system and a suitable sprinkler system, shall be submitted to and approved by Fire and Emergency Services (FESA) prior to the issue of a Building Licence; and"*

An **additional new condition** is also proposed as below, to control the entry and exit of vehicles to the subject site off Fitzgerald Street, which has been agreed to by the applicant.

"(xxxv)the proposed crossover off Fitzgerald Street shall be designed to restrict traffic flow to left in and out only to the satisfaction of the Town's Technical Services"

Conclusion

The valid period of the approval should also coincide with the 2 year period previously imposed being 16 December 2010.

In view of the Officers comments above, the changes to the relevant conditions are supported on the above basis. It is therefore recommended that the Council approve the reconsideration of conditions as outlined in the Officer Recommendation.

9.1.1 Nos. 375 - 377 (Lots 1 - 3 D/P: 1410) Charles Street, North Perth- Proposed Demolition of Existing Building and Construction of Three Storey Office Building Comprising Ten (10) Offices and Associated Car Parking, Including Basement Car Parking

Ward:	North	Date:	17 March 2009
Precinct:	Charles Centre; P07	File Ref:	PRO0098; 5.2008.558.1
Attachments:	001 , 002		
Reporting Officer(s):	S Kendall		
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, APPROVES and in accordance with the provisions of the Metropolitan Region Scheme, the Council RECOMMENDS SUPPORT to the Western Australian Planning Commission, for the application submitted by Lou Marchesani & Associates on behalf of the owner P Butler & K J Cook & S A Guy & M D Leadbetter & others for proposed Demolition of Existing Building and Construction of Three Storey Office Building Comprising Ten (10) Offices and Associated Car Parking, Including Basement Car Parking, at Nos. 375 - 377 (Lots 1 - 3 D/P: 1410) Charles Street, North Perth, and as shown on plans stamp-dated 12 March 2009, subject to the following conditions:

- (i) *all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) *prior to the issue of a Building Licence, the subject land shall be amalgamated into one lot on Certificate of Title; OR alternatively, prior to the issue of a Building Licence the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town's solicitors or other solicitors agreed upon by the Town, undertaking to amalgamate the subject land into one lot within 6 months of the issue of the subject Building Licence. All costs associated with this condition shall be borne by the applicant/owner(s);*
- (iii) *within twenty-eight (28) days of the issue date of this 'Approval to Commence Development,' the owner(s), or the applicant on behalf of the owner(s), shall comply with the following requirements:*
 - (a) *pay a cash in lieu public art contribution of \$35,000 for the equivalent value of one per cent (1%) of the estimated total cost of the development (\$3,500,000); OR*
 - (b) *lodge an appropriate public art assurance bond/bank guarantee of a value of \$35,000 with the Town. The assurance bond/bank guarantee will only be released to the owner(s)/applicant in the following circumstances:*

- (1) *designs for art work(s) valued at one per cent (1%) of the estimated total cost of the development (\$3,500,000) have been submitted to and approved by the Town. The art work(s) shall be in accordance with the Town's Policy relating to Percent for Art Scheme and be developed in full consultation with the Town's Community Development Services with reference to the Percent for Art Scheme Policy Guidelines for Developers. The art work(s) shall be installed prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s); or*
- (2) *a Statutory Declaration of the prescribed form endorsed by the owner(s)/applicant and stating that they will not proceed with the subject 'Approval to Commence Development,' have been submitted to and approved by the Town; or*
- (3) *the subject 'Approval to Commence Development' did not commence and subsequently expired.*

In the circumstance where the owner(s)/applicant has elected clause (b)(1) and there has been no submission or approval of the design for art work within six (6) months from the date of issue of the Building Licence, the Town may claim the monies assured to them in the above bond or bank guarantee without further notice to the owner(s)/applicant for the provisions of art works in the Town.

The Town's Community Development Services have the discretion to extend the six (6) month deadline that applies to clause (b) (1) under this condition of approval if:

- (aa) *a formal request has been submitted to the Town in writing for such an extension before the date of the six (6) month deadline; and*
- (bb) *the Town's Arts Officer is satisfied that significant negotiations have been entered into by the owner(s)/applicant to provide the art work;*
- (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) *first obtaining the consent of the owners of No. 373 Charles 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. 373 Charles Street in a good and clean condition;*
- (vi) *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;*
- (vii) *prior to the issue of a Building Licence, a Construction Management Plan addressing noise, hours of construction, parking of trade person vehicles, footpath access, traffic and heavy vehicle access via Charles Street and the northern and western right-of-ways (ROW), dust and any other appropriate matters (such as notifying all affected landowners/occupiers of the commencement of construction works), shall be submitted to and approved by the Town;*
- (viii) *doors, windows and adjacent floor areas of the office fronting Charles Street shall maintain an active and interactive relationship with this street;*

- (ix) *the car parking area(s) on the subject land shall be sealed, drained, paved and line marked in accordance with the approved plans prior to the first occupation of the development and maintained thereafter by the owner(s)/occupier(s) to the satisfaction of the Town;*
- (x) *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 \$8,000 shall be lodged prior to the issue of a Building Licence and be held until all works have been completed and/or any damage to the existing facilities have been reinstated to the satisfaction of the Town's Technical Services Division. An application to the Town for the refund of the upgrading bond must be made in writing;*
- (xi) *prior to the issue of a Building Licence, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title or Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town;*
- (xii) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on the site;*
- (xiii) *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;*
- (xiv) *any new street/front wall, fence and gate within the Charles Street setback area including along the side boundaries within these street setback areas, 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;*
 - (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; and*
 - (g) *not be located within the Planning Control Area No. 88 for Charles Street, North Perth;*

- (xv) *all car-parking bays shall be dimensioned on the Building Licence application working drawings and all car parking facilities shall comply with the minimum specifications and dimensions specified in the Town's Parking and Access Policy and Australian Standards AS2890.1 – "Off Street Parking";*
- (xvi) *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;*
- (xvii) *prior to issue of a Building Licence, the applicant shall comply with all requirements recommended by the Department for Planning and Infrastructure and/or Western Australian Planning Commission and Town of Vincent Technical Services with regard to traffic management, at the applicant(s)/owner(s)' full expense;*
- (xviii) *a detailed landscaping plan, including a list of plants and the landscaping of the Charles Street road verges adjacent to the subject property, the building balconies and the exterior car parking area (at a rate of one shade tree per four car parking bays) 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);*
- (xix) *prior to issue of a Building Licence, the applicant shall:*
- (a) *agree in writing to remove the landscaping at the time when the reserved land is required for the upgrading of Charles Street at their cost and expense; and*
 - (b) *the land owner agrees in writing that the presence of the landscaping shall not be taken into consideration in determining any compensation that may be payable by Town or the Western Australian Planning Commission when the reserved land is required for future upgrading of Charles Street;*
- (xx) *within twenty-eight (28) days of the issue date of this 'Approval to Commence Development', the owner(s) or the applicant on behalf of the owner(s) shall comply with the following requirements:*
- (a) *pay a cash-in-lieu contribution of \$12,684 for the equivalent value of 4.53 car parking spaces, based on the cost of \$2,800 per bay as set out in the Town's 2008/2009 Budget; OR*
 - (b) *lodge an appropriate assurance bond/bank guarantee of a value of \$12,684 to the satisfaction of the Town. This assurance bond/bank guarantee will only be released in the following circumstances:*
 - (1) *to the Town at the date of issue of the Building Licence for the development, or first occupation of the development, whichever occurs first; or*
 - (2) *to the owner(s)/applicant following receipt by the Town of a Statutory Declaration of the prescribed form endorsed by the owner(s)/applicant and stating that they will not proceed with the subject 'Approval to Commence Development'; or*

- (3) *to the owner(s)/applicant where the subject 'Approval to Commence Development' did not commence and subsequently expired.*

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

- (xxi) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating design features being incorporated into the western elevation/walls to reduce the visual impact of these walls. The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies.*

COUNCIL DECISION ITEM 9.1.1

Moved Cr Farrell, Seconded Cr Youngman

That the recommendation be adopted.

MOTION PUT AND CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

Landowner:	P Butler & K J Cook & S A Guy & M D Leadbetter & others
Applicant:	Lou Marchesani & Associates
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Commercial
Existing Land Use:	Vacant Take Away Food Outlet
Use Class:	Office Building
Use Classification:	"P"
Lot Area:	1459 square metres
Access to Right of Way	Northern side, 3 metres wide, sealed, privately owned. Western side, 4.5 - 6.5 metres wide, sealed, privately owned.

BACKGROUND:

No specific background directly relates to the proposal.

DETAILS:

The proposal involves the demolition of the existing vacant building and the construction of a three-storey commercial building comprising of ten (10) office suites at the subject property.

The applicant has engaged a planning consultant to provide justification for the proposed third storey. This justification is summarised below and the full submission is "*Laid on the Table*".

- *"The development has an active and interactive relationship with the street and the adjoining northern property by way of staggered building design, significant glazing and extensive balconies to produce articulate and expressive elevations.*
- *An effective design has produced a facade which predominantly depicts 2 levels from the line of sight at Charles Street. Effective sinking of the undercroft into the ground by more than 50%, as seen from the street, as well as integration of the undercroft behind the facade through extensive landscaping and entry treatments, completely conceal the undercroft and reduce the bulk of the building.*

- *This is also enhanced by the third level which is set well back behind the floors below on all elevations, to further soften the overall height of the building and ameliorate building bulk and setbacks from the street.*
- *To facilitate such a significant setback to the northern boundary, vehicle access to the site is restricted to this side, with approximately 10 parking pays providing a barrier between the main building line and the common boundary to the north, with access to a majority of the onsite parking to be located in the undercroft with access obtained from the rear.*
- *Such a significant separation between the proposed building and adjoining residential property ensures that no unreasonable loss of amenity results from the development by maintaining access to ventilation, direct sun and privacy. Location of the residential lots on the northern side further guarantees adequate solar provisions to the residential property."*

ASSESSMENT:

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.
Building Height: As per Charles Centre Precinct No. 3.1.7	Buildings with two storeys are strongly encouraged. A third storey (including loft) can be considered	3 storeys (not including undercroft car parking considered a storey).	Supported- as the height and overall design of the proposal is not considered to create an unacceptable bulk and scale issue. Moreover, the 3rd floor has been setback further from the eastern and southern boundaries to provide increased articulation and reduce any perception of bulk.
Non-Residential/ Residential Interface Policy No. 3.4.3	2 storeys abutting residential properties	3 storeys (not including undercroft car parking considered a storey).	Supported - The building incorporates appropriate articulation and design features to reduce the visual impact on the adjacent residential areas and is considered an appropriate response for the site. In particular, the development has been designed to prevent overshadowing and privacy as per the requirements of the Residential Design Codes (R Codes), is sympathetic to the existing Charles Street residential street setback, has incorporated

			landscaping within the front setback and the third storey has increased setbacks to reduce the building bulk. It is noted that the development is separated from the adjacent residential properties by a right of way, which acts as a buffer between the non-residential and residential properties.
Rear (western) building setback to residential properties	6 metres	Minimum setback 1.3 metres	Supported - when incorporating the right of way, the building achieves the 6 metre rear setback requirement.
Second (3rd) floor to northern boundary	7 metres	6.5 - 7.4 metres	Supported - when considering both properties are separated by a right of way, the elevation is effectively compliant with the building setback requirements and as the elevation is staggered to provide articulation and interest.
Privacy Balcony to northern elevation	7.5 metres	6.5 - 7.4 metres	Supported - when considering both properties are separated by a right of way, the balcony is effectively compliant with the privacy setback requirements. Since the period of community consultation, the applicant has removed a balcony from suite 10 to ensure that any privacy concerns from adjacent residential properties are mitigated.
Landscaping	A minimum of 10 per cent of the site is required to be landscaped - 146 square metres.	134.75 square metres in front setback area. The proposed landscaping area includes the area, which may potentially be removed as part of the Charles Street widening. However, DPI have recently advised that they are reviewing the extent of the road widening requirement.	Supported in part - a condition has been imposed to require landscaping to the external car parking areas and balconies to ensure that there is a variety of landscaping features at different levels and locations to achieve a suitable soft landscaping setting for the building.

Landscaping	<ul style="list-style-type: none"> - all non-residential parking areas should contain shade trees (species to be approved by the Town of Vincent) generally at a rate of one tree per four spaces. - the perimeter of all parking areas should be landscaped by a planting strip of at least 1.5 metres in width. 	No shade trees proposed.	<p>Not supported - considered to have an adverse impact on amenity of area and conditioned to comply for external car parking spaces.</p> <p>Supported - in light of above requirement for one shade tree per 4 car parking bays the impact of the car parking area will be reduced and, due to the layout of the car parking, there is limited opportunity to comply with this provision.</p>
Plot Ratio	N/A	N/A	Noted.
Consultation Submissions			
Support	Nil		Noted.
Objection (6)	<ul style="list-style-type: none"> - Charles Street predominantly comprises two storeys, four storeys will unduly interrupt the streetscape. - The development will overshadow adjacent properties. - Noise will increase as part of this development. 		<p>Not Supported- since the period of community consultation, the applicant has demonstrated that more than 50 per cent of the basement level is beneath natural ground level and hence the development is now considered a three storey building as opposed to a four storey building, as was advertised. The Charles Centre Precinct Policy allows for a third storey.</p> <p>Not supported - the development complies with the overshadowing requirements of the Residential Design Codes (R Codes).</p> <p>Not supported- the development and its occupants will have to comply with the <i>Environmental Noise Regulations 1997</i>.</p>

	<ul style="list-style-type: none">- Building encroaches in the right of carriageway for the adjacent property at No. 373 Charles Street and interferes with the egress and access. - The proposal will direct traffic along the rear boundary, which will further create the potential for accidents. - Too large a building envelope, which will enhance a feeling of confinement.	<p>Not supported - since the period of community consultation, the applicant has amended the plans to retain the existing easement to the adjacent property at No.373 Charles Street to ensure there is no interference with the existing legal egress and access arrangement.</p> <p>Not supported - whilst traffic will increase as part of this development, the development accommodates sufficient on-site car parking bays, has provided for the widening of both rights of way abutting the property and for associated truncations at the right of way intersections to reduce any potential conflict with adjacent residential properties and those that utilise this right of way. Due to the 'office' land use, it is noted that the vehicle movements will only be during standard working hours.</p> <p>Not supported - since the period of community consultation, the applicant has demonstrated that more than 50 per cent of the basement level is beneath natural ground level and hence, the development is now considered a three storey building as opposed to a four storey building, as was advertised. Furthermore, the height and overall design of the proposal would not result in an undue impact on the amenity of the street or area as it incorporates appropriate articulation and design features.</p>
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	<ul style="list-style-type: none"> - More landscaping required. - The building will detrimentally impact on the privacy of adjacent dwellings. - The proposed development compromises the planning vision for the area and does not reflect the principles of orderly and proper planning. - The size of the development restricts exposure to the buildings along its southern side. 	<p>Supported in part - a condition has been imposed to require landscaping to the external car parking areas and balconies to ensure that there is a variety of landscaping features at different levels and locations to achieve a suitable soft landscaping setting for the building</p> <p>Not supported - the proposal complies with the privacy requirements as stipulated in the R Codes (when considering the location of the right of way), and since the period of community consultation, the applicant has removed a balcony from suite 10 to ensure any privacy concerns from adjacent residential properties are mitigated.</p> <p>Not supported - the development is in accordance with the intent of the Charles Centre Precinct Policy, in that it will enhance the existing commercial and as the Policy allows for a third storey.</p> <p>Not supported - since the period of community consultation, the applicant has amended the proposal (increased street setbacks and increased second storey side setbacks) to reduce the impact on the southern commercial property. It is to be noted that the adjacent commercial properties could be developed in a similar capacity and would be entitled to reduced street setbacks to what they currently achieve.</p>
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	<ul style="list-style-type: none"> Portions of the right of way along the rear is being closed and this will have implications in terms of vehicle movement. 	<p>Not supported - the building is not encroaching onto the rear right of way. The right of way terminates at the rear northern boundary of No. 375 Charles Street. There is currently an informal vehicle passageway through No. 373 Charles Street to the subject rear right of way. No information has been submitted or located to support that this access arrangement is a legal right of carriage through to the right of way.</p>
DPI Comments		
<p>The proposed development is located within Planning Control Area No. 88 and requires determination by the Department for Planning and Infrastructure. The Town is also required to make a determination on the matter.</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	
Car Parking Requirements		
<p>Car parking requirement (nearest whole number) Office: 1 car bay per 50 square metres gross office floor area Proposed - 2197.09 square metres = 43.94</p>	44 car bays	
<p>Apply the parking adjustment factors.</p> <ul style="list-style-type: none"> 0.85 (within 400 metres of a bus stop) 0.95 (within 400 metres of a public car park within excess of a total of 25 car parking spaces) 	(0.8075) 35.53 car bays	
Minus the car parking provided on-site	31 car bays	
Minus the most recently approved on-site car parking shortfall	Not applicable as proposal is to redevelop site	
Resultant shortfall	4.53 car bay	
Bicycle Parking Facilities		
<p>Offices:</p> <ul style="list-style-type: none"> 1 space per 200 (proposed 2197.09 square metres) square metres gross floor area (class 1 or 2) - 10.9 spaces. 1 space per 750 (proposed 2197.09) square metres over 1000 square metres for visitors (class 3) - 1.5 spaces. 	<p>11 class one bays provided - no variation.</p> <p>1 class three bay provided - no variation.</p>	

* 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.

Heritage

The subject place at No. 375 Charles Street, North Perth is a brick and iron fast food outlet built circa 1981 in the Late Twentieth Century Retail Style. The shop is rectangle-shaped and consists of brick walls interrupted by doors and windows on each elevation. The eastern elevation features large flush paned windows with brass window frame.

A full Heritage Assessment was undertaken for No. 375 Charles Street, North Perth, which indicates that the place has little aesthetic, historic, scientific or social heritage significance. In accordance with the Town's Policy relating to Heritage Management – Assessment, the place does not meet the threshold for entry on the Town's Municipal Heritage Inventory and support is recommended for its demolition as per the Officer Recommendation.

Car Parking

The Town's Policy relating to Parking and Access suggests that the Council may determine to accept a cash-in-lieu payment where the shortfall is greater than 0.5 car bay to provide and/or upgrade parking in other car parking areas. In this instance, the resultant car parking shortfall of 4.53 car bays would equate to a payment of \$12,684. The parking shortfall is not considered excessive, and is therefore supported subject to a cash-in-lieu payment. Furthermore, the applicant has provided additional '*end of trip facilities*' to encourage employees to ride to work.

Conclusion

The application is considered acceptable and would not result in any undue impact on the amenity of the surrounding area. The application is therefore supported, subject to standard and appropriate conditions to address the above matters.

9.1.6 No. 288 (Lot 123 D/P: 4540) Lord Street, corner Windsor Street, Highgate - Proposed Demolition of Existing Corner Shop and Attached Single House

Ward:	South	Date:	17 March 2009
Precinct:	Banks Precinct; P15	File Ref:	PRO4462; 5.2009.79.1
Attachments:	001 , 002		
Reporting Officer(s):	S Kendall		
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 J Italiano on behalf of the owner JNI Developments Pty Ltd & others for proposed Demolition of Existing Corner Shop and Attached Single House, at No. 288 (Lot 123 D/P: 4540) Lord Street, corner Windsor Street, Highgate, and as shown on plans stamp-dated 16 March 2009, subject to the following conditions:

- (i) a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on the site;*
- (ii) 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) support of the demolition application is not to be construed as support of the Planning Approval/Building Licence application for the redevelopment proposal for the subject property;*
- (iv) demolition of the existing building may make the property ineligible for any development bonuses under the provisions of the Town of Vincent Town Planning Scheme No. 1 and associated Policies for the retention of existing buildings valued by the community;*
- (v) any redevelopment on the site shall be sympathetic to the scale and rhythm of the streetscape in line with the provisions of the Town of Vincent Town Planning Scheme No. 1 and associated Policies;*
- (vi) a demolition management plan is to be submitted for approval by the Town prior to the commencement of work on the site. The management plan shall include noise, dust and traffic management during the demolition period on the site;*
- (vii) at the completion of the demolition, the site levels shall match into the existing verge, footpath and road levels; and*
- (viii) any redevelopment of the site shall ensure the retention of the two (2) existing Camphor Laurel (Cinnamomum Camphora) verge trees located on the Windsor Street frontage of the property, which are considered to form an integral part of the streetscape.*

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

COUNCIL DECISION ITEM 9.1.6

Moved Cr Farrell, Seconded Cr Youngman

That the recommendation be adopted.

Debate ensued.

Cr Farrell departed the Chamber at 7.07pm.

Debate ensued.

Cr Farrell returned to the Chamber at 7.08pm.

Debate ensued.

MOTION PUT AND CARRIED (5-2)

<u>For</u>	<u>Against</u>
Mayor Catania	Cr Lake
Cr Burns	Cr Maier
Cr Doran-Wu	
Cr Farrell	
Cr Youngman	

(Cr Ker and Cr Messina on approved leave of absence.)

Landowner:	JNI Developments Pty Ltd & others
Applicant:	J Italiano
Zoning:	Metropolitan Region Scheme: Urban and Other Regional Road Town Planning Scheme No. 1 (TPS 1): Commercial
Existing Land Use:	Corner Shop
Use Class:	Single House
Use Classification:	"P"
Lot Area:	2576 square metres
Access to Right of Way	Western side, 3.6 metres wide, sealed, Town owned

BACKGROUND:

- | | |
|-----------------|--|
| 16 June 2008 | The Western Australian Planning Commission conditionally approved the amalgamation of No. 288 (Lot 123 D/P 4540) and Nos.296-306 (Lots 1-4 D/P: 1197) Lord Street, corner Windsor Street, Perth. |
| 25 June 2008 | An application was submitted to the Town for demolition of existing building and construction of four-storey office building and eating house (café) with associated basement car parking. |
| 20 January 2009 | Amended plans were submitted to the Town for the demolition of existing building and construction of a five-storey office building and eating house (café) with associated basement car parking. |

DETAILS:

The proposal involves the demolition of existing corner shop and attached dwelling. The demolition forms part of a larger application for the subject site and adjacent property at Nos. 296 - 306 Lord Street, Highgate, which is currently lodged with the Town for the proposed construction of a five-storey commercial building.

A request to expedite the demolition of the corner shop and dwelling has been submitted by the applicant in light of the poor condition of the place. The applicant has submitted a report from Geoffrey Bosich Chartered Structural Engineer. The report states *'in general the building was found to be in a state of disrepair and structurally unsound... the awning at the front of the building over the public footpath is possibly in danger of collapse and therefore is a public liability...'*

Accordingly, the standard condition requiring the redevelopment proposal to be approved prior to the issue of a Demolition Licence is requested to be removed.

ASSESSMENT:

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.
Consultation Submissions			
Support	Nil		Noted.
Objection	Nil		Noted.
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 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.

Demolition

The subject brick and tile place at No. 288 Lord Street, Highgate was built in the Stripped Commercial style of architecture circa 1898. The single storey former shop has a nil setback to the street, with a former residence, which is recessed to the northern side of the shop, behind a front verandah.

The subject property has been used continuously for commercial and residential functions of various kinds since its construction. An external inspection was undertaken on 6 November 2008 for the subject place and it is evident that the shop has been left in an uninhabited state and has not been maintained for a long period. The interior of the shop is in a poor condition with the timber floor damaged and the structure underneath exposed.

A full Heritage Assessment was undertaken for No. 288 Lord Street, Highgate which indicates that the place has little aesthetic, historic, scientific or social heritage significance. The Heritage Assessment is contained as an attachment to this report. In accordance with the Town's Policy relating to Heritage Management – Assessment, the place does not meet the threshold for entry on the Town's Municipal Heritage Inventory and approval is recommended for the demolition.

Conclusion

The redevelopment proposal for the subject site recently underwent a period of community consultation, which concluded on 16 February 2009. The application is currently being processed and will be presented to the Council in the near future.

In light of the fact that the applicant/owner is actively pursuing a redevelopment proposal for the site and in light of the concerns regarding the structural integrity of the place, it is recommended that the standard condition requiring a redevelopment proposal to be approved prior to the issue of a Demolition Licence not be imposed in this instance. It is recommended that the application be approved in line with the Officer Recommendation.

9.1.8 Nos. 639 - 643 (Lot 1) Beaufort Street, Mount Lawley – Objection to Renewal of Ongoing Extended Trading Permit for the Flying Scotsman Tavern

Ward:	South	Date:	19 March 2009
Precinct:	Mount Lawley; P11	File Ref:	ENS0053; PRO0638
Attachments:	-		
Reporting Officer(s):	A Giles, S Teymant, J MacLean, M Wood, John Giorgi		
Checked/Endorsed by:	R Boardman, John Giorgi	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the report regarding the Renewal of the Ongoing Extended Trading Permit (ETP) for the Flying Scotsman Tavern, located at Nos. 639 - 643 Beaufort Street, Mount Lawley;*
- (ii) *STRONGLY OBJECTS to the ongoing Extended Trading Permit Application as submitted due to consideration of the twelve (12) objections received from local residents;*
- (iii) *STRONGLY REQUESTS the Department of Racing, Gaming and Liquor not to renew the existing Extended Trading Permit for the Flying Scotsman Tavern, for a minimum period of 12 months, in order to allow the Licensee sufficient time to implement appropriate measures to resolve objections/complaints on a long term basis;*
- (iv) *EXPRESSES its strong concern to the Department of Racing, Gaming and Liquor and relevant Minister at the insufficient time provided to respond to the application for renewal of the Extended Trading Permit;*
- (v) *DEFERS the implementation of the introduction of parking restrictions, until the survey of the area is completed in accordance with the Council Decision at Item 9.1.12 of the Ordinary Meeting of Council held on 10 February 2009 and in conjunction with the Consultants' Precinct Parking Management Report, currently being undertaken by Luxmore Consultants;*
- (vi) *NOTES that the Town's Rangers have been instructed ~~will~~ to increase their patrols to the area bounded by Walcott Street, Curtis Avenue, Harold Street and William Street, to identify whether there is evidence that existing problems are related to the Flying Scotsman Tavern and proactively deal with any parking issues;*
- (vii) *CALLS a public meeting of ratepayers, residents, all proprietors of licensed premises and other interested late trading business proprietors to discuss parking issues and alleged antisocial behaviour in the Mt Lawley Precinct (including an invitation to those located in the City of Stirling); and*
- (viii) *ADVISES the Department of Racing, Gaming & Liquor, WA Police, the licensee of the Flying Scotsman Tavern, City of Stirling and objectors of the Council's Decision.*

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

COUNCIL DECISION ITEM 9.1.8

Moved Cr Farrell, Seconded Cr Burns

That the recommendation be adopted.

Debate ensued.

Cr Youngman departed the Chamber at 7.25pm.

Debate ensued.

Cr Youngman returned to the Chamber at 7.28pm.

Debate ensued.

PROCEDURAL MOTION

Moved Cr Youngman, Seconded Cr Farrell

That the item be DEFERRED until later in the Agenda, to allow the Chief Executive Officer to prepare a new Officer Recommendation, which reflects the debate which has occurred.

PROCEDURAL MOTION PUT AND CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

REFER TO PAGE 109 FOR ITEM 9.1.8

The Chief Executive Officer and Minutes Secretary departed the Chamber at approx. 7.40pm.

9.1.4 No. 42 (Lot: 47 D/P: 3002) Waugh Street, North Perth - Proposed Additional Grouped Dwelling to and Partial Demolition of and Alterations and Additions including Deck to Existing Single House

Ward:	North	Date:	18 March 2009
Precinct:	North Perth ; P 08	File Ref:	PRO4552; 1565/08 5.2008.461.1
Attachments:	001		
Reporting Officer(s):	E Storm		
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 the owner M & K Lendich for proposed Additional Grouped Dwelling to and Partial Demolition of and Alterations and Additions including Deck to Existing Single House, at No. 42(Lot: 47 D/P: 3020)Waugh Street, North Perth, and as shown on plans stamp-dated 30 September 2008 and amended plans stamp-dated 13 March 2009, subject to the following conditions:

- (i) all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) any new street/front wall, fence and gate within the Waugh Street setback area, including along the side boundaries within these street setback areas, 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 of the Waugh 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) *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);*
- (v) *prior to the issue of a Building Licence, the owner(s) shall enter into a legal agreement to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town's solicitors or other solicitors agreed upon by the Town for the conservation of the existing dwelling. ~~located on the proposed southern lot/site.~~ All costs associated with this condition shall be borne by the applicant/owner(s); and*
- (vi) *the accessway to the proposed rear dwelling between the existing dwelling and the surveyed lot boundary being a minimum width of 3 2.883 metres as shown on the site and demolition plan dated 13 March 2009.*

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

Cr Burns departed the Chamber at 7.41pm

COUNCIL DECISION ITEM 9.1.4

Moved Cr Farrell, Seconded Cr Youngman

That the recommendation be adopted.

Debate ensued.

Cr Burns returned to the Chamber at 7.43pm.

Debate ensued.

MOTION PUT AND CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

ADDITIONAL INFORMATION:

The applicant has previously advised that they are prepared to shave-off part of the existing dwelling to achieve the required 3 metres accessway requirements of the R Codes if required. The original plans received by the Town show the access leg in its present location being 2.883 metres from the side of the dwelling to the current lot boundary fence. The amended demolition/site plan received on 13 March 2009 indicates fencing and retaining (to be removed) within the access leg, without any accessway dimension being denoted. The Town's Officers are of the view that, in this particular instance, the reduced accessway of 2.883 metres is supportable, as it will conserve the existing house in its original form.

As the site is within the North Perth Precinct (P8) with a density of R30/40, any development at the higher R40 (minimum site area of 200 square metres and average site area of 220 square metres) standard is permitted where the existing house is retained. The applicants in this instance are seeking the higher R 40 density, as the lot area of 491 square metres would not comply with the R30 site requirements of a minimum site area of 270 square metres and an average site area of 300 square metres. Hence, an additional condition (vii) is proposed to this effect.

Landowner:	M & K Lendich
Applicant:	M & K Lendich
Zoning:	Metropolitan Region Scheme: (MRS): R30/40 Town Planning Scheme No. 1 (TPS 1): 20 (4) (c)(i)
Existing Land Use:	Single House
Use Class:	Grouped Dwelling
Use Classification:	"P"
Lot Area:	491 square metres
Access to Right of Way	N/A

BACKGROUND:

No specific background directly relates to the proposal.

DETAILS:

The proposal involves the construction of an additional grouped dwelling and partial demolition and alterations and additions to the existing single house.

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

ASSESSMENT:

Non-Compliant Requirements			
Requirements	Required	Proposed *	Officer Comments Pursuant to Clause 38(5) of TPS 1
Density	2 dwellings at R 40	2 dwellings at R 40	Supported – no variation.
Plot Ratio	N/A	N/A	Noted.
Driveway Width	3 metres	2.883 – 2.89 metres	Not supported – The site and demolition plan indicates that a 3 metres wide accessway can be achieved between the existing dwelling and the lot boundary; however, the location of existing fencing allows only a 2.883-2.89 metres setback. Accordingly, a condition has been imposed to ensure a 3.0 metres wide accessway is achieved.
Consultation Submissions			
No consultation was required as there are no variations directly affecting adjoining landowners.			

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 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

Vehicular Access

Clause 6.5.4 of the Residential Design Codes (R Codes) states that vehicular access should be provided to minimise the number of crossovers, avoid street trees, to be safe in use and not detract from the streetscape. Whilst the application proposes an under-width access leg to the rear Lot 2 of 2.883 metres as it is inhibited by existing fencing, it is noted that the width between the existing dwelling and the western lot boundary is 3 metres. Accordingly, compliance with this requirement has been imposed as a condition of approval.

Conclusion

The proposed and existing dwellings comply with the requirements of the Residential Design Codes and Town's Policies. The property is zoned R30/40 meaning that under the provisions of clause 20 (4) (c) (i) of the TPS, where the existing house is retained, development will be permitted to R 40 standards. The Town's Officers are of the opinion that the retention of the existing character home and the adoption of the R 40 coding will result in a more desirable outcome for Waugh Street. In this instance and for the reasons outlined above, the application is recommended for approval.

9.1.3 No. 26A (Lot 2 STR: 52920) Brentham Street, Leederville - Proposed Two-Storey Single House

Ward:	North	Date:	16 March 2009
Precinct:	Leederville; P03	File Ref:	PRO4635 5.2008.579.1
Attachments:	001		
Reporting Officer(s):	S Kendall		
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 the owner C Moreno for proposed Two-Storey Single House, at No. 26A (Lot 2 STR: 52920) Brentham Street, Leederville, and as shown on plans stamp-dated 10 February 2009, subject to the following conditions:

- (i) *all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) *no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*
- (iii) *first obtaining the consent of the owners of No. 23 Britannia Road for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 23 Britannia Road in a good and clean condition; and*
- (iv) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
 - (a) *any new street/front wall, fence and gate within the Brentham Street setback area, including along the side boundaries within this street setback area, shall comply with the following:*
 - (1) *the maximum height being 1.8 metres above the adjacent footpath level;*
 - (2) *the maximum height of piers with decorative capping being 2.0 metres above the adjacent footpath level;*
 - (3) *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;*
 - (4) *the piers having a maximum width of 355 millimetres and a maximum diameter of 500 millimetres;*

- (5) *the distance between piers should not be less than the height of the piers except where pedestrian gates are proposed;*
- (6) *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;*
- (b) *the window of bedroom two on the eastern elevation within the 4.5 metre cone of vision to the eastern boundary being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be a major opening as defined in the Residential Design Codes 2008. Alternatively, prior to the issue of a Building Licence, these revised plans are not required if the Town receives written consent from the owners of No. 21b Britannia Road stating no objection to the respective proposed privacy encroachment;*
- (c) *the building height being reduced to a maximum of 7 metres from natural ground level; and*
- (d) *the driveway being aligned at right angles to Brentham Street.*

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

COUNCIL DECISION ITEM 9.1.3

Moved Cr Farrell, Seconded Cr Burns

That the recommendation be adopted.

Debate ensued.

AMENDMENT

Moved Cr Maier, Seconded Cr Lake

That clause (iv)(d) be deleted and new clauses (iv)(d), (e) and (f) be inserted as follows:

~~*“(d) the driveway being aligned at right angles to Brentham Street.*”~~

(d) the vehicle access to the garage being provided solely from the right of way;

(e) one significant appropriate design feature shall be incorporated into the garage wall on the western elevation, to reduce its visual impact on the Brentham Street streetscape. Examples of design features may include significant openings facing the street at regular intervals and varying materials, finishes and/or colours; and

(f) prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services, at the applicant's/owner(s)' full expense."

AMENDMENT PUT AND LOST (3-4)

<u>For</u>	<u>Against</u>
Cr Lake	Mayor Catania
Cr Maier	Cr Burns
Cr Youngman	Cr Doran-Wu
	Cr Farrell

(Cr Ker and Cr Messina on approved leave of absence.)

Debate ensued.

MOTION PUT AND CARRIED (6-1)

<u>For</u>	<u>Against</u>
Mayor Catania	Cr Lake
Cr Burns	
Cr Doran-Wu	
Cr Farrell	
Cr Maier	
Cr Youngman	

(Cr Ker and Cr Messina on approved leave of absence.)

Landowner:	C Moreno
Applicant:	C Moreno
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Residential R60
Existing Land Use:	Vacant Land
Use Class:	Single House
Use Classification:	"P"
Lot Area:	220 square metres
Access to Right of Way	Southern side, 5 metres wide, sealed, Town owned.

BACKGROUND:

22 March 2006 The Western Australian Planning Commission (WAPC) approved a survey-strata subdivision for the property at No. 23 Britannia Road, which resulted in the creation of the subject lot.

DETAILS:

The proposal involves the construction of a two-storey single house at the subject property.

In support of the application, the applicant provided the following comments:

- *"Watercorp have advised that we must have a 500mm setback from the sewer line which greatly hinders any possibility of having the garage on the R.O.W. because it vastly inhibits the amount of liveable space greatly and essentially renders the ground floor a non liveable area with very small living areas.*

- *The sewer line setback to the Right of Way (ROW), also a does not allow for a sufficient outdoor living space (courtyard) to the northern boundary of the property.*
- *Garage is fully integrated into the design and is a very aesthetically (not dominating) feature therefore it does not affect the 'street appeal' on the residence (in fact with be in line with Baymoon Park development). Removing the garage and placing it on the R.O.W would then leave a "bland" wall at the front of the house which would have a negative impact on the street frontage*
- *Garage fronting the street allows for better security in terms of greater lighting conditions and better access into house."*

ASSESSMENT:

Non-Compliant Requirements			
Requirements	Required	Proposed *	Officer Comments Pursuant to Clause 38(5) of TPS 1
Density	1.2	1	No variation.
Building Setbacks:			
Ground floor to northern boundary	1 metre	Nil	Supported - no objection received from adjacent affected neighbour and not considered to have an undue impact on the neighbouring property.
First floor to Brentham Street	Balcony 3 metres from front boundary.	2.27 metres	Supported - Refer to 'Officer Comments'.
	Main Building Line 4 metres from front boundary.	2.635 -3.59 metres	Supported - Refer to 'Officer Comments'.
First floor to rear (eastern boundary)	4.4 metres	1.551 - 2.268 metres	Supported - no objection received from adjacent affected neighbour and not considered to have an undue impact on the neighbouring property.
Building Height	Top of external wall (concealed roof) - 7 metres	7.2 metres	Not Supported - whilst the variation only relates to minor incursions, building height is listed in the Town's Policy relating to <i>Non-Variation of Specific Development Standards and Requirements</i> and has been conditioned to comply.
Driveways	Aligned at right angles to the street.	Angled crossover	Not supported - condition applied for the proposed crossovers to be aligned at right angles to the street as per the Town's Technical Services requirements.

Building Articulation	No portion of wall greater than 9 metres without horizontal or vertical articulation.	First floor eastern wall 14.275 metres	Supported - no objection received and not considered to have an undue impact on the neighbouring property as variation is relatively minor and as overall elevation has been staggered to moderate the visual impact of the building bulk on the adjacent property.
Building on boundary	Average height 3 metres	Proposed average 3.12 metres	Supported - no objection received, the boundary wall complies with the maximum height requirements, the variation is considered minor and not considered to have an undue impact on the adjacent affected neighbouring property.
Residential Design Elements: SADC 8.	Carport and garages to be located at the rear of the property and accessed via a right of way where available.	Garage accessed by Brentham Street	Supported - given the location and length of the ROW, the proposed access directly from Brentham Street is considered reasonable and can be supported. Furthermore, it is to be noted that there is an existing crossover in the location of the proposed crossover, the provision of a garage accessed from the ROW on this site may result in a blank wall to Brentham Street and as there are a number of examples in the immediate vicinity (such as Nos. 13, 13a and 15 Britannia Road, which share the subject, short ROW), which do not utilise the rear ROW for vehicular access.
SADC 8 - Garage Setback	Setback a minimum of 500 millimetres behind front main building line.	Garage door 0.228 metre behind front main building line. Garage Pillars - 0.41 metre in front of main building line.	Supported - the garage complies with the Performance Criteria of the RDE's for the <i>Setback of Garages and Carports</i> as it is not visually dominant on the

			streetscape and as it is an appropriate design response to ensure optimum use of the small lot. The garage has been integrated into the design, is to be constructed of compatible materials to the dwelling and its impact is reduced by the protrusion of the balcony above.
BADC 3 -Roof Forms	To be compatible with streetscape.	Concealed roof proposed.	Supported - the RDE's Policy states that in some residential areas there may be more opportunity for innovative design and architectural styles and, in these instances, the Town may consider alternative roof forms to a pitch roof style. Whilst the majority of roof forms along Brentham Street are of a hipped nature, it is considered that the lack of consistency in architectural style and built form along this street creates an opportunity to encourage and support this innovative and contemporary design.
Privacy Setbacks			
Balcony to southern boundary	7.5 metres or screening	1.4 metres	Supported - there is a lesser need to prevent overlooking to areas which are visible from the street.
Bedroom two to northern boundary	4.5 metres or screening	2.7 metres	Supported - the privacy encroachment into the northern neighbour is minor in that it is less than one square metre along the south-eastern corner of the adjacent property and does not result in any direct overlooking.
Bedroom two to eastern boundary	4.5 metres or screening	2.268 metres	Not supported - as it has the potential to impact on the amenity of adjacent neighbours. Conditioned to comply.

Consultation Submissions		
Support	Nil	Noted
Objection	Nil	Noted
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.

COMMENTS:

Street Setbacks

The Residential Design Elements Policy under clause 6.4.1 states that residential development should complement the existing streetscape and should be designed to harmonise with the streetscape and adjoining properties. Dwellings along Brentham Street are inconsistent in architectural style, vary in height and building materials. Brentham Street is segmented by a Town of Vincent Parks and Recreation Reserve and the large expanse of Aranmore Catholic College. In this context, Brentham Street is considered a dynamic and emerging contemporary streetscape.

The upper floor street setbacks of the proposed development are non-compliant with the acceptable development criteria of SADC.10 (Dual Street Frontages and Corner Sites). The applicant proposes upper floor setbacks to Brentham Street of 2.635 -3 - 3.59 metres in lieu of 4 metres and a balcony setback of 2.27 in lieu of 3 metres in order to facilitate the effective use of the site and to create a contemporary façade.

It is considered the proposed street setbacks are compliant with the Performance Criteria for this standard in that the contemporary façade is staggered with varying heights, comprises a select range of attractive external wall surface treatments that will provide articulation and interest to Brentham Street, and that the setback of the balcony will assist in the passive surveillance of the street. Furthermore, in light of the observation that there is a lack of a consistent streetscape setting and that there are dwellings directly opposite the subject place with some elements of the upper floor directly above the ground floor, there is scope to consider and support such a variation.

Summary

The application proposes variations to the acceptable development standards of the Residential Design Elements Policy; however, the proposal clearly satisfies the Performance Criteria for each of these variations. The development is not considered to compromise the streetscape but rather contribute to its emerging range of styles and built form. In light of the above, it is recommended that the Council approve the subject application, subject to standard and appropriate conditions to address the above matters.

9.1.7 No. 544 (Lot: 1 D/P: 692) Beaufort Street, Mount Lawley - Proposed Demolition of Existing Commercial Building and Construction of Four-Storey Plus Basement Mixed Use Development Comprising Three (3) Multiple Dwellings, Offices, Eating House and Associated Basement Car Parking

Ward:	South	Date:	16 March 2009
Precinct:	Mount Lawley Centre; P11	File Ref:	PRO2524; 5.2008.550.1
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 John Kestel Architects Pty Ltd on behalf of the owner Elmridge Pty Ltd for proposed Demolition of Existing Commercial Building and Construction of Four-Storey Plus Basement Mixed Use Development Comprising Three (3) Multiple Dwellings, Offices, Eating House and Associated Basement Car Parking, at No. 544 (Lot: 1 D/P: 692) Beaufort Street, Mount Lawley, and as shown on amended plans stamp-dated 24 February 2009, subject to the following conditions:

- (i) a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on the site;*
- (ii) an archival documented record of the place(s) 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) 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;*
- (iv) 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;*
- (v) a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*

- (vi) *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;

- (vii) *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 dwellings that:*

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

- (viii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the windows to the office on the ground floor and the first floor of the south-eastern elevation and the terrace to Unit 3 on the south-eastern elevation, being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be major openings as defined in the Residential Design Codes 2008. Alternatively, prior to the issue of a Building Licence, these revised plans are not required if the Town receives written consent from the owners of No. 152 Harold Street stating no objection to the respective proposed privacy encroachments.*

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

- (ix) *The owner(s), or the applicant on behalf of the owner(s), shall comply with the Town of Vincent Percent for Public Art Policy No. 3.5.13 and the Percent for Public Art Guidelines for Developers, including:*
- (a) *within twenty – eight (28) days of the issue date of this ‘Approval to Commence Development’, elect to either obtain approval from the Town for an Artist to undertake a Public Art Project (Option 1) or pay the Cash in Lieu Percent for Public Art Contribution, of \$31,810 (Option 2), for the equivalent value of one per cent (1%) of the estimated total cost of the development (\$3,181,000); and*
 - (b) *in conjunction with the above chosen option;*
 - (1) *Option 1 –
prior to the approval and subsequent issue of a Building Licence for the development, obtain approval for the Public Art Project and associated Artist; and

prior to the first occupation of the development, install the approved public art project, and thereafter maintain the art work;*

OR
 - (2) *Option 2 –
prior to the approval and subsequent issue of a Building Licence for the development or prior to the due date specified in the invoice issued by the Town for the payment (whichever occurs first), pay the above cash-in-lieu contribution amount;*
- (x) *within twenty–eight (28) days of the issue date of this ‘Approval to Commence Development’, the owner(s) or the applicant on behalf of the owner(s) shall comply with the following requirements:*
- (a) *pay a cash-in-lieu contribution of ~~\$5,768~~ \$16,968 for the equivalent value of ~~2.06~~ 6.06 car parking spaces, based on the cost of \$2,800 per bay as set out in the Town’s 2008/2009 Budget; OR*
 - (b) *lodge an appropriate assurance bond/bank guarantee of a value of ~~\$5,768~~ \$16,968 to the satisfaction of the Town. This assurance bond/bank guarantee will only be released in the following circumstances:*
 - (1) *to the Town at the date of issue of the Building Licence for the development, or first occupation of the development, whichever occurs first; or*
 - (2) *to the owner(s)/applicant following receipt by the Town of a Statutory Declaration of the prescribed form endorsed by the owner(s)/applicant and stating that they will not proceed with the subject ‘Approval to Commence Development’; or*
 - (3) *to the owner(s)/applicant where the subject ‘Approval to Commence Development’ did not commence and subsequently expired.*

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

- (xi) *the footpath adjacent to the development on Beaufort Street and Harold Street shall be repaired and reinstated under the direction of the Town's Manager of Engineering Operations at the completion of the development and prior to the first occupation of the development at the full expense of the applicant/owner/builder;*
- (xii) *first obtaining the consent of the owners of Nos. 550-552 Beaufort Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 550-552 Beaufort Street in a good and clean condition;*
- (xiii) *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;*
- (xiv) *the doors, windows and adjacent floor areas on the ground floor and first floor fronting Beaufort Street and Harold Street shall maintain an active and interactive relationship with this street;*
- (xv) *the total gross floor area of the offices shall be limited to 691 square metres. Any increase in floor space or change of use for the subject land shall require Planning Approval to be applied to and obtained from the Town;*
- (xvi) *the total public floor area of the eating house shall be limited to 93 square metres. Any increase in floor space or change of use for the subject land shall require Planning Approval to be applied to and obtained from the Town;*
- (xvii) *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;*
- (xviii) *prior to the first occupation of the development ~~17~~ 13 car parking spaces for the commercial component of the development, shall be clearly marked and signposted for the exclusive use of the staff/customers of the development;*
- (xix) *prior to the first occupation of the development, 3 car parking spaces provided for the residential component of the development, shall be clearly marked and signposted for the exclusive use of the residents of the development;*
- (xx) *the on-site car parking area for the offices/non-residential component shall be available for the occupiers and visitors of the residential component outside normal business hours;*
- (xxi) *the car parking area shown for the offices/non-residential component shall be shown as 'common property' on any strata or survey strata subdivision plan for the property;*
- (xxii) *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;*

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

- (a) *a minimum of one male shower and one female shower being located in separate change rooms;*
- (b) *the change room facilities being secure and capable of being locked; and*
- (c) *a minimum of one locker being provided for every bicycle parking bay provided.*

The revised plans shall not result in any greater variation to the Town's Polices.

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

(xxv) *prior to the first occupation of the development, one (1) class one or two bicycle parking facility, shall be provided at a location convenient to the entrance of the development. Details of the design and layout of the bicycle parking facility shall be submitted and approved prior to the installation of such facility;*

(xxvi) *prior to the first occupation of the development, each multiple dwelling shall be provided with a screened outdoor area for clothes drying or clothes tumbler dryer;*

(xxvii) *any new street/front wall, fence and gate within the Beaufort Street and Harold Street setback areas, including along the side boundaries within these street setback areas, 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;*
- (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; and*

- (g) *the solid portion adjacent to the Harold Street boundary from the above truncation(s) can increase to a maximum height of 1.8 metres above adjacent footpath level provided that the wall or fence has at least two (2) significant appropriate design features (as determined by the Town of Vincent) to reduce the visual impact – for example, significant open structures, recesses and/or planters facing the street at regular intervals, and varying materials; and the incorporation of varying materials, finishes and/or colours are considered to be one (1) design feature. Details of these design features shall be submitted to and approved by the Town prior to the issue of a Building Licence;*
- (xxviii) *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);*
- (xxix) *a detailed landscaping plan, including a list of plants and the landscaping of the Beaufort Street and Harold 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);*
- (xxx) *continuous and complementary awnings being provided over the Beaufort Street and Harold Street footpath in accordance with the Town's Local Laws relating to Verandahs and Awnings over Streets, with the awnings being a minimum height of 2.75 metres from the footpath level to the underside of the awning and a minimum of 500 millimetres from the kerb line of Beaufort Street and Harold Street; and*
- (xxxi) *no development shall occur within 1 metre of the south-eastern boundary of No. 544 Beaufort Street, Mount Lawley as a 1 metre wide right of way widening is a requirement of the Town.*

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

COUNCIL DECISION ITEM 9.1.7

Moved Cr Farrell, Seconded Cr Burns

That the recommendation be adopted.

Cr Farrell departed the Chamber at 8.04pm.

Debate ensued.

Cr Farrell returned to the Chamber at 8.05pm.

Debate ensued.

PROCEDURAL MOTION

Moved Cr Lake, Seconded Cr Maier

That the item be DEFERRED to consider the interaction between the building and Harold Street.

PROCEDURAL MOTION PUT AND LOST (3-4)

<u>For</u>	<u>Against</u>
Cr Lake	Mayor Catania
Cr Maier	Cr Burns
Cr Doran-Wu	Cr Farrell
	Cr Youngman

(Cr Ker and Cr Messina on approved leave of absence.)

Cr Burns departed the Chamber at 8.11pm.

Cr Maier advised that he wished to move an amendment to insert a new clause (xxxii) as follows:

“(xxxii) prior to the issue of a Building Licence, revised plans shall be submitted to and approved by the Town demonstrating the wall on the Harold Street elevation on the ground floor and the first floor being redesigned to incorporate further interaction with the street.”

The Presiding Member, Mayor Nick Catania ruled that he would not accept this amendment as it is a substantial design change and could be considered as a “deemed refusal”.

Cr Burns returned to the Chamber at 8.15pm.

Debate ensued.

MOTION PUT AND CARRIED (5-2)

<u>For</u>	<u>Against</u>
Mayor Catania	Cr Lake
Cr Burns	Cr Maier
Cr Doran-Wu	
Cr Farrell	
Cr Youngman	

(Cr Ker and Cr Messina on approved leave of absence.)

ADDITIONAL INFORMATION:

The Town's Policy relating to Parking and Access provides for the Council to consider a cash-in-lieu payment where the car parking shortfall is greater than 0.5 bays to provide and/or upgrade parking in other car parking areas. In this instance, the resultant car parking shortfall of 6.06 car bays would equate to a payment of \$16,968. The increased parking shortfall is not considered excessive given the locational context of the proposed development, and is therefore supported subject to a cash-in-lieu payment. Furthermore, no objections relating to car parking were received.

Landowner:	Elmridge Pty Ltd
Applicant:	John Kestel Architects Pty Ltd
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Commercial
Existing Land Use:	Car Yard
Use Class:	Multiple Dwelling, Office, Eating House
Use Classification:	“AA”, “P”, “P”
Lot Area:	594 square metres
Access to Right of Way	South-East side, 3 metres wide, sealed, Town owned

BACKGROUND:

No specific background directly relates to the proposal.

DETAILS:

The proposal involves the demolition of the existing car yard and the construction of a four-storey plus basement mixed-use development comprising of three multiple dwellings, offices and eating house.

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

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

ASSESSMENT:

Non-Compliant Requirements			
Requirements	Required	Proposed *	Officer Comments Pursuant to Clause 38(5) of TPS 1
Density:	4.75 multiple dwellings at R80	3 multiple dwellings	Noted – no variation.
Plot Ratio:	1.0 or 594 square metres	1.53 or 912.55 square metres	Supported – see “Comments”.
Building Setbacks: South-East (Right of Way) Basement	6 metres	2.9 metres	Supported – not considered to have an undue impact on the amenity of the neighbouring properties and no objections received from adjoining properties.
Ground Floor	6 metres	Nil	Supported – not considered to have an undue impact on the amenity of the neighbouring properties and no objections received from adjoining properties.

First Floor	6 metres	1 metre to the right of way boundary	Supported – not considered to have an undue impact on the amenity of the neighbouring properties and no objections received from adjoining properties.
Second Floor	6 metres	1 metre to terrace	Supported – not considered to have an undue impact on the amenity of the neighbouring properties and no objections received from adjoining properties.
		4 metres – 6 metres to main building	Supported – not considered to have an undue impact on the amenity of the neighbouring properties and no objections received from adjoining properties.
Building Height:	2 storeys (3 storeys can be considered)	4 storeys and basement	Supported – see “Comments”.
Multiple Dwellings Policy:	Minimum lot size of 1000 square metres	Lot size = 594 square metres	Supported – this variation is not considered to have an undue impact on the amenity of area. Note: amendments to the Multiple Dwellings Policy are currently under consideration by the Council, whereby the minimum lot size will not be applicable to the Mount Lawley Centre Precinct.

Commercial Car Parking

Car parking requirement (nearest whole number)	= 34.49 car bays
<ul style="list-style-type: none"> • Eating House (93 square metres) – requires 20.67 car bays • Office (691 square metres) – requires 13.82 car bays 	
Apply the adjustment factors:	(0.5527)
<ul style="list-style-type: none"> • 0.85 (within 400 metres of a rail station) • 0.85 (within 400 metres of bus stop) • 0.85 (within 400 metres of a public car parking place with in excess of 75 car parking spaces) • 0.90 (the proposed development provided end-of-trip facilities) 	= 19.06 car bays
Minus the car parking provided on-site	47 13 car bays for commercial
Minus the most recently approved on-site car parking shortfall	N/A
Resultant shortfall	± 6.06 car bays

Bicycle Parking

Eating House
<ul style="list-style-type: none"> • 1 space per 100 square metres public area for employees (class 1 or 2) = 0.93 space • 2 spaces plus 1 space per 100 square metres public area for visitors (class 3) = 2.93 spaces

Office	
<ul style="list-style-type: none"> • 1 per 200 square metres public area for employees (class 1 or 2) = 3.45 spaces • 1 space per 750 square metres over 1000 square metres for visitors (class 3) = Nil 	
Total class one or two bicycle spaces = 4.38 spaces = 4 spaces	
Total class three bicycle spaces = 2.93 spaces = 3 spaces	
Consultation Submissions	
Support (2)	<ul style="list-style-type: none"> • Positive outcome for Beaufort Street. • Compliment the four-storey development on the opposite corner of Beaufort Street and Harold Street. • Improvement on some of the run down buildings along Beaufort Street.
Objection (2)	<ul style="list-style-type: none"> • Building setbacks. • The building height is out of scale to the properties on Harold Street.
	<ul style="list-style-type: none"> • Noted. • Noted. • Noted.
	<ul style="list-style-type: none"> • Not supported – the proposed building setbacks are consistent with the setbacks of adjacent properties along Beaufort Street and the rear setbacks are not considered to have an undue impact on the neighbouring properties as the ground floor, first floor and second floor is setback 4 metres from the adjacent property boundary and the third floor is 13 metres from the adjacent property boundary. • Not supported – see “Comments”.
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:

Demolition

The subject caryard is located on a prime corner location at the Beaufort and Harold Streets intersection and forms part of an evolving commercial landscape. The place, which was constructed circa 1973, comprises a brick sales office along the rear north-east corner of the site and is surrounded by a car parking area that extends to the lot frontage at Beaufort Street. Prior to 1973, the subject property comprised three narrow shops, the first of which was built in 1904 for Mrs Osmond.

The car yard is not considered to have any specific cultural heritage value that would make it eligible for consideration for inclusion on the Town's Municipal Heritage Inventory. The place is considered to require no further investigation and that a full Heritage Assessment is not warranted. Therefore, it is recommended that the application to demolish the place be approved, subject to a quality archival record and other standard conditions.

Plot Ratio and Building Height

Plot ratio and building height both contribute to the bulk and scale of a development. In this instance, the subject proposal is not considered to have an undue impact on the amenity of the area. The proposal is symptomatic of a growing trend to develop underutilised inner-city properties. The proposed four-storey height of the building is supported given the nature of developments in the immediate area along Beaufort Street, as well as the dominance of the corner site. The four-storey developments that exist along Beaufort Street include a development that is directly adjacent to the subject property on the southern corner of Beaufort Street and Harold Street, as well as at No. 1 Chelmsford Road, on the corner of Beaufort Street and Chelmsford Road. The three-storey mixed-use developments that are in the immediate vicinity are located at No. 500 Beaufort Street and No. 591 Beaufort Street.

Further to the above, the proposed fourth storey is setback a significant distance from all boundaries and is located in the centre of the site. This creates interest and articulation in the elevations, as well as reducing the impact of bulk and scale on the rear neighbouring properties.

Department for Planning and Infrastructure Comments

The Department for Planning and Infrastructure (DPI) assessed the plans submitted by the applicant and requested that a Transport Impact Statement be submitted. Subsequent to the Transport Assessment being submitted to the DPI, the DPI identified four main issues and provided the following comments to the Town:

“1. Parking Bays

According to the Town of Vincent's Parking and Access Policy 3.7.1, the required number of parking bays is 45. The proposed developments proximity to public transport can reduce this number to 38. However the development only provides a total of 16 parking bays, a shortfall of 22 parking bays. The Department has identified an underused Council owned car park near by which may be used by the development as shared parking at the council's discretion.

The Town of Vincent is to ensure that the parking requirements adhere to their Town Planning Scheme requirements

2. Sight Lines

There is an existing safety issue at the intersection of Beaufort Street and Harold Street which may be due to poor sight lines from Harold Street. The proposed development will increase turning movements at this intersection and as such the Department recommends the Town of Vincent improve sight lines. Intersection improvements should be considered in the future.

3. Bicycle Facilities

The Department recommends the Town of Vincent ensure the development provides formal parking and end of trip facilities for a minimum of 7 bicycles as per the Town of Vincent's Parking and Access Policy 3.7.1. On street facilities are preferred as they encourage visitors to the proposed mixed use development to cycle.

4. Laneway Width

The laneway running parallel to Beaufort Street from Harold Street is considered too narrow if used as an access way to the proposed development. Liveable Neighbourhoods recommends a minimum width of 6m should it be used for this purpose.

5. Travel Plan

The Council may wish the developer to prepare a travel plan to encourage patrons of the building to use public transport, walk or cycle. The report should also address measures proposed to mitigate issues of safety and parking; otherwise the Town of Vincent may be left to solve the issue once the development is finished.

The Department has no objections to the proposal on regional transport planning grounds, subject to the above recommendations being taken into consideration.”

The Town’s Officers have taken the above comments into consideration imposing relevant conditions in the Officer’s Recommendation. These conditions include:

- a requirement for cash-in-lieu for shortfall of car parking bays;
- provision of a truncation at the corner of Beaufort Street and Harold Street, and the corner of the right of way and Harold Street;
- a requirement for bicycle parking facilities and associated end-of-trip facilities; and
- a right of way widening of one metre.

The Town did not consider it necessary to require a Travel Plan as a Transport Impact Statement has already been provided by the applicant.

Conclusion

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

9.1.10 LATE ITEM – Substandard Buildings – Progress Report No. 1/2009

Ward:	Both	Date:	23 March 2009
Precinct:	All	File Ref:	ENS0084
Attachments:	-		
Reporting Officer(s):	A Giles, S Teymant, T Woodhouse, M Wood		
Checked/Endorsed by:	R Boardman, John Giorgi	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

(i) *RECEIVES the report regarding the substandard buildings Progress Report as at 23 March 2009 within the Town that are resulting in ongoing nuisance and community safety concerns;*

(ii) *NOTES that the Chief Executive Officer will take the following action under Delegated Authority:*

(a) *the owners of the following properties will be served ‘Take Down and Remove’ Notices in accordance with sections 137 and 138 of the Health Act 1911 (as amended):*

1. *No. 1 Irene Street, Perth (owner: T P Nguyen & Q T To);*
2. *No. 58 Joel Terrace, East Perth (owner: FDS Enterprises Pty Ltd);*
3. *No. 116 Broome Street, Highgate (pending consideration detailed in this report) (owner: Benjamin & Co Pty Ltd);*
4. *No. 388 William Street, Perth (owner: Lim & Lim Holdings Pty Ltd);*
5. *No. 441 William Street, Perth (owner: CS & JS Lau & MK De Almeida);*
6. *No. 36 Summers Street, Perth (owner: EG Custodian Services Pty Ltd);*
7. *No. 38 Summers Street, Perth (owner: EG Custodian Services Pty Ltd);*
8. *No. 137 Walcott Street, Mount Lawley (owner: Skybridge Holdings Pty Ltd);*
9. *No. 20 Monmouth Street, Mount Lawley (owner: Skybridge Holdings Pty Ltd);*
10. *Nos. 152 – 158 Fitzgerald Street, West Perth (owner: North Perth Developments Pty Ltd);*
11. *No. 325 Charles Street, North Perth (owner: Codesign Pty Ltd);*
12. *No. 332 Charles Street, North Perth (pending consideration detailed in this report) (owner: A Vujasin);*
13. *No. 288 Lord Street, Perth (pending consideration detailed in this report) (owner: JNI Developments Pty Ltd & Others); and*
14. *No. 134 Alma Road, North Perth (owner: VV Dong & TT Dinh);*

(b) *the owners of the following properties will be served a ‘Renovation Notice’ in accordance with section 409 of the Local Government (Miscellaneous Provisions) Act 1960;*

1. *No. 103 Harold Street, Highgate (Pacific Motel) (owner: GR Pennells & RJ Begley);*
2. *No. 125 Joel Terrace, Mount Lawley (owner: KD & RR Sharpe); and*
3. *No. 46 Joel Terrace, East Perth (owner: LJ & MR Hichliffe);*

- (c) *the owners of the following properties will be served 'House Unfit for Habitation' Notices in accordance with sections 135, 136, 137 and 139 of the Health Act 1911 (as amended) and as appropriate;*
1. *No. 103 Harold Street, Highgate (Pacific Motel) (owner: GR Pennells & RJ Begley);*
 2. *No. 147 Chelmsford Road, North Perth (owner: D Gorenstein); and*
 3. *No. 471 Beaufort Street, Highgate (owner: A Yozzi); and*
- (d) *Town's Officers will closely monitor the progress of the following properties:*
1. *No. 386 William Street, Perth (owner: Lim & Lim Holdings Pty Ltd);*
 2. *No. 86 Grosvenor Road, Mount Lawley (owner: Estate of the Late N Cloonan-Hall);*
 3. *No. 30 Flinders Street, Mount Hawthorn (owner: MV Pham);*
 4. *Nos. 208-212 Beaufort Street, Perth (owner: Major Holdings Pty Ltd & G T Gunning);*
 5. *No. 42 Guilford Road, Mount Lawley (owner: Department of Planning and Infrastructure properties, WA Planning Commission), and*
 6. *Nos. 204 – 228 East Parade, Mount Lawley (owner: Department of Planning and Infrastructure properties, WA Planning Commission)."*

Cr Burns departed the Chamber at 8.20pm.

COUNCIL DECISION ITEM 9.1.10

Moved Cr Youngman, Seconded Cr Burns

That the recommendation be adopted.

Debate ensued.

AMENDMENT

Moved Cr Youngman, Seconded Cr Farrell

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

“(iii) Where the Town demolishes a building, if possible the charge to the owner will include the costs associated with the recycling of any material deemed fit for reuse.”

Debate ensued.

AMENDMENT PUT AND LOST (2-4)

<u>For</u>	<u>Against</u>
Cr Lake	Mayor Catania
Cr Youngman	Cr Doran-Wu
	Cr Farrell
	Cr Maier

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

Debate ensued.

MOTION PUT AND CARRIED (4-2)

<u>For</u>	<u>Against</u>
Mayor Catania	Cr Lake
Cr Doran-Wu	Cr Maier
Cr Farrell	
Cr Youngman	

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

Cr Burns returned to the Chamber at 8.25pm.

PURPOSE OF REPORT:

To inform the Council concerning the status of substandard and dilapidated buildings and the action proposed by the Town's Chief Executive Officer to issue notices.

BACKGROUND:

During the week of 18 to 20 March 2009, the media, particularly Channel 7 news, highlighted the problems being created by unauthorised persons occupying substandard and dilapidated buildings in the Town. The Channel 7 news item specifically highlighted the Pacific Motel site in Highgate.

As Council maybe aware, a number of the derelict premises have resulted in considerable ongoing complaints in relation to use of the premises by squatters and other unauthorised person – which have resulted in fires, anti-social, criminal activity and dumping of rubbish.

The Town's Officers, particularly Health Services and to some extent Ranger and Community Safety Services deal with complaints and liaise with the WA Police. The Co-ordinator Safer Vincent becomes involved when anti-social and criminal behaviour concerns are raised by residents and liaises with local Police contacts on presenting issues. "Hotspots" are identified on a weekly basis with WA Police and Health Services provide a 'Substandard Building Register' on a regular basis – which Police monitor for finding persons of interest and then target properties identified.

The properties listed in the attached confidential table Appendix 9.1.10 have been identified as "high risk" premises requiring demolition or repair as can be seen in the Comments section of the Table. Whilst significant Officer resources are applied in dealing with the complaints, in numerous cases the property owner is reluctant to comply and in some cases completely ignoring the Town's request.

The serving of notice on the owners of the properties will require the owner to legally comply and failure to do so may result in the Town acting to achieve compliance with the notice. It is considered that strong action is required to be taken to ensure that the Town fulfils its obligations to appropriately address complaints and to minimise its liability in the event of an injury, accident or fire occurring on the property.

DETAILS:

A detailed list of the substandard properties of concern are detailed in the Confidential Table, in Appendix 9.1.10. This also provides a history and status report for the property, and an Officer Recommendation detailing the use of statutory powers to satisfactorily resolve the nuisance and community safety issues associated with the substandard properties.

CONSULTATION/ADVERTISING:

Nil required.

LEGAL POLICY:

- *Health Act 1911* (as amended).
- *The Local Government (Miscellaneous Provisions) Act 1960*.
- Draft Amended Council Policy 3.8.5 – ‘*Substandard Buildings and Vacant Land*’

Legal advice was recently received from Downings Legal with respect to the requirements of notices issued under the *Health Act 1911* (as amended), taking into consideration the requirements of the *Planning and Development Act 2005*. Legal advice indicated that consideration may be given to the *Planning and Development Act 2005* when issuing notices under *Health Act 1911* (as amended); however, this should not impede the intent of the notice under the *Health Act 1911* (as amended).

STRATEGIC IMPLICATIONS:

Town of Vincent Strategic Plan 2006 – 2011:

“Natural and Built Environment:

1.1.4 - Minimise negative impacts on the community and environment.

Improve aesthetics and amenity and encourage regeneration of degraded buildings, and vacant land through the combined effort of business, government and the community.

Community Development:

3.1.2 Provide and develop a range of community programs and community safety initiatives.

Promote and implement the Safer Vincent Crime Prevention Plan 2006 which aims to support, develop and deliver residential and business initiatives that reduce crime and promotes safety and security.

Leadership, Governance and Management

4.1.2 – Manage the Organisation in a responsible, efficient and accountable manner.”

SUSTAINABILITY IMPLICATIONS:

The burden placed on the Town’s and WA Police resources will be significantly reduced by eliminating the variety of unsatisfactory outcomes presented by substandard and dilapidated buildings.

FINANCIAL/BUDGET IMPLICATIONS:

In the instance of an owner defaulting on a ‘Take Down and Remove Notice’, the Town may act in default and recover all costs for the demolition of the property. Recent demolitions undertaken by the Town via this method have been approximately \$10,000 for cottage sized dwellings.

COMMENTS:

Given that the negative impact of these properties has been identified, and that statutory provisions exist to eliminate this negative impact, through application of the *Local Government (Miscellaneous Provisions) Act 1960* or the *Health Act 1911* (as amended), it is recommended that the Council support the serving of notices on each property as determined appropriate by the Town's Chief Executive Officer.

9.2.1 Progress Report No. 2 - Possible Future Traffic Flow Alterations, William Street, Brisbane Street to Newcastle Street, and Other Adjoining Higher Order Roads Within the Town.

Ward:	South	Date:	13 March 2009
Precinct:	Beaufort P13	File Ref:	TES0473
Attachments:	001		
Reporting Officer(s):	R Lotznicker		
Checked/Endorsed by:	-	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES progress report No 2 on possible traffic flow alterations in William Street, Brisbane Street to Newcastle Street, and other adjoining higher order roads within the Town;*
- (ii) *NOTES that the Town's officers met with officers from the City of Perth on 12 March 2009, where the following updated information was provided;*
 - (a) *City of Perth is currently undertaking works in the section of Newcastle William Street, south of Newcastle Street, to revert the street from four (4) lanes of traffic to two (2) lanes of traffic to complement the works previously undertaken by the Town on the section of William Street north of Newcastle Street; and*
 - (b) *City of Perth has prepared a draft Movement and Access Strategy with the re-introduction of two-way traffic to many of the city streets (refer plan attached) which were previously changed to one-way traffic, being a main element of the strategy and the recommended one-way to two-way Staging plan indicates that William Street south of Newcastle Street is planned to be reverted to two way in 2009/2010 subject to favourable traffic modelling results and further dialog with the Town;*
- (iii) *ADVISES the City of Perth that;*
 - (a) *some concerns have already been raised by businesses located in the Town of Vincent section of William Street, north of Newcastle Street, regarding the traffic congestion being caused by the upgrade works currently underway on William Street south of Newcastle Street, which have necessitated the temporary closure of the two right hand traffic lanes;*
 - (b) *should the traffic flow in William Street be changed from one-way to two-way in the future, it would be expected that the traffic flow changes should also be considered for Brisbane Street, between William and Beaufort Streets, Brisbane Street, between Beaufort and Stirling Streets, and Beaufort Street, between Brisbane and Newcastle Streets, to minimise traffic congestion, rat running and disruption; and*
 - (c) *any staged changes to the William Street traffic flow south of Newcastle Street tentatively planned for 2009/2010 should be carefully considered in the context of the traffic modelling results and further dialog with the Town;*

- (iv) *AUTHORISES the Chief Executive Officer to continue the dialog with the City of Perth and other relevant parties (if required to ensure that a unified approach is undertaken in progressing the City of Perth's proposal to ensure there is no adverse impact on any roads under the care, control and management of the Town); and*
- (v) *NOTES that further progress report/s on this matter will be submitted as soon as the results of the traffic modelling is available and/or any other relevant information becomes available.*

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

Moved Cr Farrell, Seconded Cr Youngman

That the recommendation be adopted.

Debate ensued.

AMENDMENT

Moved Cr Maier, Seconded Cr Youngman

That a new clause (v) be inserted as follows, and the remaining clause renumbered:

- “(v) *REQUESTS the Chief Executive Officer to investigate funding implications and options, budget requirements and traffic implications of the reintroduction of two-way streets as proposed by the City of Perth; and*”

Debate ensued.

AMENDMENT PUT AND CARRIED (5-2)

<u>For</u>	<u>Against</u>
Cr Burns	Mayor Catania
Cr Farrell	Cr Doran-Wu
Cr Lake	
Cr Maier	
Cr Youngman	

(Cr Ker and Cr Messina on approved leave of absence.)

MOTION AS AMENDED PUT AND CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

COUNCIL DECISION ITEM 9.2.1

That the Council;

- (i) *RECEIVES progress report No 2 on possible traffic flow alterations in William Street, Brisbane Street to Newcastle Street, and other adjoining higher order roads within the Town;*

- (ii) *NOTES that the Town's officers met with officers from the City of Perth on 12 March 2009, where the following updated information was provided;*
- (a) *City of Perth is currently undertaking works in the section of Newcastle William Street, south of Newcastle Street, to revert the street from four (4) lanes of traffic to two (2) lanes of traffic to complement the works previously undertaken by the Town on the section of William Street north of Newcastle Street; and*
 - (b) *City of Perth has prepared a draft Movement and Access Strategy with the re-introduction of two-way traffic to many of the city streets (refer plan attached) which were previously changed to one-way traffic, being a main element of the strategy and the recommended one-way to two-way Staging plan indicates that William Street south of Newcastle Street is planned to be reverted to two way in 2009/2010 subject to favourable traffic modelling results and further dialog with the Town;*
- (iii) *ADVISES the City of Perth that;*
- (a) *some concerns have already been raised by businesses located in the Town of Vincent section of William Street, north of Newcastle Street, regarding the traffic congestion being caused by the upgrade works currently underway on William Street south of Newcastle Street, which have necessitated the temporary closure of the two right hand traffic lanes;*
 - (b) *should the traffic flow in William Street be changed from one-way to two-way in the future, it would be expected that the traffic flow changes should also be considered for Brisbane Street, between William and Beaufort Streets, Brisbane Street, between Beaufort and Stirling Streets, and Beaufort Street, between Brisbane and Newcastle Streets, to minimise traffic congestion, rat running and disruption; and*
 - (c) *any staged changes to the William Street traffic flow south of Newcastle Street tentatively planned for 2009/2010 should be carefully considered in the context of the traffic modelling results and further dialog with the Town;*
- (iv) *AUTHORISES the Chief Executive Officer to continue the dialog with the City of Perth and other relevant parties (if required to ensure that a unified approach is undertaken in progressing the City of Perth's proposal to ensure there is no adverse impact on any roads under the care, control and management of the Town);*
- (v) *REQUESTS the Chief Executive Officer to investigate funding implications and options, budget requirements and traffic implications of the reintroduction of two-way streets as proposed by the City of Perth; and*
- (vi) *NOTES that further progress report/s on this matter will be submitted as soon as the results of the traffic modelling is available and/or any other relevant information becomes available.*

PURPOSE OF REPORT:

The purpose of this report is to provide an overview of the implications of modifying the traffic flow on William Street, Brisbane to Newcastle Streets, and other important roads in the immediate vicinity.

BACKGROUND:

As previously reported to Council, William Street between Brisbane and Newcastle Streets, was recently upgraded from a four (4) lane one way road to a two (2) lane roadway with permanent embayed parking.

The upgrade concept was progressively developed since 1999 in liaison with a number of stake holders, including the City of Perth (CoP) and the East Perth Redevelopment Authority (EPRA).

The main issue during the development of the design was the reduction of William Street from four (4) to two (2) traffic lanes and the possible reversion, in the future, from a one-way road to a two-way road.

As the Council is also aware, officers from the City of Perth presented a PowerPoint on the William Street two-way proposal at the Council Members Forum held on 11 November 2008.

The presentation outlined the City's proposal to revert William Street, between Roe and Newcastle Streets, from one-way to two-way. The implications of this proposal were discussed in terms of "level of service" of William Street and the potential impact on adjoining streets.

On 2 December 2008, the Council considered a report on an overview of the implications of modifying the traffic flow on William Street, Brisbane to Newcastle Streets, and other important roads in the immediate vicinity where the following decision was adopted

"That the Council;

- (i) RECEIVES progress report No 1 on possible traffic flow alterations in William Street, Brisbane Street to Newcastle Street, and other adjoining higher order roads within the Town as outlined in the report;*
- (ii) NOTES that;*
 - (a) at the Council Members Forum held on 11 November 2008, officers from the City of Perth outlined a proposal to convert William Street, between Roe and Newcastle Streets, from one-way to two-way and indicated that the City was planning to implement the proposal prior to the end of the 2008/2009 financial year;*
 - (b) the City of Perth has provided the Town with a copy of the report on SIDRA traffic modelling of the Roe Street to Newcastle Street intersections and an analysis using the City of Perth's SATURN traffic model of the impact of two options for two-way traffic on the wider street network, and have advised "that the intersections and the wider street network would perform satisfactorily with two-way implemented between Roe Street and Newcastle Street, but that extending the two-way into the Town of Vincent area along William Street alone (i.e. without Beaufort Street being two-way) would have significantly greater impacts";*
 - (c) the City of Perth is currently undertaking further traffic modelling on the impact of two-way traffic in both William Street and Beaufort Street together, firstly in both the City of Perth on its own and secondly within both the City of Perth and the Town of Vincent areas;*

- (d) *the section of William Street between Brisbane Street and Newcastle Street was recently upgraded by the Town to a very high standard at an estimated cost of \$1.5m and now comprises a two (2) lane one-way road with embayed parking, underground power, decorative street lights, street trees, high quality pavements, street furniture and (soon to be implemented) artwork;*
- (e) *the overall design and implementation of the Town's William Street upgrade allowed for the street to be changed from 'one-way' to 'two-way', in the future by implementing the following changes;*
- *Modifications to the traffic signals at the Newcastle Street/William Street intersection and some minor rekerbing and paving on the western side of William Street on the Town's side;*
 - *Modifications to 'out only' restriction (change right turn only Robinson Avenue west into William Street to left turn only), removal of kerbing/brick paving and laying of new paving;*
 - *Modifications on Brisbane Street (east side of William) and William Street (south west side of William Street) as follows;*
- (f) *the Town's officers are not proposing to list any funds for the Council's consideration in the 2009/2010 financial year, or in the foreseeable future, to implement any further changes in William Street between Newcastle Street and Brisbane Street given the substantial expenditure to undertake the recent road improvements and streetscape upgrade of this section of road;*
- (g) *should the traffic flow in William Street be changed from one-way to two-way in the future, it would be expected that the traffic flow changes would also be implemented in Brisbane Street, between William and Beaufort Streets, Brisbane Street, between Beaufort and Stirling Streets and Beaufort Street, between Brisbane and Newcastle Streets;*
- (h) *the overall preliminary estimated cost to fully implement a reversion from one-way to two-way traffic flow in the streets as indicated in clause (ii)(g) above and as outlined on attached plan Nos 2621-CP-01 to 04, would be in the order of \$1.26m. This could be staged over several financial years, however, careful consideration would need to be given to the transition from one stage to the next;*
- (i) *in 2006 when Main Roads WA was requested by the Town to provide comments on the possible conversion of William Street from one-way to two-way, Main Roads WA advised they would not support the proposal to convert William Street between Brisbane and Newcastle Streets from the current one-way to two-way traffic flow, with only one (1) lane provided in each direction, unless the following measures were undertaken:*
- *An agreement with the City of Perth regarding future plans for the whole of William Street;*
 - *The completion of Traffic modelling for the proposed modifications to William Street;*
 - *Additional routes to be considered for vehicle access to the CBD to compensate for the downgrading of William Street;*
 - *Community consultation undertaken;*
 - *Traffic signal phasing at the intersections of William Street with Brisbane Street and Newcastle Street have been investigated in more detail;*

- (iii) *AUTHORISES the Chief Executive Officer to enter into dialog with the City of Perth and other relevant parties (if required) as soon as possible to ensure that the requirements as outlined in clauses (ii) (c) and (ii) (i) above are progressed and that a unified approach is undertaken in progressing the City of Perth's proposal to ensure there is no adverse impact on any roads under the care control and management of the Town; and*
- (iv) *RECIEVES further progress reports on this matter as additional information becomes available."*

DETAILS:

Meeting with City of Perth – 18 December 2008:

Over the last few years, a number of meetings have been held between the Town's Technical Services officers and City of Perth officers in relation to the William Street two way proposal.

In accordance with clause (iii) of the Council's decision, on 18 December 2008 the Town's Technical Services officers met with the City of Perth's Snr Engineer Traffic and Transport and Manager Urban Development. At the meeting, concerns were raised regarding the impact on the Town's section of William Street should the City of Perth proceed with reverting their section to two way in isolation. It was also indicated that the other roads, such as Beaufort and Brisbane Street, should be looked at and the potential traffic impacts carefully modelled and assessed.

The City of Perth officers were provided with copies of draft plans (Plan Nos 2621-CP-01 to 04) of future proposals within the Town as presented to the 2 December 2008 meeting, and it was agreed that the City of Perth would model the traffic impact beyond their boundary into the Town. **Until the recent media release on 11 March 2009 etc., the Town's officers had heard no further on the matter and no further meetings etc. had occurred.**

Meeting with City of Perth – 12 March 2009:

On 12 March 2009 the Town's Technical Services officers again met with the City of Perth's Traffic Engineer and Manager Urban Development. The Town's officers again reiterated their concerns regarding the impact of the City's proposed 'two way' works terminating at Newcastle Street and the potential traffic impact of two lanes (south bound) on the Town's section of William Street merging into one lane (south bound) on the City of Perth's section.

The City of Perth officers advised that traffic modelling as previously agreed is still being progressed and when the results are available, a further meeting/s will be arranged to discuss the results/implications etc.

The City of Perth officers further advised that the works currently underway in the section of William Street, south of Newcastle Street, comprise similar works as previously undertaken in the section of William Street north of Newcastle Street (by the Town). These works comprise the creation of two lanes of traffic with embayed parking where the road will remain one way for the time being.

Further background Information:

The City of Perth reinstated two-way traffic in William Street, between Wellington Street and The Esplanade, in July 2008. At its meeting held on 27 January 2009, the Perth City Council approved a revised Final Concept Plan for William Street, Northbridge, including in principle support for reintroducing two-way traffic between Newcastle and Roe Streets.

A further report was presented to its meeting of 10 March 2009, where the following decision was made.

"That the Council:-

- 1. approves the proposed staging for changing one-way streets back to two-way as indicated on the One-way to Two-way Staging Plan dated 12 February 2009;*
- 2. investigates the funding options, budget requirements and traffic implications of the re-introduction of two-way streets in accordance with the approved staging;*
- 3. supports the establishment of a City Streets Technical Working Group consisting of officers from the City of Perth, Main Roads WA, Department for Planning and Infrastructure, the Public Transport Authority and affected neighbouring Councils to progress the technical aspects of the re-introduction of two-way streets in accordance with the approved staging."*

City of Perth's – Two way Streets proposal:

A major component of the movement and access strategy within the City of Perth's Strategic Plan is to make the City a place where people can easily get to and move around. The City of Perth considers that one of the key elements to achieve this aim is the re-introduction of two-way traffic to many of the city streets which were previously changed to one-way traffic.

In a report presented to the City of Perth Council on 10 March 2009, the Council was advised that one-way streets in the City have resulted in the following occurring:

- *encouraged extraneous through traffic;*
- *encouraged higher traffic speeds;*
- *defined unintended limits to urban development;*
- *separated arrival and departure bus stops because buses cannot return via the street on which they arrived;*
- *increased journey distances as drivers negotiate the one-way network;*
- *made the streets harder to navigate by people unfamiliar with the one-way system.*

The City of Perth report considered that the reintroduction of two way streets will also:

Change the balance of the use of the central streets away from high speed, high volume through traffic routes competing with pedestrians to friendly pedestrian thoroughfares used by low speed local traffic.

The report indicated that the re-introduction of two-way streets would require alterations to many sets of traffic signals and will need to be implemented in a staged manner and the improvement of pedestrian amenity and provision of a smoother traffic flow will be achievable through the introduction of parallel walk crossings instead of dedicated pedestrian phases at signal controlled intersections.

A recommended Traffic Movement Framework for the City of Perth has been developed. This includes designated two-way boulevards, avenues and streets, new road construction, suggested transit malls and the streets to be kept as one-way where the existing width is limited.

The City's recommended One-way to Two-way Staging Plan showing the existing one-way streets that will need to be changed to two-way to achieve the Traffic Movement Framework, is shown on the attached Plan at appendix 9.2.1 The Plan.

Officers Comments:

The City of Perth has prepared a draft Movement and Access Strategy with the re-introduction of two-way traffic to many of the city streets, which were previously changed to one-way traffic, being the element of the strategy.

The City of Perth is currently carrying out improvement works in the section of William Street south of Newcastle Street and these improvements will complement the improvements recently undertaken by the Town in its section of William Street north of Newcastle Street.

The City's recommended One-way to Two-way Staging Plan shows that William Street south of Newcastle Street is planned to be reverted to two way in 2009/2010, subject to favourable traffic modelling results and further dialog with neighbouring Councils.

It is considered that this proposed way forward will ensure that the full implications of changes in traffic flow are considered prior to any decisions being made.

CONSULTATION/ADVERTISING:

Not recommended at this stage.

LEGAL/POLICY:

William Street comprises a District Distributor road under the care, control and management of the Town of Vincent.

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, sustainable and functional environment. "*(i) implement the William Street Upgrade (Brisbane Street to Newcastle Street)*".

SUSTAINABILITY IMPLICATIONS:

N/A.

FINANCIAL/BUDGET IMPLICATIONS:

Not applicable at this stage

COMMENTS:

As previously reported to Council to effectively undertake a one-way to two-way conversion, the existing higher order one-way streets in the networks should also be changed to retain effective and efficient traffic flows.

In 2006 the City of Perth provided the Town with a copy of the report on SIDRA traffic modelling of the Roe Street to Newcastle Street intersections and an analysis using the City of Perth's SATURN traffic model of the impact of two options for two-way traffic on the wider street network. They further advised they were undertaking further traffic modelling on the impact of two-way traffic in both William and Beaufort Streets together, firstly in both the City of Perth on its own and secondly within both the City of Perth and the Town of Vincent Areas.

This modelling is still in progress and further meetings will be held with the City of Perth when additional information becomes available.

9.1.8 Nos. 639 - 643 (Lot 1) Beaufort Street, Mount Lawley – Objection to Renewal of Ongoing Extended Trading Permit for the Flying Scotsman Tavern

Ward:	South	Date:	19 March 2009
Precinct:	Mount Lawley; P11	File Ref:	ENS0053; PRO0638
Attachments:	-		
Reporting Officer(s):	A Giles, S Teymant, J MacLean, M Wood, John Giorgi		
Checked/Endorsed by:	R Boardman, John Giorgi	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the report regarding the Renewal of the Ongoing Extended Trading Permit (ETP) for the Flying Scotsman Tavern, located at Nos. 639 - 643 Beaufort Street, Mount Lawley;*
- (ii) *STRONGLY OBJECTS to the ongoing Extended Trading Permit Application as submitted due to consideration of the twelve (12) objections received from local residents;*
- (iii) *STRONGLY REQUESTS the Department of Racing, Gaming and Liquor not to renew the existing Extended Trading Permit for the Flying Scotsman Tavern, for a minimum period of 12 months, in order to allow the Licensee sufficient time to implement appropriate measures to resolve objections/complaints on a long term basis;*
- (iv) *EXPRESSES its strong concern to the Department of Racing, Gaming and Liquor and relevant Minister at the insufficient time provided to respond to the application for renewal of the Extended Trading Permit;*
- (v) *DEFERS the implementation of the introduction of parking restrictions, until the survey of the area is completed in accordance with the Council Decision at Item 9.1.12 of the Ordinary Meeting of Council held on 10 February 2009 and in conjunction with the Consultants' Precinct Parking Management Report, currently being undertaken by Luxmore Consultants;*
- (vi) *NOTES that the Town's Rangers have been instructed ~~will~~ to increase their patrols to the area bounded by Walcott Street, Curtis Avenue, Harold Street and William Street, to identify whether there is evidence that existing problems are related to the Flying Scotsman Tavern and proactively deal with any parking issues;*
- (vii) *CALLS a public meeting of ratepayers, residents, all proprietors of licensed premises and other interested late trading business proprietors to discuss parking issues and alleged antisocial behaviour in the Mt Lawley Precinct (including an invitation to those located in the City of Stirling); and*
- (viii) *ADVISES the Department of Racing, Gaming & Liquor, WA Police, the licensee of the Flying Scotsman Tavern, City of Stirling and objectors of the Council's Decision.*

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

The Chief Executive Officer and Minutes Secretary returned at 8.25pm and issued the requested amendment to the Council Members.

PROCEDURAL MOTION

Moved Cr Youngman, Seconded Cr Farrell

That this item be re-committed for debate.

PROCEDURAL MOTION PUT AND CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

AMENDMENT

Moved Cr Burns, Seconded Cr Youngman

That the Officer Recommendation be amended as follows:

“That;

- (i) (a) *the Council RECEIVES the report regarding the Renewal of the Ongoing Extended Trading Permit (ETP) for the Flying Scotsman Tavern, located at Nos. 639 - 643 Beaufort Street, Mount Lawley;*
- (b) *the Council EXPRESSES its strong concern to the Department of Racing, Gaming and Liquor and relevant Minister at the insufficient time provided to respond to the application for renewal of the Extended Trading Permit; and*
- (c) *the Council REQUESTS that the Department of Racing, Gaming and Liquor to DEFER its decision to renew the existing extended trading permit for the Flying Scotsman Tavern in order to allow the Licensee, Town and Objectors “procedural fairness” to make submissions concerning the objections received during the recent consultation period and any other relevant matters;*
- (ii) *in the event that the Department of Racing, Gaming & Liquor DOES NOT AGREE TO DEFER its decision as detailed in clause (i)(c) above;*
 - (a) *the Council STRONGLY OBJECTS to the ongoing Extended Trading Permit Application as submitted due to consideration of the twelve (12) objections received from local residents; and*
 - (b) *the Council STRONGLY REQUESTS the Department of Racing, Gaming and Liquor not to renew the existing Extended Trading Permit for the Flying Scotsman Tavern, for a minimum period of 12 months, in order to allow the Licensee sufficient time to implement appropriate measures to resolve objections/complaints on a long term basis;*
- (iii) *the Town calls a public meeting of the licensee of the Flying Scotsman Tavern, ratepayers, residents, all proprietors of other licensed premises and other interested late trading business proprietors to discuss parking issues and alleged antisocial behaviour in the Mt Lawley Precinct (including an invitation to those located in the City of Stirling);*

- (iv) *the Council DEFERS the implementation of the introduction of parking restrictions, until the survey of the area is completed in accordance with the Council Decision at Item 9.1.12 of the Ordinary Meeting of Council held on 10 February 2009 and in conjunction with the Consultants' Precinct Parking Management Report, currently being undertaken by Luxmore Consultants;*
- (v) *the Council NOTES that the Town's Rangers have been instructed to increase their patrols to the area bounded by Walcott Street, Curtis Avenue, Harold Street and William Street, to identify whether there is evidence that existing problems are related to the Flying Scotsman Tavern and proactively deal with any parking issues; and*
- (vi) *the Council ADVISES the Department of Racing, Gaming & Liquor, WA Police, the licensee of the Flying Scotsman Tavern, City of Stirling and objectors of the Council's Decision."*

Debate ensued.

Cr Doran-Wu requested the amendment be considered and voted on in two parts (clause (ii) separately).

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

Debate ensued.

AMENDMENT CLAUSES (i), (iii), (iv), (v) and (vi)
PUT AND CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

AMENDMENT CLAUSE (ii) PUT AND CARRIED (4-3)

<u>For</u>	<u>Against</u>
Cr Burns	Mayor Catania
Cr Lake	Cr Doran-Wu
Cr Maier	Cr Farrell
Cr Youngman	

(Cr Ker and Cr Messina on approved leave of absence.)

MOTION AS AMENDED PUT AND CARRIED (6-1)

<u>For</u>	<u>Against</u>
Mayor Catania	Cr Farrell
Cr Burns	
Cr Doran-Wu	
Cr Lake	
Cr Maier	
Cr Youngman	

(Cr Ker and Cr Messina on approved leave of absence.)

COUNCIL DECISION ITEM 9.1.8

That;

- (i) (a) *the Council RECEIVES the report regarding the Renewal of the Ongoing Extended Trading Permit (ETP) for the Flying Scotsman Tavern, located at Nos. 639 - 643 Beaufort Street, Mount Lawley;*
- (b) *the Council EXPRESSES its strong concern to the Department of Racing, Gaming and Liquor and relevant Minister at the insufficient time provided to respond to the application for renewal of the Extended Trading Permit; and*
- (c) *the Council REQUESTS that the Department of Racing, Gaming and Liquor to DEFER its decision to renew the existing extended trading permit for the Flying Scotsman Tavern in order to allow the Licensee, Town and Objectors "procedural fairness" to make submissions concerning the objections received during the recent consultation period and any other relevant matters;*
- (ii) *in the event that the Department of Racing, Gaming & Liquor DOES NOT AGREE TO DEFER its decision as detailed in clause (i)(c) above;*
 - (a) *the Council STRONGLY OBJECTS to the ongoing Extended Trading Permit Application as submitted due to consideration of the twelve (12) objections received from local residents; and*
 - (b) *the Council STRONGLY REQUESTS the Department of Racing, Gaming and Liquor not to renew the existing Extended Trading Permit for the Flying Scotsman Tavern, for a minimum period of 12 months, in order to allow the Licensee sufficient time to implement appropriate measures to resolve objections/complaints on a long term basis;*
- (iii) *the Town calls a public meeting of the licensee of the Flying Scotsman Tavern, ratepayers, residents, all proprietors of other licensed premises and other interested late trading business proprietors to discuss parking issues and alleged antisocial behaviour in the Mt Lawley Precinct (including an invitation to those located in the City of Stirling);*
- (iv) *the Council DEFERS the implementation of the introduction of parking restrictions, until the survey of the area is completed in accordance with the Council Decision at Item 9.1.12 of the Ordinary Meeting of Council held on 10 February 2009 and in conjunction with the Consultants' Precinct Parking Management Report, currently being undertaken by Luxmore Consultants;*
- (v) *the Council NOTES that the Town's Rangers have been instructed to increase their patrols to the area bounded by Walcott Street, Curtis Avenue, Harold Street and William Street, to identify whether there is evidence that existing problems are related to the Flying Scotsman Tavern and proactively deal with any parking issues; and*
- (vi) *the Council ADVISES the Department of Racing, Gaming & Liquor, WA Police, the licensee of the Flying Scotsman Tavern, City of Stirling and objectors of the Council's Decision.*

REASONS FOR SIGNIFICANTLY CHANGING THE OFFICER RECOMMENDATION:

1. **The Licensee of the Flying Scotsman Tavern, Town and Objectors have been denied “procedural fairness” in this process, which would allow them reasonable time to make submissions on the objections received.**
2. **The Council is concerned that as the Department of Racing, Gaming & Liquor has only provided a very short period of time in which to deal with the matter, it is has resulted in insufficient time for all parties to properly prepare their submissions concerning the application.**
3. **The Council is concerned that there is insufficient time to properly investigate the objections received and that it needs further information in which to make an informed decision.**

PURPOSE OF REPORT:

The purpose of this report is to advise the Council that the Flying Scotsman Tavern located at Nos. 639 - 643 (Lot 1) Beaufort Street, Mount Lawley has applied to the Department of Racing, Gaming and Liquor (DRGL) to renew its existing Extended Trading Permit in relation to the premises hours of operation and to approve the recommendation for objecting to the application.

BACKGROUND:

The Council at its Ordinary Meeting held 12 June 2007 considered a previous report regarding an Extended Trading Permit and resolved as follows:

“That the Council;

- (i) *RECEIVES the report relating to the petition lodged with the Town regarding objections to the Flying Scotsman's Extended Trading Permit (ETP) at 639 Beaufort Street, Mount Lawley and resident request for resident only parking in Grosvenor Road, Mount Lawley;*
- (ii) *REQUESTS the Department of Racing, Gaming & Liquors, Liquor Licensing Branch to;*
 - (a) *investigate the petitioners allegations of disorderly conduct within the vicinity of their residences by patrons of the Flying Scotsman Tavern;*
 - (b) *inform the Town in writing of their investigation findings and any subsequent outcomes;*
- (iii) *NOTES the response received by the Flying Scotsman Tavern in relation to allegations made regarding its operations and patrons;*
- (iv) *INVESTIGATES the provision of residents only parking on both sides of Grosvenor Road, Mount Lawley, from the western entry to Grosvenor Road Car Park, for approximately 100 metres, finishing at the western boundaries of numbers 23 and 24 Grosvenor Road, Mount Lawley, following receipt of the petition from residents; and*
- (v) *RECEIVES a further report on the matter following the investigation into residents only parking and consultation with affected residents and businesses.”*

Further to the above, the Council at its Ordinary Meeting held on 10 February 2009 also considered a report, regarding the introduction of parking restrictions to the area surrounding the Raglan Road and Chelmsford Road Car Parks. The Council resolved as follows:

“That the Council;

- (i) APPROVES the change to the current time restriction, in two parking bays, within the area of Raglan Road Car Park, owned by Silverleaf Investments Pty Ltd and controlled by the Town of Vincent, from the existing fifteen minutes (1/4P), between 8:00am and 8:00pm, Monday to Sunday, to five minutes (5 min) At All Times;*
- (ii) APPROVES IN PRINCIPLE the introduction of:*
 - (a) paid parking, operating at all times, to the whole of Raglan Road Car Park, with a "Free Parking Period" of one (1) hour, as shown in Drawing No. 2635-PP-01 attached at Appendix 9.1.12;*
 - (b) paid parking, operating at all times, to the whole of Chelmsford Road Car Park, with a "Free Parking Period" of one (1) hour, as shown in Drawing No. 2635-PP-01 attached at Appendix 9.1.12; and*
 - (c) a two hours (2P) parking time restriction, operating at all times, to both sides of Raglan Road, Grosvenor Road and Chelmsford Road, between Beaufort Street and Hutt Street, Mount Lawley, as shown in Drawing No. 2635-PP-01 attached at Appendix 9.1.12;*
- (iii) AUTHORISES the Chief Executive Officer to advertise the above proposals to introduce paid parking restrictions in Raglan Road and Chelmsford Road Car Parks, as outlined in (ii) and (iii) above, and parking time restrictions, in Raglan Road, Grosvenor Road and Chelmsford Road, Mount Lawley, as indicated in (iv) above, for a period of twenty one (21) days; and*
- (iv) NOTES that:*
 - (a) a further report will be submitted to the Council at the conclusion of the public consultation process; and*
 - (b) Residential Parking Permits will be available to eligible residents in Raglan Road, Grosvenor Road and Chelmsford Road, Mount Lawley.”*

On 5 March 2009, the Town received notification from the Department Racing, Gaming and Liquor (DRGL) of an application by the Flying Scotsman Tavern for an Extended Trading Permit (ETP). Details of the hours provided by the DRGL were as follows:

- Cocktail Bar: Thursday – Saturday 12:00 midnight – 1:00AM;
- The Function Centre: Monday – Saturday 12:00 midnight – 2:00AM and Sunday 10:00PM – 12:00 midnight; and
- Restaurant Area: Monday – Saturday 12:00PM – 1:00AM and Sunday 8:00AM – 10:00AM & 10:00PM – 12:00 midnight.

The Town received a petition in 2006 from residents living within the vicinity of the Flying Scotsman Tavern, relating to grievances with alleged unreasonable amplified music noise, anti-social behaviour, littering of alcohol containers and public urination. The minutes from the Ordinary Meeting of Council held on 12 June 2007 detail outcomes of the actions taken by the Town in response to the petition.

DETAILS:

The Flying Scotsman has provided the following information to the Department of Racing, Gaming and Liquor in their Public Interest Assessment regarding the application for renewal of the extended trading hours:

- Follow guidelines of the *Vincent Accord* and Liquor Licensing Act.
- Staff meet current Responsible Service of Alcohol requirements.
- Adequate security during peak periods for the benefit of patrons and community.
- Weekly staff meetings are held and training programmes are in place.
- No bottle shop, limited take-away sales, discourage sale of shooters.
- Live music is a major part of entertainment, from rock bands to jazz quartets.
- Compressors and sound limiters installed on music equipment, which are tamper proof limiting volume and bass.
- Nightly sound checks on Grosvenor Road when entertainment is on.
- Security employed Wednesday to Sunday from 5.00pm. Nightly car park walk through undertaken to check for litter and unruly behaviour.
- Exciting entertainment precinct.
- Varied patrons from students to business people, with regular clientele.
- Cameras were installed to identify problem groups who previously caused some problems.
- Function Room made available to community groups free of charge. Supports the Morley Branch of the Salvation Army as main charity.

During the community consultation period, the Town received one (1) supporting and twelve (12) objections to the application. Parking, public urination, litter, anti-social behaviour and noise by patrons leaving the venue were repeated concerns expressed in the objection submissions received. Details of issues raised in each objection are tabled below.

Consultation Submissions	Officer Comments
1. <i>No objection to renewal of extended trading hours. Patron's littering is main concern, suggest additional security.</i>	Anecdotal evidence provided in objections received from the community supports the notion that some patrons of the Flying Scotsman Tavern are likely contributors to the public urination, littering, antisocial behaviour and parking issues. It is noted that the Flying Scotsman is located in an 'entertainment precinct' with a number of other licensed restaurants and licensed premises within close proximity that must also be considered in relation to the objections received. Although the Town's and WA Police Statistics do not reflect the above concerns identified (with the exception of parking complaints), it is acknowledged from a compliance and enforcement point of view that the concerns expressed by residents would be difficult for the Town and or Police to respond to given the short duration of such events.
2. <i>Parking, public urination, antisocial behaviour, noise (car doors and shouting).</i>	
3. <i>Patron noise - returning to vehicles, litter (cans), parking in driveway causing obstruction.</i>	
4. <i>Noise from patrons, litter, parking (requested residential only).</i>	
5. <i>Antisocial behaviour, parking ("worse since renovations"), music noise during certain wind conditions, litter, drinking in parked vehicles, public urination, "should not be open until 2am on weeknights", graffiti, vandalism.</i>	
6. <i>Increase in street drinking and "loudness" of patrons leaving the tavern, litter and broken bottles, parking difficulties, syringes.</i>	
7. <i>Hoon vehicles.</i>	

8. <i>Woken up after 12pm regularly on Wed, Fri, Sat and Sun nights by patrons returning to vehicles, alleged assault on 2/7/08 in car park near venue, littering of bottles and cigarette butts, public urination.</i>	The Town's records indicate 48 complaints (of which 11 relate specifically to the Flying Scotsman) received after-hours regarding parking on Chelmsford Road, Raglan Road, Grosvenor Road and Beaufort Street, Mount Lawley within the vicinity of the Flying Scotsman Tavern.
9. <i>Amplified music noise, patrons returning to vehicles, vandalism (pushing over of rubbish bins), litter, syringes.</i>	The Town's 'Licensed Premises Complaint Register', which was established in December 2007 details two complaints during that time regarding the Flying Scotsman. Both complaints related to antisocial behaviour, one of which was confirmed by the WA Police to be a drug related incident, not linked to the management of the Flying Scotsman.
10. <i>Noise (type not specified), property damage, antisocial behaviour, recommends limiting hours to 12am.</i>	
11. <i>Urinating, litter, vandalism, antisocial noise disturbances.</i>	
12. <i>Objection due to rowdy behaviour and general increase in noise on the streets.</i>	
13. <i>Primarily a residential area. 2am is unreasonable, Friday and Saturday only. Sound levels to be reduced. Car bays added, no concessions available for parking. Support restaurant hours on Sunday mornings 8am – 10am.</i>	

Parking

There have been a total of forty eight (48) afterhours complaints (of which eleven (11) specifically relate to the Flying Scotsman, received by the Town's Ranger and Community Safety Services. The details of these complaints are shown in the following table:

Day	Date	Location	Problem	Result	Comments
Mon	10/03/2009	Grosvenor Road	Obstruct driveway	PIN Issued	N/A
Fri	9/05/2008	Barlee Street	Vehicle in No Stopping	No Trace	N/A
Fri	20/06/2008	Raglan Road Car Park	Vehicle parked in ACROD Bay	No Trace	Added to Patrol area
Mon	21/07/2008	Chelmsford Road Car Park	Vehicle in ACROD Bay	PIN Issued	Added to Patrol area
Tue	29/07/2008	Chelmsford Road	Car Across Driveway	Vehicle Removed & Cautioned	2 Rangers got same call. Driver was located and moved Vehicle
Tue	29/07/2008	Chelmsford Road	Car Across Driveway	Vehicle Removed & Cautioned	
Tue	29/07/2008	Harold Street	Vehicle in No Stopping Area	No Trace	Added to Patrol area
Mon	1/09/2008	Barlee Street	"Illegal Parking"	No Trace	Added to Patrol area
Wed	22/10/2008	Beaufort Street	Vehicle overstaying Restriction	Chalked, but vehicle left	Already part of Patrol Area
Tue	6/01/2009	Chelmsford Road/ Beaufort Street	Vehicle overstaying Restriction	Chalked, but vehicle left	Already part of Patrol Area
Tue	10/02/2009	Chelmsford Road	Vehicle causing obstruction	No Trace	Added to Patrol area

It would appear that parking is one of the main causes of complaint in the Mt Lawley Entertainment Precinct. This has been exacerbated with an increase in popularity of the Flying Scotsman Tavern.

Public Meeting

It is considered appropriate that a public meeting be called of ratepayers, residents, all proprietors of licensed premises and other interested late trading business proprietors to discuss parking issues and alleged antisocial behaviour in the Mt Lawley Precinct (including an invitation to those located in the City of Stirling). An invitation will also be extended to WA Police and Department of Racing, Gaming and Liquor.

CONSULTATION/ADVERTISING:

The Department of Racing, Gaming and Liquor issued a General Notice advertising the Flying Scotsman's intentions to apply for an ongoing Extended Trading Permit. The Town of Vincent received a belated circular on 5 March 2009 from the Department of Racing, Gaming and Liquor requesting that any objections or interventions be submitted by 17 March 2009. Health Services enquiries identified that the Department of Racing, Gaming and Liquor initially sent the application to the City of Stirling in error. An extension of time has been requested from the Department of Racing, Gaming and Liquor to enable it to be reported to Council.

To ensure compliance with the Town's consultation policy, Health Services requested an extension of time be provided to comment. A letter drop seeking comment was undertaken to all owners and occupiers within a 200 metre radius of the premises on 9 March 2009, requesting responses by close of business 16 March 2009, to enable the matter to be reported to the Ordinary Meeting of Council on 24 March 2009. Responses received on 17 March 2009 were also included in the report, given the short timeframe available to the Town to seek comment. A number of concerns were raised by residents regarding the short timeframe for responses. Residents will be advised of the reasons behind this, and the matter will be formally addressed with the Department of Racing, Gaming and Liquor again as the referral of matters to other local authorities is not an isolated incident.

Email correspondence received from the Western Metropolitan Alcohol and Drug Office dated 5 March 2009 indicated that the Police do not have any objections to the proposed renewal of the ETP application.

LEGAL POLICY:

- Liquor Control Act 1988; and
- Environmental Protection (Noise) Regulations 1997.

STRATEGIC IMPLICATIONS:

Town of Vincent Strategic Plan 2006 – 2011:

“Natural and Built Environment:

1.1.4 - Minimise negative impacts on the community and environment.

Leadership, Governance and Management

4.1.2 – Manage the Organisation in a responsible, efficient and accountable manner.”

SUSTAINABILITY IMPLICATIONS:

It is essential for sustainable coexistence that the Town supports the needs of both residents and business' whilst facilitating a compromise where conflicts that arise from mixed land use interface exists.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The Flying Scotsman Tavern is a member of the *Vincent Accord* and it is noted that the Licensee has implemented strategies to address complaints received in a petition to the Council in 2006.

The nature and consistency of complaints received regarding incidents within the vicinity of the Flying Scotsman are similar to those received regarding similar licensed venues in close proximity to residential land uses.

The Town's Officers are concerned with the number of objections received from the local community in relation to this application, particularly as they appear to be recurring on a regular basis. The Officers are satisfied that there is sufficient evidence to support the objections/complaints received from the residents. As such, it is considered that the Council should strongly object to the application for renewal of the Extended Trading Permit, and that the Department of Racing, Gaming and Liquor be requested not to renew the Permit for a period of twelve (12) months. This will allow the Licensee sufficient time to implement measures/strategies to resolve the issues outlined in the objections received. A public meeting as outlined in this report should be called in order to provide a forum whereby the matter can be discussed.

9.2.2 Alternative Waste Disposal Options – Progress Report

Ward:	Both	Date:	18 March 2009
Precinct:	All	File Ref:	ENS0008&FIN0078
Attachments:	-		
Reporting Officer(s):	R Lotznicker, John Giorgi		
Checked/Endorsed by:		Amended by:	

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the progress report on alternative waste disposal options as at 17 March 2009;*
- (ii) *NOTES;*
 - (a) *that as from 1 July 2009 the fee for disposal of the Town’s waste at Mindarie Regional Council facilities to increase from \$59.40 per tonne (excl GST) to an estimated \$127 per tonne (excl GST) (yet to be confirmed);*
 - (b) *that the Town’s Chief Executive Officer and Director Technical Services recently met with the Chief Executive Officer of the Western Metropolitan Regional Council (WMRC) to further investigate the disposal of the Town’s waste to the WMRC; and*
 - (c) *the information contained in the report regarding disposing of the Town’s waste at the WMRC prior to their DiCOM Alternative Waste Technology (AWT) being fully operational*
- (iii) *AUTHORISES the Chief Executive Officer to;*
 - (a) *immediately enter into negotiations with the Chief Executive Officer of the WMRC with the short term aim of the Town disposing of its waste at the WMRC prior to their AWT being fully operational and with the long term aim of the Town entering into a long term contract/agreement with the WMRC for the Town’s waste to be delivered to and processed by the WMRC DiCOM AWT;*
 - (b) *immediately enters into negotiations with the Chief Executive Officer Mindarie Regional Council (MRC) regarding the Town’s approved exemption from disposal of all or part of its waste at Mindarie Regional Council facilities, as resolved by the Mindarie Regional Council at its meeting held on 11 October 2007; and*
 - (c) *implement measures to dispose of the Town’s waste as soon as is practicable at WMRC, if negotiations are successful and if there are financial and/or environmental benefits to the Town; and*
- (iv) *ADVISES the WMRC and MRC of its decision.*

Moved Cr Farrell, Seconded Cr Youngman

That the recommendation be adopted.

Debate ensued.

Cr Doran-Wu departed the Chamber at 8.51pm.

Debate ensued.

Cr Doran-Wu returned to the Chamber and Cr Farrell departed the Chamber at 8.54pm.

Debate ensued.

Cr Farrell returned to the Chamber at 8.57pm.

Debate ensued.

AMENDMENT NO 1

Moved Cr Maier, Seconded Cr Lake

That clauses (iii)(c) and (iv) be deleted and a new clause (iv) be inserted as follows and the remaining clause (iv) renumbered as (v):

“(iv) the Chief Executive Officer provide a further report to the Council.”

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

AMENDMENT NO 1 CLAUSE (iii)(c) PUT AND LOST (2-5)

<u>For</u>	<u>Against</u>
Cr Lake	Mayor Catania
Cr Maier	Cr Burns
	Cr Doran-Wu
	Cr Farrell
	Cr Youngman

(Cr Ker and Cr Messina on approved leave of absence.)

AMENDMENT NO 1 CLAUSE (iv) PUT AND CARRIED (6-1)

<u>For</u>	<u>Against</u>
Mayor Catania	Cr Youngman
Cr Burns	
Cr Doran-Wu	
Cr Farrell	
Cr Lake	
Cr Maier	

(Cr Ker and Cr Messina on approved leave of absence.)

AMENDMENT NO 2

Moved Cr Maier, Seconded Cr Lake

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

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

AMENDMENT NO 3 PUT AND CARRIED (6-1)

<u>For</u>	<u>Against</u>
Mayor Catania	Cr Youngman
Cr Burns	
Cr Doran-Wu	
Cr Farrell	
Cr Lake	
Cr Maier	

(Cr Ker and Cr Messina on approved leave of absence.)

Debate ensued.

MOTION AS AMENDED PUT AND CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

COUNCIL DECISION ITEM 9.2.2

That the Council;

- (i) ***RECEIVES the progress report on alternative waste disposal options as at 17 March 2009;***
 - (ii) ***NOTES;***
 - (a) *that as from 1 July 2009 the fee for disposal of the Town's waste at Mindarie Regional Council facilities to increase from \$59.40 per tonne (excl GST) to an estimated \$127 per tonne (excl GST) (yet to be confirmed);*
 - (b) *that the Town's Chief Executive Officer and Director Technical Services recently met with the Chief Executive Officer of the Western Metropolitan Regional Council (WMRC) to further investigate the disposal of the Town's waste to the WMRC; and*
 - (c) *the information contained in the report regarding disposing of the Town's waste at the WMRC prior to their DiCOM Alternative Waste Technology (AWT) being fully operational*
 - (iii) ***AUTHORISES the Chief Executive Officer to;***
 - (a) *immediately enter into negotiations with the Chief Executive Officer of the WMRC with the short term aim of the Town disposing of its waste at the WMRC prior to their AWT being fully operational and with the long term aim of the Town entering into a long term contract/agreement with the WMRC for the Town's waste to be delivered to and processed by the WMRC DiCOM AWT;*
 - (b) *immediately enters into negotiations with the Chief Executive Officer Mindarie Regional Council (MRC) regarding the Town's approved exemption from disposal of all or part of its waste at Mindarie Regional Council facilities, as resolved by the Mindarie Regional Council at its meeting held on 11 October 2007; and*
 - (c) *examine measures to dispose of the Town's waste as soon as is practicable at WMRC, if negotiations are successful and if there are financial and/or environmental benefits to the Town;*
 - (iv) ***the Chief Executive Officer provide a further report to the Council; and***
 - (v) ***ADVISES the WMRC and MRC of its decision.***
-

PURPOSE OF THE REPORT:

The purpose of this report is to inform the Council of the progress of investigations regarding alternative waste disposal options available to the Town.

BACKGROUND:

The Town has been a Member of the Mindarie Regional Council (MRC) since its creation. The MRC Constitution requires the Town to deliver its waste to Tamala Park Refuse facility located in Mindarie unless it is granted an exemption by the MRC or the Town withdraws its membership with the agreement of the other parties.

The MRC has been investigating alternatives to landfill disposal for a number of years and in late 2005, it called tenders for a Resource Recovery Facility (RRF).

After a very lengthy and costly process, the Mindarie Regional Council at its Special Meeting held on 27 June 2007, finally resolved to accept the proposal from BioVision2020 and SITA Environmental Solutions Pty Ltd to construct the first stage of the RRF.

Ordinary Meeting of Council - 25 September 2007:

A comprehensive report on the matter was presented to the Council on 25 September 2007, where the Council adopted the following decision (in part):

- "(i) *RECEIVES the further progress report on the Mindarie Regional Council (MRC) - Member Council Guarantees for the proposed Resource Recovery Facility (RRF);*
- (ii) *APPROVES of the Deed of Guarantee, as requested by the Mindarie Regional Council, as approved at the MRC Special Meeting of Council dated 29 August 2007, subject to;*
 - (a) *the MRC granting the Town an exemption from disposal of its processable waste for an initial period of ten (10) years and with an option for the Town, at its discretion, to extend the period of exemption for a further ten years (and up to a 20 year maximum period), on condition that the Town gives the MRC 12 months' notice prior to effecting the exemption;*
- (iv) *AUTHORISES the Chief Executive Officer to;*
 - (a) *further investigate the alternative waste disposal options and enter into discussions with interested parties;"*

In the report, the Chief Executive Officer and Director Technical Services concluded as follows:

"There are definite cost advantages to the Town by remaining at the MRC, at least in the short term, until the Town has satisfactorily negotiated an alternative disposal option. However, whatever decision is ultimately made by the Council, there are associated inherent risks."

MRC Ordinary Council Meeting – 11 October 2007:

In accordance with the above Council decision clause (ii)(a), the Town wrote to the MRC. A report was subsequently presented to the MRC Council meeting held on 11 October 2007 where the following decision was made (in part):

"That the Council

- (i) *Approve the request from the Town of Vincent for exemption from disposal of all or part of its waste at Mindarie Regional Council facilities should the Town of Vincent identify an alternative option for disposal of its waste."*

MRC Ordinary Council Meeting – 5 March 2009

At the above meeting, the MRC Council made the following decision (in part)

"That the Council

- (ix) *note for planning purposes that the gate Fees for 2009/10 will be \$127/tonne (ex GST) for Processable Waste and 61/Tonne (ex GST) for Non-processable Waste."*

DETAILS:

Processable and Non Processable Waste:

As previously reported to the Council, the MRC had previously agreed a gate fee model, for implementation upon the establishment of the RRF, which comprised the categorisation of waste as follows:

- Processable Waste
- Non Processable Waste

The philosophy associated with this model recognised that not all processable material will be delivered to the Resource Recovery Facility initially. Therefore, an equitable charging model was required, in order to manage, in a fair manner, all processable material, with respect to charges.

It is estimated that in 2009/2010 the Town will dispose of about 13,000 tonnes of processable waste.

The MRC RRF is nearing completion and the opening ceremony is scheduled for 27 March 2009. The commissioning period is planned to commence in April 2009 and the facility is expected to be fully operational on 1 July 2009.

The Processable Gate Fee of \$127/tonne is based on a projected RRF Gate fee of \$142 per tonne and also takes into account the payment of \$2m during the commissioning period.

The MRC are currently awaiting for the final Gate Fee Model and the finalised Gate Fee applicable effective 1 July 2009. This is expected in the coming months as the MRC finalises the Fees for 2009/2010 for the MRC Council meeting to be held in April 2009.

Alternative Waste Disposal Options:

As previously reported to the Council, the Town's Director Technical Services and Chief Executive Officer investigated alternative options and concluded as follows:

South Metropolitan Regional Council (SMRC)

- There would be no long term benefit for the Town to dispose of its waste at the SMRC.
- Cost per tonne would be approximately \$13/tonne higher than the MRC RRF in 2009 costing an additional \$188,500 per annum (based on 14,500 tonnes per annum)
- There would be no security of tenure for the Town.
- The Town would most likely need to purchase another truck (due to increased travel time).

Accordingly, it is recommended that the SMRC not be pursued as an alternative option to the MRC.

Eastern Metropolitan Regional Council (EMRC)

- The EMRC is an alternative to the MRC.
- There are reduced disposal and travel costs when compared to the MRC.
- The EMRC's disposal is landfill and therefore, is not meeting one of the Town's strategic objectives to divert waste from landfill.

Accordingly, it is recommended that the Town continue discussions with the EMRC, but it be viewed as a compromised option.

Western Metropolitan Regional Council (WMRC):

As previously reported to the Council, the WMRC DiCOM AWT facility located at the Brockway Transfer Station is very close to the Town, being located approximately 6 km from the Town's Administration and Civic Centre. By comparison, the other facilities require extensive travel - MRC, Tamala Park - 35kms, MRC RRF site Neerabup - 40kms, SMRC - 15kms, EMRC - 20kms.

There would be cost savings in travelling time, reduced fuel costs and reduced wear and tear on the vehicles by not travelling to MRC with an estimated annual saving of \$100,000+.

Meetings/Discussions with WMRC:

The Town's Director Technical Services initiated discussions with the Chief Executive Officer of the Western Metropolitan Regional Council (WMRC) in September 2007, regarding potential opportunities for the future disposal of the Town's Municipal Solid Waste (MSW).

A subsequent meeting took place, where discussions centred on the Town, possibly in the future, entering into an arrangement to dispose its MSW at the WMRC Brockway site, subject to further discussion and a favourable outcome of the Resource Recovery Facility (DiCOM Stage 2 programmed to be operational in late 2009) currently being implemented at the Brockway site.

The Chief Executive Officer of the MRC was previously advised that any potential move away from the MRC to the WMRC will require extensive investigation by the Town, including financial, legal and operational considerations over the next twelve (12) months and that the Town will continue to dispose of its MSW at Tamala Park in the 2008/2009 financial year.

The Director Technical Services held an informal meeting with the Chief Executive Officer of the WMRC in January 2008, where some WMRC background information was provided to him. At this meeting it was agreed that a number of meetings, at officer level, between the Town and the WMRC, would be scheduled over the next twelve (12) months or so to further progress the matter.

Several additional meetings took place, with the latest occurring on Friday 13 March 2009, where the Town's Chief Executive Officer and Director Technical Services met with the Chief Executive Officer of the Western Metropolitan Regional Council (WMRC) to further discuss disposal of the Town's waste to the WMRC.

WMRC provided an update of progress regarding the RRF and the discussions centred on the possibility of the Town disposing of its waste at the WMRC prior to their Resource Recovery Facility, DiCOM AWT being fully operational.

The WMRC were advised that the long term aim of the Town was to possibly enter into a long term contract/agreement with the WMRC for the Town's waste to be delivered to and processed by the WMRC DiCOM AWT.

The following is an extract from a letter received from the WMRC on 17 March 2008:

"I refer to the recent discussions regarding the progress of the DICOM AWT.

The Stage One Facility is currently undergoing pre commissioning tests with some batch cycles being carried out gradually ramping up to full capacity.

The performance tests for the trial processing of the waste is programmed to commence next month with six batch tests to be satisfactorily completed over six to nine months.

The Stage One Facility operation is to prove the efficacy of the DICOM process and also to determine a processing cost.

On the basis that the Stage One operating trials are successfully completed and the processing costs are acceptable, the Regional Council will then enter into a 20 year contract to supply Municipal Solid Waste (MSW) for processing through the DICOM Alternative Waste Facility.

The Stage Two Full Commercial Facility will then be constructed with commissioning scheduled for early to mid 2011.

With regard to the initial processing cost the pre-agreed performance criteria includes providing quality compost at a service charge capped at 10% above the Members Gate Fee for the disposal of the Western Metropolitan Regional Council refuse to landfill."

The Chief Executive Officer of the WMRC has further advised that he supports the Town disposing of its waste at the WMRC prior to the commissioning of the AWT facility as there is currently capacity for this to occur however this matter would need to be formally considered by the WMRC Council. Any change to WMRC could be as early as 1 July 2009.

The WMRC has advised that the Town of Cambridge has also commenced dialogue with WMRC to dispose of their waste at WMRC.

CONSULTATION/ADVERTISING:

N/A

LEGAL/POLICY:

The Health Act 1911 empowers the Town to collect household refuse.

STRATEGIC IMPLICATIONS:

In accordance with the objective of Strategic Plan 2006-2011 – *Key Result Area 1.1.4 Minimise negative impacts on the community and environment; and 1.1.4(e) "Prepare a Waste Minimisation Strategy that is aligned with State legislation and the Mindarie Regional Council's Strategic direction"*.

SUSTAINABILITY IMPLICATIONS:

Waste of different types and quantities is generated by everyday consumption of goods by individuals, organisations and corporations. Local Government collects most of this waste and tries to ensure there is some sustainability in its practices whereby the material is separated and treated differently depending on what it is.

Disposal of waste nearer to the source and processing all of the Town's waste is considered to be the most sustainable option for the Town. Reduction in fuel, vehicle emissions and greenhouse gas would be achieved. These are yet to be precisely calculated.

FINANCIAL/BUDGET IMPLICATIONS:

The Town currently generates about 13,000 tonnes of MSW per annum. It is estimated that in 2009/2010 the Town will dispose of a similar quantity of waste with the cost comparison as follows:

	2008/2009	2009/2010
Waste quantity (Tonnes)	13,000	13,000
MRC Gate Fee per Tonne	59.40	127.00
Total Cost (\$)	772,200	1,651,000
Difference (\$)		+878,800

The proposed MRC Processable Gate Fee of \$127/tonne is based on a projected RRF Gate fee of \$142 per tonne.

The current (2008/2009) WMRC member rate for waste disposal at its facility is \$109/tonne (excl GST) and \$123/tonne for non members.

Waste delivered to the WMRC is currently transported to the EMRC landfill at Red Hill. When the WMRC DiCOM AWT is operational, this rate will reduce as there will be no land fill levy charged and no carbon tax (yet to be implemented) will apply. Therefore it is anticipated that the rate would be less than the MRC rate of \$127/tonne.

It should be noted however that should the Town dispose of its waste at the WMRC prior to the WMRC DiCOM AWT facility being operational, the Town would be paying non member rates and when operational the Town would be paying member rates.

So, in the short term, the cost to the Town would be comparable to tipping at Tamala Park, notwithstanding the operational savings of approximately \$100,000 plus, however, in the long term there would be cost savings.

COMMENTS:

As mentioned in the report, as from 1 July 2009 the fee for disposal of the Town's waste at Mindarie Regional Council facilities will increase from \$59.40 per tonne (excl GST) to an estimated \$127 per tonne (excl GST).

The Town's Chief Executive Officer and Director Technical Services recently met with the Chief Executive Officer of the Western Metropolitan Regional Council (WMRC) to further investigate the disposal of the Town's waste to the WMRC and the report contains information regarding disposing of the Town's waste at the WMRC prior to their DiCOM AWT being fully operational.

It is recommended that the Town enter into negotiations with the WMRC with the short term aim of the Town disposing of its waste at the WMRC prior to their AWT being fully operational and with the long term aim of the Town entering into a long term contract/agreement with the WMRC for the Town's waste to be delivered to and processed by the WMRC DiCOM AWT.

It is also recommended that the Town enters into negotiations with the Mindarie Regional Council (MRC) regarding the Town's approved exemption from disposal of all or part of its waste at Mindarie Regional Council facilities. In view of the potential financial and environmental benefits it is recommended that the Chief Executive Officer be authorised to implement any changes as soon as is practicable.

9.2.3 Hyde Park – Universally Accessible Playground

Ward:	South	Date:	4 March 2009
Precinct:	Hyde Park P12	File Ref:	RES0042
Attachments:	001		
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 development of a universally accessible playground and associated works at Hyde Park;*
- (ii) *NOTES that;*
 - (a) *a recent grant application submitted through “Variety the Children’s Charity” for \$70,000 was unsuccessful; and*
 - (b) *a grant is currently being processed through Lotterywest for \$100,000 and requires in principle support from the Council and the local community prior to submitting for consideration;*
- (iii) *APPROVES IN PRINCIPLE the design (as displayed) of the proposed accessible playground and landscape improvements around the immediate playground area;*
- (iv) *LISTS an amount of \$200,000 for consideration in the draft 2009/10 budget to enable this project to be completed should further grant funding opportunities also prove unsuccessful;*
- (v) *ADVERTISES the plans for a period of twenty one (21) days inviting written submissions from the public and the Heritage Council of WA (HCWA); and*
- (vi) *RECEIVES a further report to consider any submissions at the conclusion of the consultation period.*

COUNCIL DECISION ITEM 9.2.3

Moved Cr Farrell, Seconded Cr Burns

That the recommendation be adopted.

Debate ensued.

MOTION PUT AND CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

PURPOSE OF REPORT:

The purpose of this report is to advise the Council of the progress of the Hyde Park accessible playground proposal and seek "in principle" support for the project prior to advertising for public comment

BACKGROUND:

An audit of all playgrounds within the Town was undertaken in 2006 and the original Playground Upgrade Program was subsequently revised and adopted by the Council on 11 July 2006.

The playground located at the Throssel Street end of Hyde Park was earmarked for upgrading in the 2007/08 financial year, however only 50% of the total budget was allocated in view that the remaining 50% could be sourced from grant funding opportunities.

Officers have been advised that the majority of grant funding opportunities (including Lotterywest funding) for such projects are aimed more at regional centres, however, an opportunity was identified through "Variety the Children's Charity of WA" and a grant was submitted.

The Town has recently been advised that our submission was unsuccessful.

Further to the above, the Mayor requested that the Town contact Lotterywest after he had discussed this project with the former Minister for Disability Services.

The Town's officers contacted Lotterywest a second time and were subsequently advised to submit an application for funding for the Hyde Park playground project. Community Development officers, in conjunction with Parks Services, have been preparing a submission over the past few months.

As part of the grant submission, the Town is required to demonstrate that there is community support for this project (via public consultation) and that the Council have also given their "in principle" support to the project.

DETAILS:

In preparing the conceptual plans for the new playground, officers engaged "Urban Landscaping", a landscape consultancy who have worked with many of the playground manufacturers in developing playgrounds for local governments and private estates.

The objectives of the playground design were to provide a playground where children of all abilities could grow and develop from play and to provide an environment that families and children could easily access and enjoy the surroundings.

The initial playground development plans for Hyde Park were completed in 2006 and these have been refined over the years following discussions with staff, other local authorities and the Universal Access Advisory Group (UAAG).

In addition, Officers have attended two local (2) playground conferences, "Access for All" held at Technology Park, Bentley in 2007 and "Play for Life" held in Fremantle in October 2008. Both conferences have proven valuable in preparation of the playground design and emphasised the importance of access but also taking into account the importance of various elements such as sand and other sensory type components or plantings.

Playground Upgrade Program

A ten (10) year playground upgrade program was first presented to the Council for approval on 27 March 2001 and this was revised and again approved as a six (6) year upgrade program on 11 July 2006.

The revised program revolved mainly on the upgrade of playground components to comply with the most recent playground equipment standards (AS 4685 Part 1- 6: 2004), however, as outlined in the original program, both the playground surrounds and softfall areas were identified for upgrade where required.

Playground softfall areas with the Town, and most metropolitan Councils prior to 2001, mainly consisted of white washed sand. Due to the high cost of maintaining the pits, which were regularly contaminated with leaf litter, broken glass and sometimes used syringes, there was a change away from sand to recycled rubber softfall.

Over recent years, and in liaison with community groups and residents involved with Officers in designing new playgrounds, there have been requests to provide a sand pit of some type/size. As outlined above, at various conferences/seminars staff have attended it has been recognised that sand plays a significant part in children's play and should not be completely disregarded.

Hence, the Town has accommodated these requests and above advice by incorporating small areas of sand within recent playground upgrade and being smaller areas they are easier to maintain.

Notwithstanding the above, climbing nets, a relatively new playground innovation, are becoming very popular and being installed within many new playground developments. Sand is the most obvious, safe and cost effective softfall material in this situation.

Whilst not originally considered, a small climbing net is now being proposed for the playground upgrade at Hyde Park. Inclusion of a climbing net will obviously mean that the entire playground is not totally accessible to all; however, it does have some advantages which have been recognised by Universal Access Advisory Group (UAAG).

It will provide an area of sand which has been identified as an important play element for all children, particularly for children with autism and children with partial physical disabilities can still utilise parts of the net to build upper body strength. In addition, sand is cheaper than rubber softfall and its location (sand pit) in relation to existing fig tree locations will mean that the contamination from fruit and leaf drop will be reduced.

Universal Access Advisory Group (UAAG)

The UAAG first viewed and discussed the Hyde Park playground and surrounds upgrade conceptual plans at a meeting of the group held on 18 October 2007. Several meetings have since been held on site with the Disability Services Officer, Manager Parks Services and local community members who have children with varying disabilities.

The comments received so far have all been positive with the suggestion of some additional sensory elements, either by way of playground items or actual plantings. Whilst the rubberised surface was a great improvement, they also considered the sand base to the climbing net a necessary requirement given its play value for all children, but particularly those requiring some sensory stimulation.

Members of the group also liked the hard landscaping components of the conceptual plan, which included the proposed stonework and pathways. They felt that the pathways improved access to all areas and the stonework provided a feeling of intimacy to this part of the park.

At least one member of UAAG has visited a similar playground completed by the City of Cockburn at Manning Park and has been suitably impressed with the design, function and accessibility of the equipment.

Heritage Council of Western Australia (HCWA)

On Wednesday 27 June 2007, the Town's Manager Parks Services and Senior Heritage Officer met with Mike Betham from the Heritage Council of Western Australia (HCWA) to discuss the proposed playground upgrade concept plans prepared by Urban Landscaping for the Throssel Street playground and surrounds at Hyde Park.

The discussion revolved around the extent of the works, the impact the proposed works may have on the cultural heritage value of Hyde Park, and how the concept related to the key objectives outlined in the Hyde Park Conservation Plan.

On viewing the conceptual plans, Mr Betham provided "in principle" support for the proposal, however, advised that a formal proposal with detailed plans would need to be submitted to HCWA for their assessment and comment.

CONSULTATION/ADVERTISING:

In accordance with the Council policy, this proposal will be advertised for twenty one (21) days and comments reported back to the Council if any submissions are received.

LEGAL/POLICY:

The development of an accessible playground and associated works at Hyde Park will be undertaken in accordance with Heritage of Western Australia Act 1990 and the Town of Vincent Town Planning Scheme No. 1 and associated Policies.

STRATEGIC IMPLICATIONS:

In accordance with the objective of Strategic Plan 2006-2011 – 1.1.5 Enhance and maintain parks and community facilities. *"a) Ensure all Towns services, playgrounds and facilities are universally accessible where practicable."*

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

This project was originally estimated to cost in the order of \$250,000, however, due to the increase in materials and with the addition of project consultancy/landscape architect fees, is now in the vicinity of \$322,000.

There is currently \$125,000 listed in the 2008/09 budget which will be carried forward into the 2009/10 financial year. Therefore an additional \$200,000 is required which will have to be made up from either municipal funds or grant funding opportunities.

COMMENTS:

This project has now been under consideration for a number of years and staff are receiving an increasing number of calls from patrons who consider the playground at the Throssel Street end of Hyde Park well overdue for replacement, particularly with the level of use it receives.

It is therefore recommended that the Council provide in principle support for this project and the works are completed during the 2009/10 financial year either with municipal funding alone or a combination of grant and municipal funding should the Town's grant submission be successful.

9.2.4 Universally Accessible Facilities Program 2008-2028 – Adoption

Ward:	Both	Date:	18 March 2009
Precinct:	All	File Ref:	CMS0067
Attachments:	001		
Reporting Officer(s):	K Steicke; J van den Bok		
Checked/Endorsed by:	R Lotznicker, John Giorgi	Amended by:	

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the further report on the proposed Universally Accessible Facilities Program;*
- (ii) *NOTES that the estimated cost to implement the program has been calculated on current building costs and ENDORSES the twenty (20) year Universally Accessible Facilities Program as detailed on appendix 9.2.4;*
- (iii) *CONSIDERS LISTING appropriate funding in future capital/specified maintenance budgets to enable the Universally Accessible Facilities Program to be ‘progressively’ implemented subject to available funding in any specific financial year;*
- (iv) *AUTHORISES the Chief Executive Officer to liaise with interested parties, sporting clubs or community groups when finalising plans for the provision of accessible facilities in accordance with the program; and*
- (v) *RECIEVES further progress reports on the implementation of the program as required.*

Moved Cr Farrell, Seconded Cr Maier

That the recommendation be adopted.

Debate ensued.

AMENDMENT NO 1

Moved Cr Maier, Seconded Cr Lake

That clause (ii) be deleted and a new clause (ii) be inserted as follows:

- “(ii) *NOTES that the estimated cost to implement the program has been calculated on current building costs and ENDORSES the Universally Accessible Facilities Program, subject to this being amended in order that the works are carried out as an eight (8) year program;*”

Debate ensued.

AMENDMENT NO 1 PUT AND LOST (2-5)

<u>For</u>	<u>Against</u>
Cr Lake	Mayor Catania
Cr Maier	Cr Burns
	Cr Doran-Wu
	Cr Farrell
	Cr Youngman

(Cr Ker and Cr Messina on approved leave of absence.)

Debate ensued.

AMENDMENT NO 2

Moved Cr Burns, Seconded Cr Farrell

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

“(vi) EXAMINES the possibility in the future of accelerating the Program without significant affect on the ratepayers.”

Debate ensued.

AMENDMENT NO 2 PUT AND LOST (2-5)

<u>For</u>	<u>Against</u>
Cr Lake	Mayor Catania
Cr Maier	Cr Burns
	Cr Doran-Wu
	Cr Farrell
	Cr Youngman

(Cr Ker and Cr Messina on approved leave of absence.)

Debate ensued.

AMENDMENT NO 3

Moved Cr Doran-Wu, Seconded Cr Burns

That a new subclause (ii)(a) be inserted as follows:

“(a) the Officers reassessing the prioritisation of the North Perth Town Hall to an earlier date.”

AMENDMENT NO 3 PUT AND CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

Debate ensued.

AMENDMENT NO 4

Moved Cr Youngman, Seconded Cr Doran-Wu

That a new subclause (ii)(b) be inserted as follows:

“(b) the Officers reassessing the prioritisation of the Leederville Tennis Club to Year 5, after the North Perth Bowling Club.”

AMENDMENT NO 4 PUT AND CARRIED (6-1)

<u>For</u>	<u>Against</u>
Mayor Catania	Cr Burns
Cr Doran-Wu	
Cr Farrell	
Cr Lake	
Cr Maier	
Cr Youngman	

(Cr Ker and Cr Messina on approved leave of absence.)

Debate ensued.

MOTION AS AMENDED PUT AND CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

COUNCIL DECISION ITEM 9.2.4

OFFICER RECOMMENDATION:

That the Council;

- (i) ***RECEIVES the further report on the proposed Universally Accessible Facilities Program;***
- (ii) ***NOTES that the estimated cost to implement the program has been calculated on current building costs and ENDORSES the twenty (20) year Universally Accessible Facilities Program as detailed on appendix 9.2.4, subject to:***
 - (a) ***the Officers reassessing the prioritisation of the North Perth Town Hall to an earlier date; and***
 - (b) ***the Officers reassessing the prioritisation of the Leederville Tennis Club to Year 5, after the North Perth Bowling Club;***
- (iii) ***CONSIDERS LISTING appropriate funding in future capital/specified maintenance budgets to enable the Universally Accessible Facilities Program to be 'progressively' implemented subject to available funding in any specific financial year;***
- (iv) ***AUTHORISES the Chief Executive Officer to liaise with interested parties, sporting clubs or community groups when finalising plans for the provision of accessible facilities in accordance with the program; and***
- (v) ***RECIEVES further progress reports on the implementation of the program as required.***

PURPOSE OF REPORT:

The purpose of this report is for the Council to adopt the "Universally Accessible Facilities Program 2008-2028" to enable the remaining universal access facilities works previously identified within the Town to be progressed.

BACKGROUND:

At the Ordinary Meeting of Council held on 27 May 2008, a progress report was presented outlining the provision of universally accessible facilities within the Town. At the meeting it was resolved:

"That the Council;

- (i) ***RECEIVES the progress report in relation to the provision of universal accessible facilities within the Town of Vincent;***
- (ii) ***NOTES that the six (6) year Playground Upgrade Program adopted by Council on 11 July 2006, allows for the provision of rubber softfall surfacing and, where practicable, paths will be installed directly to the playground area and drinking fountains will be installed adjacent to playgrounds as part of the 2008/09 Parks Furniture budget allocation (refer appendix 10.2.4A);***

- (iii) *LISTS for consideration appropriate funding in future budgets for the installation of new water services and drinking fountains at various reserves;*
- (iv) *REQUESTS the Chief Executive Officer to develop a plan which outlines indicative costs and planned year of implementation for the upgrading and prioritisation of works for the Town's buildings, based on the information included in appendix 10.2.4B; and*
- (v) *RECEIVES a further report and updated plan by August 2008."*

DETAILS:

The Town's Property Maintenance Officer has liaised with universal facilities consultant/specialist Peter Jones Architect and the CPD (Property & Building Maintenance) Group Pty Ltd in formulating and prioritising the attached program to complete the upgrade of universal facilities within the Town.

A brief outline of the works year by year is listed below.

Year 1 – 2008/2009

- The Forrest Park pavilion upgrade project was approved by the Council at its Ordinary Meeting held on 24 February 2009 and works will commence in late March 2009.
- Designs are currently being drawn up for the accessible toilet and lift installation at Mt Hawthorn Community Centre.

Year 2 – 2009/2010

- The Britannia Road Reserve Staged Upgrade (Tender No. 383/08) was approved by the Council at its Ordinary Meeting held on 22 July 2008. Stages 1, 2 and 3 have been completed. Stage 4 is proposed to proceed in 2009/2010 and involves the upgrade/refurbishment of all the "wet areas" and provision of ramps and ACROD car bays.

Year 3 – 2010/2011

- Although the recent improvements to Les Lilleyman Reserve have provided some universal access improvements, a toilet is still required for public use.

Year 4 – 2011/2012

- North Perth Bowling Club has ladies accessible facilities only.

Year 5 – 2012/2013

- North Perth Lesser Hall lacks universal access facilities within the building.

Year 6 – 2013/2014

- Loton Park Tennis Club lacks universal access facilities within the building.

Year 7 – 2014/2015

- Highgate Child Health Clinic has ramped access and an ACROD parking bay but no accessible toilet facility.

Year 8 – 2015/2016

- Azzuri Bocci Club requires the provision of a unisex universally accessible toilet.

Year 9 – 2016/2017

- Banks Reserve pavilion has limited non compliant universal access.

Year 10 – 2017/2018

- The Town of Vincent Depot has access ramps to the offices but no provision for accessible change room facilities.

Year 11 – 2018/2019

- Leederville Tennis Club does not currently have universal access to the premises clubhouses or public amenities.

Year 12 – 2019/2020

- Weld Square will require the provision of unisex universally accessible toilets.

Year 13 – 2020/2021

- Halvorson Hall has a steep non compliant ramp to access the building but no accessible provision.
- Litis Stadium Clubhouse has no or limited disability access to the premises.

Year 14 – 2021/2022

- Charles Veryard has an internal clubhouse accessible toilet but no access to this by the general public.
- Dorrien Gardens Clubhouse requires the provision of compliant accessible facilities.

Year 15 – 2022/2023

- Hyde Park West public toilets require the provision of accessible facilities.

Year 16 – 2023/2024

- Kyilla Reserve Public Toilets require the provision of unisex universally accessible toilets.

Year 17 – 2024/2025

- Birdwood Square requires the provision of unisex universally accessible toilets.

Year 18 – 2025/2026

- North Perth Tennis Club has no or limited disability access to the premises.

Year 19 – 2026/2027

- Woodville Reserve pavilion has no or limited disability access to the premises.

Year 20 – 2027/2028

- North Perth Town Hall lacks universal access facilities within the building.

Officers' Comments:

The above program has been prioritised in liaison with the Town's Disability Services officer and following building assessments made by the Town's Property Maintenance officer and consultant architect.

The twenty (20) year program allows for an average of around \$70,000 - \$90,000 per annum over twenty (20) years to undertake accessibility upgrades to 24 of the Town owned buildings.

In addition, it should be noted that the estimated cost to implement the program has been calculated on current building costs and, given the nature of the building industry, these costs will be reviewed on an annual basis.

CONSULTATION/ADVERTISING:

Where required, projects are advertised in the local papers and community consultation is undertaken.

LEGAL/POLICY:

All new or modification works within the Town are undertaken in accordance with the Town's Disability Access Inclusion Plan 2006-2011 and associated policies, which provides access to all users in accordance with the relevant standards and codes.

STRATEGIC IMPLICATIONS:

In accordance with the objective of Strategic Plan 2006-2011 – 1.1.5 Enhance and maintain parks and community facilities “a) *Ensure all playgrounds and facilities are universally accessible where practicable.*”

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

The costs associated with the work requirements at each site have been estimated in liaison with Peter Jones Architect and information from the Rawlinson's Australian Construction Handbook.

Costs associated with the completion of Year 1 of the program are listed in the Town's 2008/09 budget and costs associated with Year 2 relate to the staged upgrade of the showers/toilets as part of the Britannia Road Reserve Clubrooms/Change room upgrade project, Tender No. 383/08, approved by the Council at its Ordinary Meeting held on 22 July 2008.

It should be noted that costs for Years 3 to 20 are estimates based on present building/material costs and these will need to be reviewed/adjusted prior to submitting the draft budget for each financial year.

COMMENTS:

It is therefore recommended that the Council approve the proposed Universally Accessible Facilities Program 2008-2028 and allow sufficient funding in future capital/specified maintenance budgets to complete the works required.

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.

PROCEDURAL MOTION

At 9.35pm Moved Cr Farrell, Seconded Cr Youngman

That Council proceed "behind closed doors" to consider confidential items:

- *14.1 as this matter contains information affecting employees;*
- *14.2 as this matter contains information that has a commercial value to a person or information about the business, professional, commercial or financial affairs of a person;*
- *14.3 and 14.4, as these matters contain legal advice obtained or which may be obtained by the local government and which relates to a matter to be discussed at the meeting.*

PROCEDURAL MOTION PUT AND CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

No public or journalists were present.

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

14.1 Confidential Report: Town of Vincent Organisational Review 2009

Ward:	Both	Date:	18 March 2009
Precinct:	All	File Ref:	ADM0061
Attachments:	-		
Reporting Officer(s):	John Giorgi		
Checked/Endorsed by:	-	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- RECEIVES the Report on the Town of Vincent Organisational Review 2009 as detailed in this report; and*
- NOTES the Chief Executive Officer will provide a further report on the Organisational Review, when it is completed;*

COUNCIL DECISION ITEM 14.1

Moved Cr Farrell, Seconded Cr Youngman

That the recommendation be adopted.

Debate ensued.

MOTION PUT AND CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

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

PURPOSE OF THE REPORT:

To inform the Council of an Organisational Review, of the Town's Administration which is being conducted by the Town's Chief Executive Officer.

BACKGROUND:

The Chief Executive Officer is conducting a review of the Town's organisation under the following terms of reference:

REVIEW – TERMS OF REFERENCE

1. Review the current Organisational Structure to ascertain if it best meets the needs of our organisation to achieve our current and future objectives, as outlined in our *Strategic Plan 2009-2014* and *Plan for the Future 2009-2014*.
2. Identify better efficiencies and improvements which can be achieved in our internal and external service delivery.
3. Review our;
 - (a) processes, procedures and Council Policies/Guidelines (and other relevant documentation) to;
 - (i) improve the processing of development applications, subdivisions to ensure they are issued within the statutory timeframes;
 - (ii) and the issuing of building licences within 20 working days; and
 - (b) processes and procedures with the view to improving our internal customer service and external customer focus and delivery and focus.
4. Review our employee resources, including remuneration levels and performance expectations, when benchmarked against other similar local governments and organisations.
5. Review and reassess the organisation and its service delivery and practises to;
 - (a) achieve a minimum of 3% cost savings against the Draft Operating Budget 2009-10, without impacting or reducing our front line services or levels delivered to the community;

- (b) identify other improvements and efficiencies;
- (c) identify whether any current services could be discontinued, modified and/or reduced; and
- (d) identify additional sources of revenue/income.

Review to be completed and a report submitted to the Chief Executive Officer by 30 April 2009.

DETAILS:

Reasons for an Organisational Review

1. There has not been a whole organisation review since April 2003.

In April 2003 the Council received a report concerning an Independent Organisation Review which was carried out by external consultants. Since 2003 the recommendations of the Organisational Review were progressively implemented.

Over the proceeding years, the Chief Executive Officer has carried out informal reviews of various parts of the organisation as and when required, to improve efficiencies and effectiveness. However, a whole of organisation review is considered appropriate.

2. Budget Implications

The Town's Administration has received advice that several significant budget implications will eventuate in 2009, these include:

- (a) Rubbish tipping fees
This will increase from \$59 a tonne to approx. \$127 a tonne (yet to be confirmed), which will result in at least \$800,000 increase for this item.
- (b) Utility increases
The lighting tariff will increase by 15% in April 2009 and a further 15% in July 2009.
- (c) Investments
The financial return on the Town's investments will be significantly reduced due to the World Economic Climate.

3. Local Government Reform

As Council Members are aware, the Minister for Local Government has requested all local governments in WA to provide information as part of his strategies for voluntary amalgamations of local governments and a reduction in number of Council Members. The Chief Executive Officer therefore believes that an Organisation Review carried out parallel to this process is beneficial.

4. Section Manager – Contract of Employments

Six of the Town's Section Managers Contracts of Employment expire in December 2009 and the Chief Executive Officer is required to advise them no later 1 July 2009 as to whether their Contracts will be renewed. It is therefore appropriate to carry out any Organisation Review prior to any Contracts being renewed, as any changes to duties and responsibilities can be made as part of contract process.

As mentioned at the Meeting of Council Members held on 12 March 2009, it is not the intention of the Chief Executive Officer to focus on employment but to genuinely investigate efficiencies and cost saving.

CONSULTATION/ADVERTISING:

Not applicable.

LEGAL/POLICY:

The Local Government Act Section 5.41 prescribes the functions and duties of the Chief Executive Officer and these include:

“(d) manage the day to day operations of the local government;” and

“(g) be responsible for the employment, management, supervision and dismissal of other employees (except designated senior employees)”.

The conducting of a review is one of the functions of the Chief Executive Officer.

STRATEGIC IMPLICATIONS:

This is in keeping with the Town’s Strategic Plan Key Result Area 4.1.2 – *“Manage the organisation in a responsible, efficient and accountable manner”.*

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

None – this review will be conducted in-house by the Town’s Chief Executive Officer.

COMMENTS:

The Chief Executive Officer has discussed this matter with the Town’s Directors and there is unanimous agreement and support on the Terms of Reference. The Town’s Managers have also be informed. Furthermore, the Review will be conducted over a brief period in order to minimise any anxiety and angst which may be experienced by the Town’s employees.

The Chief Executive Officer believes that cost savings and efficiencies can be identified and achieved in time for consideration as part of the Town’s budget process 2009-2010.

14.2 Confidential Report: Members Equity Stadium – Progress Report No. 2 /2009

Ward:	South	Date:	18 March 2009
Precinct:	Beaufort, P13	File Ref:	RES0082
Attachments:	-		
Reporting Officer(s):	John Giorgi		
Checked/Endorsed by:	-	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the progress report No. 2/2009 as at 18 March 2009 on the possible redevelopment and upgrade of Members Equity Stadium, as detailed in this report;*
- (ii) *APPROVES BY AN ABSOLUTE MAJORITY to allocate \$11,000 from the Perth Oval Reserve Fund to appoint the following consultants:*
 - (a) *\$8,000 to appoint a Quantity Surveyor to carry out detailed cost estimates for the Proposed Stage 2 Redevelopment; and*
 - (b) *\$3,000 to appoint a Scheduler/Construction Programmer to carry out a detailed project timeline for the Proposed Stage 2 Redevelopment;*
- (iii) *ADOPTS the following position concerning Members Equity Stadium and advises the Department of Sport and Recreation accordingly:*
 - (a) *the Town will not lease Members Equity Stadium to the State Government on a long term basis;*
 - (b) *the Town will not relinquish control of its asset and the Stadium Management Committee; and*
 - (c) *that it considers the most acceptable and cost efficient option of delivering the Proposed Stage 2 Redevelopment of Members Equity Stadium is by a Financial Assistance Agreement between the State Government and the Town;*
- (iv) *NOTES that:*
 - (a) *Rugby WA have engaged an external consultant at an estimated cost of \$120,000 to assist them in securing a rectangular stadium and to obtain other information to lobby the government on the merits of upgrading Members Equity Stadium; and*
 - (b) *the Council's decision (clauses (iii), (iv) and (v)) of the Ordinary Meeting of Council held on 8 April 2008 has not been implemented by the stakeholders and has been superseded by the recent events for the Proposed Stage 2 Redevelopment Upgrade of Members Equity Stadium and therefore the allocated \$35,000 will no longer be used; and*
- (v) *AUTHORISES the Chief Executive Officer (in liaison with the Mayor) to enter into discussions with the Minister for Sport and Recreation, Department of Sport and Recreation and other Members Equity Stadium Stakeholders.*

COUNCIL DECISION ITEM 14.2

Moved Cr Farrell, Seconded Cr Youngman

That the recommendation be adopted.

Debate ensued.

MOTION PUT AND CARRIED
BY AN ABSOLUTE MAJORITY (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

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

PURPOSE OF REPORT:

The purpose of the report is to update the Council on the progress of the possible redevelopment and upgrade of Members Equity Stadium and to reallocate funds to enable essential consultancy works to be carried out.

BACKGROUND:

On 11 March 2009 (and received on 16 March 2009) the Department of Sport and Recreation formally wrote to the Town and advised that it is in the process of examining future development options at Members Equity Stadium and requested further detailed information be provided by way of numerous questions. The letter stated that the Minister for Sport and Recreation has requested "*further investigation of potential development and delivery options at Members Equity Stadium that will provide the best outcomes for the sports.*" Many of the questions can be answered in-house by the Town's Chief Executive Officer, as these relate to currently legal documentation such as leases, Heads of Agreement, traffic, and the like. Other questions relate to the Town's design proposal which the Town provided to the Minister in January 2009. However, several questions require external consultants to be engaged in order to provide the requested information which can only be carried out by external consultants. These relate to:

- (a) the indicative costings timeline – Quantity Surveyor to be appointed; and
- (b) indicative program of works – Scheduler/Programmer to be appointed.

As previously reported to Council, the Town lodged a submission with the Major Stadia Taskforce on 13 April 2006, as reported to the Council on 24 February 2009 (Item 9.4.4).

At the Ordinary Meeting of Council held on 8 April 2008, the Council resolved inter-alia as follows;

"That the Council; ...

- (iii) *APPROVES BY AN ABSOLUTE MAJORITY for \$35,000 to be allocated for a Temporary Upgrade Feasibility and Business Case (to increase the Stadium capacity to 25,000 patrons and corporate suites to 30) to be undertaken and this be funded from the Perth Oval Reserve Fund;*

- (iv) *REQUESTS the Stadium Major Sports Users (Rugby WA, Western Australian Rugby League (WARL) and Perth Glory Football Club (PGFC)) together with Allia Venue Management (Allia) prepare a Business Case for submission to the Town/Minister for Sport and Recreation; and*
- (v) *subject to (iii) and (iv) above being carried, AUTHORIZES the Town's Chief Executive Officer to engage an Independent Consultancy Firm to audit and verify the Business Case, prior to submission to the Minister for Sport and Recreation."*

Previous Progress Reports

Progress reports have been submitted to the Ordinary Meeting of Council held on 24 February 2009, 8 April 2008, 4 December 2007, Special Meeting of Council held on 29 May 2007 and Ordinary Meetings of Council held on 13 June 2006, 11 April 2006, 14 February 2006, 22 November, 12 July and 26 April, 22 March 2005, 21 December and 26 October 2004.

Proposed Concept Plans

As reported to the Ordinary Meeting of Council held on 24 February 2009, the proposed Stage 2 concept plans are similar to the Town's Stage 2 Redevelopment, which was presented to the Major Stadia Taskforce. The concept plans will provide;

1. an increased capacity from 18,156 to 25,144 (seating will increase from 13,099 to 22,344);
2. the construction of a new Eastern Stand, which will incorporate the majority of the new facilities;
3. a total of 35 additional corporate suites (11 existing and 24 new);
4. improved lighting (1100 lux to 1400 lux);
5. a new electronic scoreboard;
6. two new video replay screens;
7. a new playing pitch and sub-soil drainage; and
8. increased CCTV surveillance for patron safety.

The plans include the usual facilities such as kitchens, food outlets, toilets, etc, in the new Eastern Grandstand. There will also be additional change-rooms, player and spectator facilities such as sports lounge, media centre, break-out room and the latest medical facilities on-site to meet Australian Rugby Union (ARU) international requirements. In addition, player security and safety will be improved with the provision of a drive-through for coaches and ambulances.

The redevelopment of Members Equity Stadium is in keeping with the recommendations of the Major Stadia Taskforce that suggested that Member Equity Stadium be the second stadium in the State catering specifically for soccer and rugby.

Previous Council's Position – Major Stadia Taskforce Recommendations

At the Special Meeting of Council held on 29 May 2007 and reaffirmed at the Ordinary Meeting of Council held on 4 December 2007 the Council considered an Urgent Business item 13.2 and resolved inter alia as follows:

- (iii) *APPROVES of the Council's position for the Taskforce recommendations, as detailed below and ADVISES the Minister for Sport and Recreation and Department that;*

(a) *TASKFORCE RECOMMENDATION 1 - NUMBER OF STADIA:*

"That the State Government adopt a Two Stadium Policy that will accommodate the needs of AFL, Rugby Union, Rugby League, Soccer and Cricket."

Council Position:

The Council has previously supported a two-stadium policy and continues to do so.

(b) *TASKFORCE RECOMMENDATION 2 - MAJOR STADIUM:*

"That the State Government develop within the next 4 to 8 years a 60,000 seat multi-use outdoor stadium, incorporating a reconfigurable lower tier of seating to allow the field to be reconfigured for oval and rectangular sports."

Council Position:

This Recommendation is supported. The aspect of timing is not particularly relevant to the Town. At this stage, the Council is not in a position to express a view on the East Perth site, as it is currently assessing the comprehensive details in the Taskforce Report. The Council will advise of its position at a later date, after it has further considered the matter.

(c) *TASKFORCE RECOMMENDATION 3 - MEMBERS EQUITY STADIUM:*

"That Members Equity Stadium is retained as the State's rectangular stadium at its current capacity with some minor improvements."

Council Position:

This Recommendation is supported. The Town requests that further information concerning the "minor improvements", be provided to the Town. The Town further requests that it be fully consulted in this matter.

(d) *TASKFORCE RECOMMENDATION 4 - RECTANGULAR STADIUM:*

"The State Government develop a major capacity rectangular stadium (potentially at MES) at some time in the future when the number of events and the Business Case support such a development."

Council Position:

This Recommendation is supported. The Council requests the State Government to select MES as the site for the major rectangular stadium. The Town requests that it be fully consulted in this matter.

(e) *TASKFORCE RECOMMENDATION 5 - FUTURE EXPANSION:*

"That the major stadium (and its site) should have the capacity to be expanded to a total capacity of 70,000 seats."

Council Position:

This Recommendation is not particularly relevant to the Town other than in the event that the East Perth site is selected it will require the logistics to cope with an increased capacity of 10,000 spectators (plus necessary events support staff, eg 500), at some time in the future.

Therefore, the Town should not take a position at this stage.

(f) *TASKFORCE RECOMMENDATION 6 - PUBLIC TRANSPORT STRATEGY:*

"That the State Government requires the major stadium (and hirers) to have a strategy that achieves public transport utilisation of 50 to 70% of the stadium capacity."

Council Position:

This Recommendation is strongly supported.

(g) *TASKFORCE RECOMMENDATION 7 - GOVERNANCE:*

"That the governance of the major stadium should be independent of the sporting codes and other major hirers."

Council Position:

This Recommendation is supported.

(h) *TASKFORCE RECOMMENDATION 8 - INDEPENDENT STADIA TRUST:*

"That the major stadium should be governed by a State Government appointed Trust/Authority."

Council Position:

This Recommendation is supported. However, it should not apply to Members Equity Stadium - which the Town owns freehold and in which the Town has made a significant contribution as part of Stage 1 Redevelopment. The Town requests further information concerning this Recommendation.

(i) *TASKFORCE RECOMMENDATION 9 - SINGLE TRUST:*

"That the State Government consider establishing a single Trust/Authority to oversee Western Australia's major government funded sports and entertainment infrastructure."

Council Position:

This Recommendation is supported. However, it should not apply to Members Equity Stadium - which the Town owns freehold and in which the Town has made a significant contribution as part of Stage 1 Redevelopment. The Town requests further information concerning this Recommendation.

(j) *TASKFORCE RECOMMENDATION 10 - FUNDING:*

"That no public funds be allocated to the redevelopment/development of any existing or new stadium unless it is under the direct control of a Government Appointed Trust/Authority."

Council Position:

This Recommendation is supported. However, it should not apply to Members Equity Stadium - which the Town owns freehold and in which the Town has made a significant contribution as part of Stage 1 Redevelopment. The Town requests further information concerning this Recommendation.

Should the State Government compulsorily acquire/resume the Town's facility, full compensation to the Town is required.

Control of Members Equity Stadium

Recent informal discussions with the Department of Sport and Recreation have revealed that they are keen to control Members Equity Stadium, possibly through a Sports Centre Trust. This view is consistent with the recommendations of the Major Stadia Taskforce.

CEO's Comment:

The Department of Sport and Recreation were advised that Town's position remains unchanged from the Council Meetings of 29 May 2007 and 4 December 2007.

Possible Long Term Lease of Members Equity Stadium to the State Government

The Department of Sport and Recreation in its recent letter has requested information concerning the circumstances/pre-requisites of the Town to lease the title to the State on a long term basis.

The Town's Chief Executive Officer has previously verbally suggested to the Department of Sport and Recreation that a long term lease of Members Equity Stadium to the State on a commercial basis could be explored, subject to the Council's approval. The Department of Sport and recreation have indicated that the State Sports Centre Trust could be responsible for the governance of the upgraded stadium. They have suggested that the Town could provide the lease on a "peppercorn basis" (i.e. no rent). This has been totally rejected by the Town's Chief Executive Officer.

The Department of Sport and Recreation are not in favour of a commercial lease. They would prefer to have total control of the facility.

Advantages of a Long Term Lease

1. The Town would no longer have any financial costs for Members Equity Stadium. It currently pays approximately \$60,000 per annum into the Perth Oval Reserve Fund for future upgrade works.
2. A commercial lease (with a significant rent components) would provide income to the Town.

Disadvantages of a Long Term Lease

1. The Town's control over Members Equity Stadium would be significantly reduced. Future redevelopment may not be in keeping with the Town's position or philosophy.
2. The Town's control over activities and events at Members Equity Stadium would be significantly reduced and be much more difficult to supervise. (Activities may adversely impact on the Town's residents (e.g. concerts, noise, etc)) – a similar situation to Subiaco Oval would be created, whereby the local government virtually has no say at what occurs at a major facility.
3. The Town would have minimal control over its asset and infrastructure – which could deteriorate over the term of the lease.

Conclusion

Whilst a commercial lease (with a significant rent component) could provide future income, it would come at a significant "social" price to the Town's community. Experience at Subiaco Oval and other stadia in Australia has demonstrated that control and management is crucial. Once leased, the owner of the facility is reliant on the lessee to adhere to the lease and be a "good tenant". As the impact of Members Equity Stadium (and any future upgrade) on the Town's residents is important, the option of a long term lease to the State Government is not recommended.

Similarly the Council should continue to control Members Equity Stadium (via the Stadium Management Committee) and not relinquish it to another body.

CONSULTATION/ADVERTISING:

Nil.

LEGAL/POLICY:

Quotations have been obtained for the essential consultancies.

STRATEGIC IMPLICATIONS:

This is in keeping with the Town's Strategic Plan 2006-2011 - Objective 1.1.6(g) - *"Carry out the redevelopment of Members Equity Stadium (Perth Oval) in partnership with the State Government."*

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

The previously approved funding of \$35,000 (Ordinary Meeting of Council 8 April 2008) has not been spent, as the Stakeholder Business Case was not submitted to the Town. The requested \$11,000 can be part of the previously approved funding of the Ordinary Meeting of Council held on 8 April 2008.

Indicative Costing

One of Perth's leading and respected Quantity Surveyors has prepared an Indicative Budget Estimate for the redevelopment, including the proposed eastern grandstand.

It is estimated that the development of Members Equity Stadium will cost approximately \$73 million (based on current cost estimates – subject to change and prevailing costs at the time of construction).

Funding

There are no funds in the Town's Budget for a major redevelopment of Members Equity Stadium. The Perth Oval Reserve Fund contains \$421,362 as at 28 February 2009.

Full funding for this project is sought from the State Government.

COMMENTS:

Informal feedback has been received that the Minister for Sport and Recreation has been most receptive to the Town's concept and is seeking further information from the DSR and other stakeholders, particularly Rugby WA. The request for additional information will assist the Minister and State Government in reaching a decision for the upgrade of Members Equity Stadium. The Town can assist in this process by providing the requested information.

Further reports will be submitted to the Council, once further information is received concerning this matter.

14.3 CONFIDENTIAL REPORT – No. 71 (Lot: 199 D/P: 93039) Edward Street, East Perth - Proposed Storage Silo Addition to Existing General Industry (Hanson Concrete Batching Plant) - State Administrative Tribunal (SAT) Review Matter No. DR 405 of 2008

Ward:	South	Date:	16 March 2009
Precinct:	Claisebrook Road North; P15	File Ref:	PRO4024; 5.2008.377.1
Attachments:	-		
Reporting Officer(s):	R Rasiah		
Checked/Endorsed by:	H Smith; R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the report relating to No. 71 (Lot: 199 D/P: 93039) Edward Street, East Perth - Proposed Storage Silo Addition to Existing General Industry (Hanson Concrete Batching Plant) - State Administrative Tribunal (SAT) Review Matter No. DR 405 of 2008;*
- (ii) *FURTHER REITERATES to the SAT its previous "STRONG OBJECTION" and reasons for Refusal dated 23 September 2008, to the above proposal; and*
- (iii) *FURTHER REQUESTS the SAT to dismiss the proposal for the reasons as stated in the public submissions (summarised) received as a result of the advertising undertaken by the Town as per the SAT Order No.4:*
 - (a) *The additions are considered detrimental to the amenity of the area;*
 - (b) *There is no confidence that Hanson will cease operating after 2012, based on current upgrades to the facility;*
 - (c) *This industrial usage should not be supported in this precinct. There is a need to improve the area, rather than make it worse;*
 - (d) *The area is obviously increasing with residential and professional developments;*
 - (e) *Excessive noise, which is more noticeable and annoying during the extended hours of operation and is an eyesore on the landscape;*
 - (f) *Not compatible with residential and commercial usage and is an undesirable location for increased activity;*
 - (g) *Agreeance with the reasons for refusal as per the Council decision;*
 - (h) *The plant is already noisy, and trucks "clog" the roads in my locality;*
 - (i) *During strong winds, concrete dust is blown across the road into reception the area of business. No matter what equipment is used, there is bound to be airborne concrete dust coming out of the Hanson plant; and*
 - (j) *That the SAT makes a decision on fact and not be swayed by the "impressive" size of the Hanson Company, or their environmental card as stated in the submission for the proposal.*

COUNCIL DECISION ITEM 14.3

Moved Cr Farrell, Seconded Cr Youngman

That the recommendation be adopted.

Debate ensued.

MOTION PUT AND CARRIED (5-2)

For

Mayor Catania
Cr Burns
Cr Doran-Wu
Cr Farrell
Cr Lake

Against

Cr Maier
Cr Youngman

(Cr Ker and Cr Messina on approved leave of absence.)

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

PURPOSE OF REPORT:

- To update the Council on the above review application.
- To comply with the requirements of the Town's Policy/Procedure for the SAT.

Landowner:	Hanson Construction Materials Pty Ltd
Applicant:	P Honczarenko
Zoning:	Metropolitan Region Scheme: Urban Town of Vincent Town Planning Scheme No.1 (City of Perth City Planning Scheme No. 2)-East Perth Precinct (P15), EPRA Scheme
Existing Land Use:	Concrete Batching Plant
Use Class:	General Industry
Use Classification:	"Unlisted" under City of Perth City Planning Scheme No.2
Lot Area:	3841 square metres
Access to Right of Way	Not applicable

BACKGROUND:

June 1996 The Hanson Concrete Batching Plant (previously Pioneer Constructions Materials) has operated in the area for around 40 years. The East Perth Redevelopment Authority (EPRA) approved the above plant at its current location to make way for the Graham Farmer Freeway for a period 16 years, subject to the hours of operation being limited from 6 am to 7pm, Monday to Saturday.

May 2001 EPRA approved the removal of the restrictions on the hours of operation for a period of 12 months only, to allow a review of the impact of the plant and associated vehicles.

On-going approval under delegated authority was issued by the City of Perth on 19 April 2002, 19 March 2003, 30 March 2004 and 6 April 2005, for the on-going removal of the restrictions on the hours of operation, each for a further 12 months, allowing a continued review of the impact of the unrestricted hours given that the area is in gradual transition towards increased residential development.

19 January 2005 Conditional Planning Approval was granted by the City of Perth for the proposed further extension to operating time.

29 August 2006 The City of Perth Council granted approval for the removal of time restrictions for a further period of 12 months.

19 April 2007 A notice was served by the Department of Environment and Conservation (DEC) on Hanson Concrete Batching Plant with a \$250 fine for dust tracking caused by trucks leaving residue on the road.

8 May 2007 The Council considered the extension of time for the operating time of the Hanson Concrete Batching Plant at the above site as part of the advertising process, which at that point in time was under the jurisdiction of the City of Perth, and resolved as follows:

“That the Council;

- (i) ADVISES the City of Perth that the Council STRONGLY OBJECTS to the proposed removal of the restrictions on the hours of operation of 6.00 am to 7.00 pm Monday to Saturday (to 24 hour operation) at No. 71 (Lot 199) Edward Street, Perth, in relation to the Hanson Concrete Batching Plant, due to the detrimental impact on nearby residential areas within the Town of Vincent;*
- (ii) REQUESTS the City of Perth to advertise for community consultation in a 250 metre radius the Development Application proposing the removal of restrictions on the hours of operation of 6.00am to 7.00pm Monday to Saturday (to 24-hour operation) at No. 71 (Lot 199) Edward Street, Perth, regarding the Hanson Concrete Batching Plant, for the following reasons:*
 - (a) it is acknowledged that the East Perth Redevelopment Authority (EPRA) in June 1996 approved the current use for a period of sixteen (16) years and that the hours restrictions have been removed on an annual application basis since 2002 however, also acknowledge that the permanent and original approval was subject to the hours of operation being restricted from 6.00am to 7.00pm Monday to Saturday; and*
 - (b) complaints have been lodged with the City of Perth, EPRA, Town of Vincent and Department of Environment and Conservation (DEC) in relation to insufficient community consultation, unreasonable noise, dust emissions, and increased heavy haulage traffic flow; and*
- (iii) in the event of City of Perth deciding to approve the application without Community Consultation on the proposed altered hours of operation, the City of Perth is REQUESTED to INCLUDE the following Conditions of Approval and confirm the conditions in writing to the Town;*
 - (a) prior to changes in operating hours Community Consultation be conducted with residents and business owners in a 250 metre radius around the batching plant to identify and address concerns regarding health, safety, noise, dust, heavy haulage traffic, and relevant amenity issues;*

- (b) *a Complaint Handling System be implemented that includes a procedure to log and deal with complaints from residents and owners allegedly affected within the Town of Vincent;*
- (c) *a Management Plan be required that includes the control and monitoring of dust, unreasonable noise after 7.00pm to 7.00am, and heavy haulage traffic, to the reasonable satisfaction of the City of Perth, residents/businesses in a 250 metre radius, the Department of Environment and Conservation and the Town of Vincent;*
- (d) *a review of conditions by June 2008 including community consultation within a 250 metre radius; and*
- (e) *the removal of restrictions of the hours of operation of 6.00am to 7.00pm Monday to Saturday being limited to a maximum period of twelve (12) months of notification to the applicant by the City of Perth."*

5 June 2007

The City of Perth Council at its meeting resolved as follows, as per the City of Perth's letter dated 28 June 2007:

"That in accordance with the provisions of the City Planning Scheme No 2 and the Metropolitan Region Scheme, the Council APPROVES the application for the removal of restrictions on the hours of operation of 6.00 am to 7.00 pm Monday to Saturday for the Hanson Concrete Batching Plant at 71 (Lot 199) Edward Street, East Perth as detailed on the Metropolitan Region Scheme Form One dated 22 March 2007 subject to:

"1.the removal of the operating time restrictions being valid until 4 November 2007, to allow a review of the impact of the plant and associated vehicle movements on the surrounding area, by the relevant authority, at the conclusion of this period;

2. a management plan that addresses community concerns regarding traffic impacts, environmental and health concerns, being submitted to the City and the Town of Vincent prior to 29 June 2007. The management plan should include, but not limited to the following:-

- 2.1 noise management for on-site activities;*
- 2.2 dust and cement waste management including regular washing down of trucks before exiting the site, dust control onsite and regular sweeping and cleaning of materials spilled on surrounding roads;*
- 2.3 a traffic management plan with particular reference to delivery operations occurring before 6.00am and after 7.00pm Monday to Saturday, and incorporating driver education in regard to truck routes, vehicle speeds, and operations to minimise disturbance and public safety concerns;*
- 2.4 methods for notifying affected properties along Claisebrook Road and Edward Street on occasions when unusually high truck movements are likely to occur outside of the previously restricted hours of 6.00am to 7.00pm Monday to Saturday;*
- 2.5 the implementation of a complaint handling system that includes a procedure to log and deal with complaints from residents and owners allegedly affected by the concrete batching plant's operations."*

- 1 July 2007 The subject site is transferred to the Town of Vincent jurisdiction as part of Local Government Boundary changes.
- 12 October to
9 November 2007 Advertising of application undertaken by the Town (Serial 5.2007.312.1).
- 5 and 6 November 2007 The Town's Administration did not object to the temporary removal of the restriction on the hours of operation on 5 and 6 November 2007.
- 6 November 2007 The Council at its Ordinary Meeting considered the temporary removal of the restriction on the hours of operation from 7 November 2007 to 20 November 2007 (Serial No. 5.2007.438.1) for the Hanson Concrete Batching Plant at the above site and resolved to refuse the proposal for the following reasons:
1. *Negative impact on residents.*
 2. *Noise.*
 3. *Pollution.*
- 7 November 2007 Letter received from the Department of Environment and Conservation (DEC) stating that the 24 hours operation of the subject concrete batching plant has the potential to adversely impact the health, welfare, convenience, comfort or amenity of the nearby residents.
- 20 November 2007 The Council at its Ordinary Meeting considered the subject application and resolved the following:
- "That this Item be DEFERRED for further investigation."*
- 18 December 2007 The Council at its Ordinary Meeting considered the proposed removal of restrictions on the hours of operation of 7:00pm to 6:00am Monday to Saturday for existing general industry premises (Hanson Concrete Batching Plant), at the above site and resolved to refuse the proposal for the following reasons:
- (a) *the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
 - (b) *the significant increase in the adverse impact on the community;*
 - (c) *the excessive noise, dust and traffic impacts caused by the concrete batching facility and the numerous concrete batching trucks and heavy haulage trucks bringing raw materials to the site as a result of operating during the previous extended hours of operation;*
 - (d) *the proposal is not an appropriate compatible activity with the surrounding residential land use in the current location;*
 - (e) *the proposal results in an impediment to appropriate regeneration of the area with further additional residential developments and will further entrench the subject use, thus prejudicing any such regeneration;*
 - (f) *the proposal results in greater disbenefit than benefit to the residents and owners of other businesses in the immediate and surrounding vicinity of the subject development site;*

- (g) *the concerns raised by the Department of Environment and Conservation (DEC) in its letter dated 7 November 2007, that the 24 hours operation of the concrete batching plant has the potential to adversely impact the health, welfare, convenience, comfort or amenity of the nearby residents;*
- (h) *consideration of the numerous objections received; and*
- (i) *it is considered that there are alternative concrete batching plants within close proximity of the Perth metropolitan area and CBD to cope with outside business hours demands for concrete;*
 - (ii) *the Council ADVISES the owners of the Hanson Concrete Batching Plant that with the preparation of the Town's new Town Planning Scheme, and its intended vision for the area, and the incompatibility of the use, the Council is unlikely to favourably consider a further planning approval at the expiry of the current planning approval in 2012 for the batching plant to operate beyond 2012; and*
 - (iii) *the Council ADVISES the owners of the Hanson Concrete Batching Plant that the Town would be prepared to consider after hours operations for concrete deliveries for projects of a Regional and State significance such as bridges, stadiums, railways, and the like, subject to the lodgement of a new planning application and associated procedures for each such project."*

2 April 2008

The State Administrative Tribunal approved the extension of operating hours which was refused by the Council at its Ordinary Meeting held on 18 December 2007.

23 September 2008

The Council at its Ordinary Meeting resolved to refuse the application for the proposed Storage Silo Addition to Existing General Industry (Hanson Concrete Batching Plant) for the following reasons:

- "(a) *the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
- (b) *the significant increase in the adverse impact on the community;*
- (c) *the excessive noise, dust and traffic impacts caused by the increased capacity at the concrete batching facility, as a consequence of an increase in numerous concrete batching trucks and heavy haulage trucks bringing raw materials to the site and resulting from the increased storage capacity operating within the extended hours of operation recently approved by the State Administrative Tribunal;*
- (d) *the proposal is not an appropriate compatible activity with the surrounding residential land use in the current location;*
- (e) *the proposal results in an impediment to appropriate regeneration of the area with further additional residential developments and will further entrench the subject use, thus prejudicing any such regeneration;*

- (f) *the proposal results in greater disbenefit than benefit to the residents in the immediate and surrounding vicinity of the subject development site;*
- (g) *the concerns raised by the Department of Environment and Conservation (DEC) in its letter dated 7 November 2007, that the 24 hours operation of the concrete batching plant has the potential to adversely impact the health, welfare, convenience, comfort or amenity of the nearby residents;*
- (h) *consideration of the numerous objections received previously when the extended operating hours were advertised; and*
- (i) *the Council ADVISES the owners of the Hanson Concrete Batching Plant that with the preparation of the Town's new Town Planning Scheme, and its intended vision for the area, and the incompatibility of the use, the Council is unlikely to favourably consider a further planning application at the expiry of the current Planning Approval in 2012 for the batching plant to operate beyond 2012."*

12 November 2008 The Town's Officers attended a Direction Hearing at the SAT in relation to a review application lodged with the SAT by Hanson Construction Materials Pty Ltd.

2 December 2008 The Council at its Ordinary Meeting considered a "*Confidential Report*" relating to the proposed Storage Silo Addition to Existing General Industry (Hanson Concrete Batching Plant), which was subject to a State Administrative Tribunal Review Matter DR 405 of 2008, and resolved as follows:

- "(i) *RECEIVES the report relating to No. 71 (Lot: 199 D/P: 93039) Edward Street, East Perth - proposed Storage Silo Addition to Existing General Industry (Hanson Concrete Batching Plant) - State Administrative Tribunal (SAT) Review Matter No. DR 405 of 2008; and*
- (ii) *INVITES the Mayor, Director Development Services and a Senior Planning Officer to represent the Town at the Mediation at SAT on 19 December 2008 or an alternative date if the matter is rescheduled."*

19 December 2008 Mediation held at the SAT, attended by the Mayor, Director Development Services and Coordinator Statutory Planning.

10 February 2009 The Council at its Ordinary Meeting considered a "*Confidential Report*" and resolved as follows:

"That the Council;

- (i) *RECEIVES the report relating to No. 71 (Lot: 199 D/P: 93039) Edward Street, East Perth - proposed Storage Silo Addition to Existing General Industry (Hanson Concrete Batching Plant) - State Administrative Tribunal (SAT) Review Matter No. R 405 of 2008;*

- (ii) *FILES and SERVES the following draft "without prejudice" conditions if the SAT is inclined to approve the above proposal and in response to the SAT Orders dated 29 December 2008:*
- (a) *prior to the commencement of the operation of the new silo, an updated management plan shall be submitted to and approved by the Town, which includes addressing the following matters:*
- (i) *noise management for on-site activities;*
 - (ii) *dust and cement waste management including regular washing down of trucks before exiting the site, dust control on-site and regular sweeping and cleaning of materials spilled on surrounding roads;*
 - (iii) *a traffic management plan with regard to all vehicles entering and exiting the site, including vehicles delivering raw materials, Monday to Saturday, driver education in regard to truck routes, vehicle speeds, and operations to minimise disturbance and public safety concerns;*
 - (iv) *methods for notifying affected properties along Claisebrook Road, Edward Street and other internal streets used to access Lord Street on occasions when unusually high truck movements are likely to occur Monday to Saturday;*
 - (v) *the implementation of a complaint handling system that includes a procedure to log and deal with complaints from residents and owners allegedly affected by the concrete batching plant's operations, including a manned compliant line, details of which is to be annually forwarded to the Town of Vincent for consideration; and*
 - (vi) *a review of the above management plan after the first 12 months of operation;*
- (b) *no special one off applications for extended operating hours shall be applied for on Sundays and public holidays;*
- (c) *there shall be no increase in truck movements as a result of the proposed additional silo; and*
- (d) *the above use shall cease operations as of 26 June 2012; and*
- (iii) *INVITES MAYOR Catania to submit a written submission (witness statement) on behalf of the Council on the Review (appeal), which is to be determined by way of a "Final Hearing".*

- 13 February 2009 Directions Hearing held at the SAT.
- 18 February 2009 Advertising required to be carried out by the Town on or by this date, as per the SAT Orders, with the submission required to be reported back to the SAT by 13 March 2009.
- 23 February 2009 Further mediation to be held at the SAT was vacated.
- 27 February 2009 Witness statements to be submitted to the SAT. This was further extended to 11 March 2009, as per Orders dated 19 February 2009.
- 30 March 2009 Final Hearing date.

DETAILS:

There are no changes to the details of the proposal as stated in the report to the Ordinary Meeting of Council held on 23 September 2008 (Item 10.1.8).

CONSULTATION/ADVERTISING:

The proposal was required to be advertised under the EPRA Scheme under sub-clause 2.19.1, prior to the Town exercising the power conferred by sub-clause 2.19.1 "*(not comply with a standard or requirement prescribed by the Scheme)*", where it considers that the proposed development may have a significant effect on any land. The Authority (Town) may consult with any owner or occupier of that land prior to making any decision on the application.

Furthermore, clause 5.2.4 stipulates that when considering a use not listed in the Scheme (General Industry) as a preferred or contemplated use in that particular precinct "*may only consider the application after appropriate advertising for public submissions and consultation in accordance with clause 2.19*".

Consultation Submissions		
Advertising was carried out for 14 days between 18 February 2009 and 5 March 2009 to owners and occupiers within a radius of 300 metres of the subject site. Below is a summary of the submissions received.		
Nature of submission	Reason(s) for objection or support	Officer Comments
Support (2)	<ul style="list-style-type: none"> No justification given. 	Noted.
Objection (57), including a petition consisting of 41 signatures.	<ul style="list-style-type: none"> The additions are considered detrimental to the amenity of the area. 	Supported- as the additional equipment and operations, together with the extended operating hours will significantly increase the adverse impact on the amenity of the community.
	<ul style="list-style-type: none"> No confidence that Hanson will cease operating after 2012, based on current upgrades to the facility. 	Supported- based on the capital cost of this proposal, and further entrenchment of the use.
	<ul style="list-style-type: none"> This industrial usage should not be supported in this precinct. Need to improve area, rather than make it worse. 	Supported- as residential development is increasing in the area, with industrial activities relocating to more suitable industrial zoned areas outside the Town of Vincent.

	<ul style="list-style-type: none"> The area is obviously increasing with residential and professional developments. 	Supported - as not considered acceptable within an emerging residential neighbourhood and professional type uses.
	<ul style="list-style-type: none"> Excessive noise, which is more noticeable and annoying during the extended hours of operation and is an eyesore on the landscape. 	Supported- however, this aspect is under the jurisdiction of the Department of Environment and Conservation (DEC) to monitor and enforce non-compliances.
	<ul style="list-style-type: none"> Not compatible with residential and commercial usage and undesirable location for increased activity. 	Supported – as the plant does not contribute to the positive living and visual amenity of the area.
	<ul style="list-style-type: none"> Agree with the reasons for refusal as per the Council decision. 	Noted.
	<ul style="list-style-type: none"> The plant is already noisy, and trucks "clog" the roads around "my property". 	Supported -as the excessive noise, dust and traffic impacts caused by the increased capacity at the concrete batching facility, as a consequence of an increase in numerous concrete batching trucks, and heavy haulage trucks bringing raw materials to the site and resulting from the increased storage capacity operating within the extended hours of operation recently approved by the State Administrative Tribunal.
	<ul style="list-style-type: none"> During strong winds, concrete dust is blown across road into reception area of business. No matter what equipment is used, there is bound to be airborne concrete dust coming out of the Hanson plant. 	Noted.
	<ul style="list-style-type: none"> The SAT makes a decision on fact and not be swayed by the "impressive" size of the Hanson Company, or their environmental card as stated in the submission for the proposal. 	Noted.
	<ul style="list-style-type: none"> Submission attached to Petition, detailing safety and health reasons, fugitive dust, information on fly ash and future vision for the area. 	Noted and supported.
One (1) no comment.	<ul style="list-style-type: none"> Nil 	Noted.

LEGAL/POLICY:

Planning and Development Act 2005 (WA), State Administrative Tribunal Act 2004 (WA) and Town's Policy No. 4.1.25 - Procedure for State Administrative Tribunal, and East Perth Redevelopment Scheme.

STRATEGIC IMPLICATIONS:

There are no changes to the Strategic related comments as stated in the report to the Ordinary Meeting of the Council held on 18 December 2007 (Item 10.1.3) as follows:

"The land recently transferred to the Town of Vincent is located on its eastern boundary and acts as a gateway into the Town of Vincent. Accordingly, the visual and general amenity of the area should be of a high standard and improved where possible. The land also adjoins the Beaufort Precinct which is undergoing transformation alongside New Northbridge. Evidence of this transformation is occurring within the immediate area with significant recent mixed-use and residential developments.

The industrial use on the subject site detrimentally impacts on the amenity of the immediate and surrounding area and there is concern that further extensions of operating hours of the use will further entrench the use, thus prejudicing any improvements which have been taking place in the general locale.

Accordingly, for the reasons outlined above, it is considered that an extension of the hours of operation of the subject use will have a detrimental impact on the amenity of the area. It is therefore recommended that the application be refused on strategic planning grounds."

SUSTAINABILITY IMPLICATIONS:

The Applicants in their submission claim that the process reduces the amount of carbon dioxide emissions released into the atmosphere. No scientific evidence to support the above statement has been provided.

The Town's view is that the use should be relocated to an appropriately zoned land (that is, Industrial Zone).

FINANCIAL/BUDGET IMPLICATIONS:

Planning Consultant fees paid to Simon Bain, SJB Town Planning and Urban Design.

COMMENTS:

In light of the tight timeframes, it is not recommended that the Town invite the objectors to participate as witnesses in the review. The SAT requested at the Directions Hearing held on 13 February 2009 for all submissions to be forwarded to all parties involved by 13 March 2009. The above request will also ensure that the nature and extent of the objections are considered by the SAT. The Town's Officers have provided both the SAT and applicant with copies of all the submissions (objections and support) received in relation to the proposed development on 13 March 2009. The above information has been provided on the basis that all the submissions are treated as "*Confidential*" documents for the purposes of this review matter only.

In light of the above, it is recommended that the Council receive the report relating to the SAT review matter and advise the Tribunal as per the Officer Recommendation.

14.4 CONFIDENTIAL REPORT- No. 165 (Lot: 37 D/P: 3642) Scarborough Beach Road, Mount Hawthorn - Proposed Change of Use from Warehouse to Recreational Facility (Dance Studio) and Associated Alterations in the Anvil Lane Lower Level Floor-State Administrative Tribunal- Review Matter No. DR 478 of 2008

Ward:	North	Date:	16 March 2009
Precinct:	Mount Hawthorn Centre; P2	File Ref:	PRO0281; 5.2008.164.1
Attachments:	-		
Reporting Officer(s):	R Narroo		
Checked/Endorsed by:	H Smith, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That, given the decision by the Council at its Ordinary Meeting held on 24 February 2009 to refuse the application, the Council;

- (i) *RECEIVES the report relating to No.165 (Lot D/P:3642) Scarborough Beach Road, Mount Hawthorn- Proposed Change of Use from Warehouse to Recreational Facility (Dance Studio) and Associated Alterations in the Anvil Lane Lower Level Floor-State Administrative Tribunal (SAT) Hearing- Review Matter No. DR 478 of 2008;*
- (ii) *FILES and SERVES the following draft “without prejudice” conditions in response to the SAT Orders dated 3 March 2009;*
 - (a) *this approval is for Recreational Facility (Dance Studio) use only, and any change of use from Recreational Facility (Dance Studio) shall require Planning Approval to be applied for and obtained from the Town prior to commencement of such use;*
 - (b) *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;*
 - (c) *the maximum gross floor area of the Recreational Facility (Dance Studio) shall be limited to 363 square metres as shown on the approved plans. Any increase in floor space or change of use for the subject land shall require Planning Approval to be applied to and obtained from the Town;*
 - (d) *the hours of operation for the proposed Recreational Facility (Dance Studio) shall be limited to 9am to 7.30pm, Monday to Friday and 8am to 12 noon on Saturday, inclusive;*
 - (e) *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;*
 - (f) *the maximum total number of employees shall be limited to three (3) at any one time; and*
 - (g) *the maximum total number of students/clients shall be limited to forty (40) at any one time;*

-
- (iii) *NOMINATES Councillor(s).....to submit a written submission (witness statement) on behalf of the Council on the Review (appeal), which has been scheduled to be determined by way of a “Final Hearing” on 24 April 2009; and*
- (iv) *INVITES the residents who objected to the proposal to submit a written submission (witness statement) on behalf of the Council on the Review (appeal), which has been scheduled to be determined by way of a “Final Hearing” on 24 April 2009.*
-

Moved Cr Farrell, Seconded Cr Burns

That the recommendation be adopted.

The Presiding Member, Mayor Nick Catania called for nominations for clause (iii).

No nominations were received.

Debate ensued.

AMENDMENT

Moved Cr Doran-Wu, Seconded Cr Farrell

That a new subclause (ii)(h) be inserted as follows:

“(ii)(h) prior to the first occupation of the development, the applicant/owner(s) shall demonstrate to the satisfaction of the Town that a legal agreement has been entered into with the owners of the car parks at Nos. 169-173 (Lots 5 and 99) Scarborough Beach Road and Nos.60-62 (Lot 98) Coogee Street, Mount Hawthorn, for the use of these car parks for the duration of the proposed use in accordance with the conditions of development approval, detailing the permitted number of car bays allocated and the usage days and times;”

AMENDMENT PUT AND CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

MOTION AS AMENDED PUT AND CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

COUNCIL DECISION ITEM 14.4

That, given the decision by the Council at its Ordinary Meeting held on 24 February 2009 to refuse the application, the Council;

- (i) *RECEIVES the report relating to No.165 (Lot D/P:3642) Scarborough Beach Road, Mount Hawthorn- Proposed Change of Use from Warehouse to Recreational Facility (Dance Studio) and Associated Alterations in the Anvil Lane Lower Level Floor-State Administrative Tribunal (SAT) Hearing- Review Matter No. DR 478 of 2008;*

- (ii) **FILES and SERVES** the following draft “without prejudice” conditions in response to the SAT Orders dated 3 March 2009;
- (a) *this approval is for Recreational Facility (Dance Studio) use only, and any change of use from Recreational Facility (Dance Studio) shall require Planning Approval to be applied for and obtained from the Town prior to commencement of such use;*
 - (b) *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;*
 - (c) *the maximum gross floor area of the Recreational Facility (Dance Studio) shall be limited to 363 square metres as shown on the approved plans. Any increase in floor space or change of use for the subject land shall require Planning Approval to be applied to and obtained from the Town;*
 - (d) *the hours of operation for the proposed Recreational Facility (Dance Studio) shall be limited to 9am to 7.30pm, Monday to Friday and 8am to 12 noon on Saturday, inclusive;*
 - (e) *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;*
 - (f) *the maximum total number of employees shall be limited to three (3) at any one time;*
 - (g) *the maximum total number of students/clients shall be limited to forty (40) at any one time; and*
 - (h) *prior to the first occupation of the development, the applicant/owner(s) shall demonstrate to the satisfaction of the Town that a legal agreement has been entered into with the owners of the car parks at Nos. 169-173 (Lots 5 and 99) Scarborough Beach Road and Nos.60-62 (Lot 98) Coogee Street, Mount Hawthorn, for the use of these car parks for the duration of the proposed use in accordance with the conditions of development approval, detailing the permitted number of car bays allocated and the usage days and times;*
- (iii) **NOTES** no nominations were received by Councillors to submit a written submission (witness statement) on behalf of the Council on the Review (appeal), which has been scheduled to be determined by way of a “Final Hearing” on 24 April 2009; and
- (iv) **INVITES** the residents who objected to the proposal to submit a written submission (witness statement) on behalf of the Council on the Review (appeal), which has been scheduled to be determined by way of a “Final Hearing” on 24 April 2009.

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

PURPOSE OF REPORT:

- To update the Council on the above review matter.
- To comply with the requirements of the Town's Policy/Procedure for SAT.
- To advise the Council of the draft "*without prejudice*" conditions of approval in advance of the determination of the above review matter.

BACKGROUND:

- 19 October 1987 The City of Perth Council at its Ordinary Meeting approved an application to convert an existing shop to a shop and warehouse.
- 15 June 1992 The City of Perth Council at its Ordinary Meeting approved an application for a caretakers unit in an existing shop.
- 28 June 1994 The City of Perth Council at its Ordinary Meeting refused an application for the proposed establishment of a place of public worship within an existing building.
- 13 September 1994 The Council at its Ordinary Meeting refused an application for change of use from shops (retail use) to an eating house and storage space.
- 6 November 2007 The Council at its Ordinary Meeting approved an application for change of use from shops and warehouse to eating house, shop and warehouse.
- 23 May 2008 The Town under Delegated Authority conditionally approved proposed change of use from shops and warehouse to consulting rooms (non-medical) (beauty salon) and shop (hairdressing salon) and associated alterations.
- 23 May 2008 The Town under Delegated Authority conditionally approved signage addition to approved consulting rooms (non-medical) (beauty salon) and shop (hairdressing salon).
- 18 July 2008 The Town issued a Building Licence for an internal fit-out of the above non-medical consulting rooms (beauty salon) and shop (hairdressing salon).
- 9 September 2008 The Council at its Ordinary Meeting refused an application for proposed Change of Use from Warehouse to Recreational Facility (Dance Studio) and Associated Alterations, in the Anvil Lane lower level floor, at the subject place for the following reasons:
- "*(i) the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
- "*(ii) the non-compliance with the Town's Policy No. 3.7.1 relating to Parking and Access ; and*
- "*(iii) consideration of the objections received.*"

- 9 December 2008 The applicant lodged a review application to the SAT in relation to the refusal issued by the Council at its Ordinary Meeting held on 9 September 2008.
- 24 December 2008 Directions Hearing held at the SAT.
- 10 February 2009 Mediation held at the SAT.
- 24 February 2009 The Council at its Ordinary Meeting refused an application for proposed Change of Use from Warehouse to Recreational Facility (Dance Studio) and Associated Alterations, in the Anvil Lane lower level floor- Request from the State Administrative Tribunal (SAT) to Reconsider Decision- Review Matter No. DR 478 of 2008, for the following reasons:
- “(i) *the development, which is unable to meet any of its parking obligations on-site, is not consistent with the orderly and proper planning and the preservation of the amenities of the locality and would generate excessive demand on presently available public car parking spaces;*
 - (ii) *the non-compliance with the Town's Policy No. 3.7.1 relating to Parking and Access; and*
 - (iii) *consideration of the objections received.”*

DETAILS:

The application involves a proposed change of use from warehouse to recreational facility (dance studio) and associated alterations in the Anvil Lane lower level floor of the subject two storey building. The proposal is identical to the change of use that was refused by the Council at its Ordinary Meeting held on 24 February 2009.

CONSULTATION/ADVERTISING:

Not applicable.

LEGAL/POLICY:

Planning and Development Act 2005 (WA), State Administrative Tribunal Act 2004 (WA) and Town's Policy No. 4.1.25 - Procedure for State Administrative Tribunal.

STRATEGIC IMPLICATIONS:

Nil.

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Planning Consultant fees paid to Simon Bain, SJB Town Planning and Urban Design who will represent the Town at the Hearing on 24 April 2009.

COMMENTS:

The key issue relevant to this Application for Review is to determine whether the calculation of the “resultant shortfall” of car parking bays for the subject property as presented to the Council Ordinary Meeting held on 9 September 2008 is correct or not.

The report to the Council on 24 February 2009 explained clearly the background for the car parking calculations. The Council accepted the Town’s Officers comments with regard to the parking calculation and therefore refused the application.

Order 9 of the SAT correspondence dated 3 March 2009 requires the Town to submit a set of conditions which the Town will impose in the event the Tribunal considers approving the application. The final hearing will be held on Friday, 24 April 2009. As per the Town’s standard practice, Council Members and objectors are also invited to participate as witnesses in the subject review and to prepare a written submission for consideration.

Conclusion

The Council refused this application on 9 September 2008 and 24 February 2009. It is therefore recommended that the Council receive the report relating to the SAT review matter and endorse the “*without prejudice*” conditions, as per the Officer Recommendation, should the SAT grant approval of the proposed development.

PROCEDURAL MOTION

At 10.01pm Moved Cr Farrell, Seconded Cr Youngman

That an "open meeting" be resumed.

PROCEDURAL MOTION PUT AND CARRIED (7-0)

(Cr Ker and Cr Messina on approved leave of absence.)

15. CLOSURE

The Presiding Member, Mayor Nick Catania, declared the meeting closed at 10.01pm with the following persons present:

Mayor Nick Catania, JP	Presiding Member
Cr Anka Burns	South Ward
Cr Helen Doran-Wu	North Ward
Cr Steed Farrell (<i>Deputy Mayor</i>)	North Ward
Cr Sally Lake	South Ward
Cr Dudley Maier	North 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 24 March 2009.

Signed:Presiding Member
Mayor Nick Catania

Dated this day of 2009