



**TOWN OF VINCENT**

---

*"Enhancing and celebrating our diverse community"*

---

# MINUTES

**26 JUNE 2007**

---

*This document is available in the following alternative formats upon request for people with specific needs; large print, Braille, audio cassette and computer disk*

**INDEX**  
**(26 JUNE 2007)**

<b>ITEM</b>	<b>REPORT DESCRIPTION</b>	<b>PAGE</b>
<b>10.1 ENVIRONMENTAL AND DEVELOPMENT SERVICES</b>		
10.1.1	Further Report – Nos. 2A, 2B and 2C (Lot Pt 3: Strata Lot 1 STR: 49788, Lot 2 STR: 49788 and Lot 3 STR: 49788) Haynes Street, corner Charles Street, North Perth - Front Fence and Roller Doors Additions to Existing Single Houses (Application for Retrospective Approval) (North Perth Precinct) PRO2700 (5.2006.615.1)	86
10.1.2	Further Report – No. 33 (Lot 12 D/P: 2358) Anzac Road, corner Shakespeare Street Leederville - Proposed Additional Two Storey Single House and Partial Demolition of and Carport Addition to Existing Single House (Leederville Precinct) PRO3843 (5.2006.610.1)	93
10.1.3	Further Report - Amendment No. 8 to Planning and Building Policies – Draft Policy Relating to Residential Design Elements (All Precincts) PLA0141	101
10.1.4	Further Report - Draft Heritage Strategic Plan 2007 – 2012 (All Precincts) PLA0088	10
10.1.5	No. 36C (Lot 500 D/P: 89560) Gardiner Street , East Perth- Proposed Two Storey Single House (Banks Precinct) PRO1865 (5.2007.38.1)	67
10.1.6	90 (Lots 107 & 196 D/P: 30271) Redfern Street, North Perth - Proposed Partial Demolition of and Additional Two (2) Two-Storey Grouped Dwellings to Existing Single House (North Perth Precinct) PRO3601 (5.2006.626.1)	140
10.1.7	No. 248 (Lot: 2 D/P: 5962) Fitzgerald Street, Perth – Proposed Alterations and Two-Storey Additions to Existing Office Building (Hyde Park Precinct) PRO3733 (5.2007.185.1)	50
10.1.8	No. 136 (Lot: 96 D/P: 2001) East Parade, East Perth - Proposed Demolition of Existing Single House and Construction of Two (2) Two -Storey Grouped Dwellings and One Two-Storey with Loft Grouped Dwelling and Associated Ancillary Accommodation (Banks Precinct) PRO3624 (5.2006.295.1)	32
10.1.9	Nos. 7-9 (Lot 100 D/P: 44042, Lot 14 D/P: 22227) Scarborough Beach Road, Dual Frontage to Howlett Street, North Perth - Additional Floor Area and Substation to Approved One - Three Storeys Commercial Development Comprising Shop and Offices (Charles Centre Precinct) PRO3619 (5.2007.292.1)	15
10.1.10	Nos. 179-183 (Lot 102, D/P: 20762) Charles Street, Dual Frontage to Oak Lane, West Perth- Proposed Eight (8) Three-Storey Grouped Dwellings (Clever Precinct) PRO1118 (5.2006.520.1)	73

10.1.11	No. 448 (Lots 2, 3 and 4), Fitzgerald Street, Corner Wasley Street, North Perth- Proposed Partial Demolition of Existing Single Storey Commercial Building and Construction of Four (4) Storey Mixed Use Development Comprising Shops, Office Buildings, Consulting Rooms (Dental Practitioners), Eating House, part Alfresco and Existing Basement Car Park (North Perth Centre Precinct) PRO1047 (5.2007.192.1)	56
10.1.12	No. 355 (Lot 270 D/P:1237) Fitzgerald Street, North Perth - Unauthorised Alterations and Two-Storey Additions to Existing Single House - Request for Reconsideration of Condition (Smith's Lake Precinct) PRO1605; 00/33/0468; 00/33/2883 (5.2006.443.1)	42
10.1.13	East Perth Redevelopment Authority – Proposed Modifications to the ‘New Northbridge – Design Guidelines and Performance Standards for Development’ (Beaufort Precinct) PRO2980	21
10.1.14	No. 24 Alma Road, Mount Lawley – Issue of Local Government Act Notice to remove Disused Materials (Mount Lawley Precinct) PRO0105	148
10.1.15	Introduction of Ticket Machine Paid Parking in Vincent Street (between Oxford and Loftus Streets), Leederville	152

## **10.2 TECHNICAL SERVICES**

10.2.1	Hyde Park Lakes – Progress Report No 3, Hyde Park Precinct (P12)	155
10.2.2	Proposed Introduction of three (3) Fifteen Minute Parking Bays - Grosvenor Road, Mount Lawley Proposed, Mount Lawley Centre Precinct (P11)	24
10.2.3	Proposal to construct a DN600 Sewer pressure main to replace parts of the existing sewer between the Claisebrook Pumping Station and the Subiaco Waste Treatment Plant, Beaufort St Precinct (P13)	162
10.2.4	Proposed Changes to on Road Parking - Wasley Street, North Perth, North Perth Centre Precinct (P9)	26

## **10.3 CORPORATE SERVICES**

10.3.1	Financial Statements as at 31 May 2007 (FIN0026)	28
--------	--	----

## **10.4 CHIEF EXECUTIVE OFFICER**

10.4.1	Members Equity Stadium Committee - Appointment of Committee Members (RES0082)	167
10.4.2	Statutory Review of Local Laws - Proposed Parking and Parking Facilities Local Law and Amendment to Existing Parking Policies (LEG0047)	170
10.4.3	Information Bulletin	178

## 11. ELECTED MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil. 179

## 12. REPRESENTATION ON STATUTORY AUTHORITIES AND PUBLIC BODIES

- 12.1 WALGA Nominations (ORG0045): 179
- (i) WALGA Metropolitan Member - WA Land Information System (WALIS) Council and Core Management Group;
  - (ii) WALGA Deputy Member - Control of Vehicles (Off-Road Areas) Act Advisory Committee (Panel of 3 names) (Ministerial Approval) (Re-advertised);
  - (iii) WALGA Deputy Member (2) - Caravan Parks & Camping Grounds Advisory Committee (Panel of 3 Names) (Ministerial Approval) (Re-advertised);
  - (iv) WALGA Member - Needle and Syringe Disposal Strategy Working Party) (Serving Officer) (Re-advertised);
  - (v) Local Government Metropolitan Member - Municipal Waste Advisory Council (Serving Officers - Total of 4).

## 13. URGENT BUSINESS

Nil. 180

## 14. CONFIDENTIAL REPORTS (*Behind Closed Doors*)

- 14.1 Confidential Report - No. 46 (Lot 90 D/P: 2790) Edinboro Street, Mount Hawthorn – Partial Demolition of and Carport Additions to Existing Single House – State Administrative Tribunal Review Matter No. DR 194 of 2007 (Mount Hawthorn Precinct) PRO3851 (5.2006.631.1) - **This report released for public information by the Chief Executive Officer on 30 January 2009** 180
- 14.2 Confidential Report: Nos. 11 - 13 (Lots 37 & 36 D/P: 1210) Byron Street, Leederville - Proposed Construction of Four (4) Two (2) Storey Plus Loft Grouped Dwellings - State Administrative Tribunal - Review Matter No. DR 47 of 2007 (Leederville Precinct) PRO1437 (5.2006.426.1) - **This report released for public information by the Chief Executive Officer on 30 January 2009** 184
- 14.3 Confidential Report: Proposed "Taking" of Portion of No. 3 (Lot 16) Moir Street, Perth 198

## 15. CLOSURE 201

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 26 June 2007, commencing at 6.00pm.

**1. DECLARATION OF OPENING**

The Presiding Member, Mayor Nick Catania, JP, declared the meeting open at 6.10pm.

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

**(a) Apologies:**

Cr Steed Farrell (*Deputy Mayor*) apology - will be arriving late due to work commitments

**(b) Present:**

Mayor Nick Catania, JP	Presiding Member
Cr Steed Farrell ( <i>Deputy Mayor</i> )	North Ward (from 6.30pm)
Cr Simon Chester	North Ward
Cr Helen Doran-Wu	North Ward
Cr Ian Ker	South Ward
Cr Sally Lake	South Ward
Cr Dudley Maier	North Ward
Cr Izzi Messina	South Ward
Cr Maddalena Torre	South Ward
John Giorgi, JP	Chief Executive Officer
Jim MacLean	A/Executive Manager, Environmental and Development Services
Mike Rootsey	Executive Manager, Corporate Services
Rick Lotznicker	Executive Manager, Technical Services
Rasaratnam Rasiah	Acting Manager, Planning, Building and Heritage Services
Chris Thomson	Journalist - " <i>The Perth Voice</i> " (until 9.52pm)
Lindsay McPhee	Journalist - " <i>Guardian Express</i> " (until 8.25pm)

Approximately 26 Members of the Public

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

Nil

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

1. Brent Shulman, Namur Street, North Perth spoke on Item 10.1.12 - No 355 Fitzgerald Street advising every effort has been made to meet deadlines. Mr Shulman advised that it is a tough requirement due to current workloads and type of industry requirements, to meet the June deadline. Advised that at no time did they say they would not progress the project. Expressed concern that they cannot meet deadline and now request an extension of time. Advised will meet deadlines outlined in letter recently sent to Mayor. Will be completed by 24 July for assessment of building licence.
2. Michael Witbred, Architect representing John Hyde spoke on Item 14.1 requested Council re-visit this Application on the basis that client is not asking for anything not already in Residential Design Codes or anything that is not available in their Policies. Mr Witbred outlined reasons for client wanting the carport in front and disadvantages of having carport in back. Advised clients have been waiting since December and had their approval in April and it will now take until July to get a determination from the Tribunal. Requested that due to the fact similar carports were approved at 106 Coogee Street and 33 Anzac Road, Council will take this into consideration.
3. Joe Algeri, Linton Street, Byford, Consultant spoke on Item 10.1.8 representing Leba Yelnik of 132 East Parade. Following a review of plans the cumulative effect of all variations and overall design philosophy and overall bulk and scale of the development, Mr Algeri singled out one issue being overshadowing. The proponents showed a plan which indicated overshadowing at 21 June - client has approached own designer and architect and has been handed plans to illustrate that the proponent was overly optimistic with the amount of overshadowing over neighbouring property. (Plans handed out). All his clients living areas and courtyards are to the north to get the advantage of the winter sun. In summary, asked whether this Application complies with Properly and Order Planning and Mr Algeri's view, the answer is no. Requested Council refuse this Item.

**Cr Torre departed the Chamber at 6.17pm**

4. Steve Allering, Morgan Street, Shenton Park spoke on Item 10.1.7. Mr Allering advised that he is a Town Planner representing Mr Fernando Capone. Mr Allering spoke on the proposed alterations and two storey additions to an existing office located at 248 Fitzgerald Street, Perth. Advised that very happy with recommendation and associated conditions and would like to thank staff for their support which involved a high degree of positive consultation.

**Cr Torre returned to the Chamber at 6.21pm**

5. Jon Adams, Lincoln Street, Highgate spoke on Item 10.1.11. Mr Adams circulated photos which had been taken by tenants next door to the proposed development showing that the parking lot behind is full during the day. Mr Adams spoke on this Item which was discussed at the 8 May Meeting and rejected on parking requirements. Concerned that nothing has changed in the report except manipulation of words and seeks Council's rejection of this Application.

6. Tim Dimoff, 34A Gardiner Street, East Perth spoke on Item 10.1.5. Mr Dimoff advised that in February 2001 a large amount of fill was deposited on the block of 36C Gardiner Street without planning approval from the Council. He expressed concern regarding this proposal and the unremoved fill which has raised the level of the land on the proposed site and will negatively impact on his home and well-being. On 3 occasions, August 2001, May 2002 and November 2004 the Council requested the owners of 36c Gardiner Street to remove the fill to the natural ground level. These orders have never been complied with. In January 2006 an earthmoving vehicle came and shifted some of the fill against Mr Dimoff's fence. Until then a ditch existed along that fence showing the true ground level of that site. This action has effectively hidden the true level. Mr Dimoff reported this to Council's Compliance Officer and was told that the situation was being monitored. Has requested Council to delve into archives held by Perth City Council to show the natural ground level which existed prior to the fill being placed in 2001. This has not been done. Requests the Council defer this matter until pre-2001 survey has been located and the true natural ground level is established. Also requests the Council not to consider any application for this site until the removal order has been fully complied with.
7. Lance Squires of Lot 501 Gardiner Street spoke on Item 10.1.5. Mr Squires advised that he is an earth moving contractor and spoke on the fill deposited onto the land at 36A Gardiner Street. Expressed concern that plan that has been submitted to Council shows the natural ground level being at the top of the fill. This is incorrect as the natural ground level is at least 900mm below what is shown on the plan. Requested Council consider having the plans redrawn to show correct ground level.
8. Stephanie Pattinson, 34A Gardiner Street, East Perth spoke on Item 10.1.5. Ms Pattinson advised that survey plan that Council has is dated June 2001 which is post the dumping of fill and requested Council do an archive search to find out what the original soil levels were.

**Cr Farrell entered the Meeting at 6.30pm.**

9. Bill Evangel of Essex Street, Wembley spoke on Item 14.2. Mr Evangel advised that he would like to reiterate an email sent yesterday by his wife. Mr Evangel read the email to the Council. Requested Council reconsider the application in good faith.
10. Tony Casella, of Ruth Street, Perth, spoke on Item 10.1.8. Mr Casella advised he is an Architect/Designer and requested a deferral of this Item in order to meet with Planners who are representing neighbours.
11. Andrea Bassini, Labyrinth Design, Norfolk Street, Mt Lawley spoke on Item 10.1.11. Advised they have changed the use of the top floor space from Health Spa to straight Office space thus greatly reducing the impact of the parking shortfall. Mr Bassini advised they will be keeping all of the positive aspects of the proposal ie the façade, implementation of green technologies, ease of access and so on and removing the items which have raised the Elected Members concerns in the past. Requested Councils favourable consideration.

12. Joe Nardizzi, Keaney Place, City Beach spoke on Item 10.1.10. Mr Nardizzi advised they are seeking some concessions to the Project as fundamentally it is zoned an R-80 site and asked that some consideration be made to allow it to be built on that basis. Distributed a Sustainability and 6 Star Energy Rating on the Project. Requested Council's support in developing a site that will be very beneficial to the community.
13. Bruno Di Paolo, Salamander Street, Dianella spoke on Item 10.1.1. Mr Di Paolo spoke on the issue of the roller doors and advised the roller doors are permeable and secure for the owners. Mr Di Paolo asked Council's favourable consideration.
14. Bruce Roberts, Hammond Street, Perth spoke on Item 10.1.10. Mr Roberts advised that he does not object to the proposal for various reasons. Does not believe it will affect the parking and will hopefully improve the area.

There being no further questions from the public, the Presiding Member, Mayor Nick Catania, JP, closed Public Question Time at approximately 6.43pm.

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

Nil.

**4. APPLICATIONS FOR LEAVE OF ABSENCE**

Cr Doran-Wu applied for Leave of Absence for meetings to be held on 10 July 2007 for family reasons.

**Moved Cr Farrell, Seconded Cr Torre**

*That Cr Doran-Wu be granted leave of absence for meetings on 10 July 2007.*

**CARRIED (9-0)**

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

Nil.

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

Minutes of the Ordinary Meeting of Council held on 12 June 2007.

**Moved Cr Torre, Seconded Cr Farrell**

*That the Minutes of the Ordinary Meeting of Council held on 12 June 2007 be confirmed as a true and correct record.*

**CARRIED (9-0)**

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

**7.1 Proposed Local Law Relating To Parking and Parking Facilities**

Pursuant to Section 3.12 - 3.16 of the Local Government Act, the Town of Vincent hereby gives notice that it has carried out a review of its Local Law Relating to Parking Facilities and proposes to adopt a new Local Law Relating to Parking and Parking Facilities as shown on Item 10.4.2 on tonight's Agenda.

The purpose of this Local Law is to provide for the regulation of the parking or standing of vehicles in all or specified thoroughfares and Reserves under the care, control and management of the local government and to provide for the management and operation of Parking Facilities.

The effect of this Local Law is that a person parking or standing a vehicle within the parking region, is to comply with the provisions of this Local Law.

**7.2. Delegation from The Gerik District Council Of Perak, Malaysia**

At the last meeting I advised that the Town had received a request from the Australian High Commission in Kuala Lumpur, Malaysia to host a group of 27 delegates visiting Perth from Gerik District Council in the State of Perak in Malaysia on Friday 15 June 2007.

I am pleased to advise that the Chief Executive Officer and I hosted the delegation, which included thirteen (13) Councillors and one being the Chair of the District Council (Mayor equivalent).

We provided background information on the Town of Vincent and the workings of local government in Western Australia. The Town also arranged an inspection of Beatty Park Leisure Centre, Loftus Centre Redevelopment and Leederville Oval.

In appreciation of the Town's hospitality, we were provided with this Plaque and beautiful books, donated on behalf of the Chief Minister of Gerik. The books proudly form part of the Town's Library collection.

**7.3 Boundary Changes**

I wish to advise that as from 1 July 2007, the Town's boundaries will be expanded to include a part of Glendalough, east of the Mitchell Freeway and parts of the City of Perth, north of the Graham Farmer Freeway.

A copy of the Local Government Order to effect these boundary changes is shown at Information Bulletin Item IB07. A newsletter will be posted to the owners/occupiers later this week.

On behalf of the Council and the Town's Administration, I formally welcome these new residents to the Town.

**8. DECLARATION OF INTERESTS**

- 8.1 Cr Messina declared a proximity interest in Item 10.1.2 - No 33 Anzac Road, Leederville. The nature of his interest being that he resides in a property which is located at the rear of 33 Anzac Road, Leederville.
- 8.2 Cr Farrell declared a proximity interest in Item 10.1.2 - 33 Fitzgerald Street, North Perth. The nature of his interest being that he currently resides in a property that backs onto the dwelling for the property in question.
- 8.3 Cr Lake declared an interest affecting impartiality in Item 10.1.4 - Draft Heritage Strategic Plan 2007-2012. She disclosed that she has a property listed on the Town's Municipal Heritage Inventory.
- 8.4 Cr Maier declared an interest affecting impartiality in Item 10.1.4 - Draft Heritage Strategic Plan 2007-2012. He disclosed that she has a property listed on the Town's Municipal Heritage Inventory.

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

9.1 Questions received from Cr Dudley Maier

- Q1. Can the CEO confirm the Draft Budget that was presented to the Council on 29 May 2007 included an amount of approximately \$10,000 to cover the anticipated increase in remuneration for the CEO?
- A. *No.*
- Q2. Can the CEO confirm that three days later, on the 1 June 2007, the CEO made a recommendation to Council seeking an annual increase in remuneration of approximately \$46,000?
- A. *Yes this is public information.*
- Q3. Can the CEO confirm that his report to Council, dated 1 June 2007, stated that there was no need to adjust the Budget in order to cover the increase in his remuneration "as an increase in revenue is expected to cover the matter"?
- A. *Yes. As Cr Maier is aware (as he refers to this in his email sent to the CEO on 4 June 2007), this information is shown on page 6 of the Confidential Report Number 7.2 submitted to the Special Meeting of Council held on 5 June 2007.*
- Q4. Can the CEO confirm that the Draft Budget was presented to the Council on Tuesday 29 May 2007 had aggregated amounts of approximately \$14,000 to cover the anticipated increase in remuneration for the three Executive Manager?
- A. *No.*

Q5. Can the CEO confirm that three days later, on the 1 June 2007, the CEO made a recommendation to Council seeking increases in remuneration totalling approximately \$61,000 for the three Executive Managers?

A. *Yes.*

Q6. Can the CEO confirm that his report to council, dated 1 June 2007, stated that the proposed increases in the remuneration of the Executive Managers "can be accommodated in the Draft Budget 2007-08"?

A. *Yes. This information as it is shown on page 14 of the Confidential Report Number 7.3 submitted to the Special Meeting of Council held on 5 June 2007.*

Q7. Can the CEO explain how he was able to identify, between 29 May and 1 June, approximately \$83,000 (ie \$46,000 - \$10,000 + \$61,000 - \$14,000) worth of savings or increased revenue in order to pay for the increases in the remuneration packages for the executive management team, and where were those savings or increased revenues to be found?

A. *The following information was provided in a memo to Elected Members by my staff before the Special Council meeting held on 5 June 2007. It should be note, this information was in response to a question sent by Cr Maier in an email at 11.01am on 4 June 2007 as follows;*

*" Question:*

*With regards to Item 7.2.*

*A justification of the statement that there will be no need to adjust the budget (on page 6)*

*Comment*

*It is considered that the Budget 2007-08 will be able to absorb the increased amount for the following reasons;*

*1. Increased revenue is expected during the year, particularly from parking (as the Local Law is under review and will be submitted to Council in June 2007-increased penalties are being recommended).*

*2. The Draft Budget 2007/08 contains an amount for employee wage increases (5%). Whilst the CEO, Exec Mgrs and Managers are not to receive this increase, there will be employee turnover during the period, as part of normal attrition. Accordingly, there is expected to become surplus funds.*

*3. The Budget will always have Accounts which will have surplus and minus amounts. This can be adjusted (if necessary) as part of the mid year Budget review.*

*I trust this information is of assistance.*

*The Agenda for tonight's meeting at item 10.4.2 concerns the Town's proposed Local Law Relating to Parking*

Q8. Why weren't these savings or increased revenue opportunities presented as part of the Draft 2007-08 Budget on 29 May in order to allow Council to reduce rates paid by ratepayers?

A. *As stated in response to Question 7, the information referred to in Question 7 was provided for the information of the Elected Members by the CEO's staff before the Special Meeting of Council held on 5 June 2007. The CEO is of the view that the Councillors could have considered the information at the Special Meeting of Council, but chose not to do so.*

Q9. Can the CEO confirm that at a Special Meeting of Council on 29 May 2007 he advised Council that any amendment to the Draft 2007-08 Budget would require an absolute majority?

A. *Yes. A response has previously been provided to Cr Maier. For information, on 30 May 2007 Cr Maier sent the following email to the CEO at 9.29am.*

*From Cr Maier:  
To: CEO, John Giorgi  
Subject: Amendments to the Draft Budget*

*"Dear John,*

*Can you please confirm that you advised us last night that any amendment to the Draft Budget required an Absolute Majority?*

*Regards,  
Dudley"*

*The Chief Executive Officer replied in an email to Cr Maier at 4.28pm on 31 May as follows:*

*"Hello Cr Maier*

*In my opinion clause 3.20 of Standing Orders applies. However, the matter of an Absolute Majority is no longer relevant. Of the amendments moved on the night one was carried 5:1 and the other was lost on the casting vote of the Presiding Member.*

*Regards,  
CEO"*

Q10. Does the CEO believe his advice was correct?

A. *Yes*

## 10. REPORTS

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

The Agenda Items were categorised as follows:

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

Items 10.1.12, 14.1, 10.1.8, 10.1.7, 10.1.11, 10.1.5, 14.2, 10.1.10 and 10.1.1

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 10.1.6, 10.4.1, 14.2 and 14.3

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

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

Cr Farrell	Nil
Cr Chester	Items 10.1.3, 10.1.6, 10.1.14, 10.4.1, 10.4.2 and 10.4.3
Cr Ker	10.1.15 and 10.2.3
Cr Doran-Wu	Nil
Cr Torre	Nil
Cr Lake	Nil
Cr Messina	Nil
Cr Maier	Nil
Mayor Catania	10.2.1

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

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

10.1.2 and 10.1.12

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

Items 10.1.4, 10.1.9, 10.1.13, 10.2.2, 10.2.4 and 10.3.1

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

Item 14.1, 14.2 and 14.3

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

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

Items 10.1.4, 10.1.9, 10.1.13, 10.2.2, 10.2.4 and 10.3.1

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

Items 10.1.12, 14.1, 10.1.8, 10.1.7, 10.1.11, 10.1.5, 14.2, 10.1.10 and 10.1.1

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

**Moved** Cr Farrell, **Seconded** Cr Torre

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

Items 10.1.4, 10.1.9, 10.1.13, 10.2.2, 10.2.4 and 10.3.1

**CARRIED (9-0)**

**10.1.4 Further Report - Draft Heritage Strategic Plan 2007 - 2012**

<b>Ward:</b>	Both Wards	<b>Date:</b>	19 June 2007
<b>Precinct:</b>	All Precincts	<b>File Ref:</b>	PLA 0088
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	T Woodhouse		
<b>Checked/Endorsed by:</b>	D Abel, J Maclean	<b>Amended by:</b>	-

**FURTHER OFFICER RECOMMENDATION:**

*That the Council;*

- (i) **RECEIVES** the further report relating to the Draft Heritage Strategic Plan 2007 - 2012;
- (ii) **APPROVES IN PRINCIPLE** the amended Draft Heritage Strategic Plan 2007 - 2012, as shown in Attachment 10.1.4;
- (iii) **AUTHORISES** the Chief Executive Officer to:
  - (a) advertise the Draft Heritage Strategic Plan 2007 - 2012 for a period of 28 days seeking public comment;
  - (b) report back to Council with any public submissions received; and
- (iv) **APPROVES** the Heritage Strategic Plan (when adopted) to form part of the Town's Plan for the Future.

---

**COUNCIL DECISION ITEM 10.1.4**

**Moved** Cr Farrell , **Seconded** Cr Torre

*That the recommendation be adopted.*

**CARRIED "EN BLOC" (9-0)**

---

**FURTHER REPORT:**

The Council at its Ordinary Meeting held on 12 June 2007 considered the Draft Heritage Strategic Plan 2007 - 2012 and resolved as follows:

*"That the item be DEFERRED to include an indicative timeline and also to consider the proposed changes indicated by Cr Maier."*

The major changes made to the draft Heritage Strategic Plan 2007 - 2012 include the following:

- The changes made as part of Cr Maier's Proposed Amendment to the Draft Plan which are considered acceptable by the Town's Officers, have been included in the Draft Strategic Plan and relate predominately to the Key Result Area No. 4 - Council Property and Heritage;
- The changes made to Key Result Area No. 4 seek to articulate the importance of maintaining and conserving the Town's heritage assets whilst also promoting their responsible and appropriate use by the community;

- A table has been prepared for each of the five Key Result Areas which details the Key Performance Measures, an expected date of completion for each of the Key Performance Measures and a list of indicators for completion;
- The working relationship between Heritage Services and the Town's Local Studies Section has been included as part of the Key Result Area 1 - Community and Heritage;
- Additional government organisations and documentation have been included in the reference section of the Draft Strategic Plan namely the Western Australian Planning Commission State Planning Policy No. 3.5 - Historic Heritage Conservation which was gazetted on 29 May 2007 and the Department of Premier and Cabinet - Northbridge History Project of which the Town is an industry partner; and
- Amendments to the Action Plan - Heritage Projects 2007 - 2012 to reduce the rounds for the Heritage Assistance Fund twice yearly for administration purposes.

The previous Officer Recommendation remains unchanged, except for minor adjustments to reflect the amended Draft Strategic Plan.

The following is a verbatim copy of the Minutes of the Item placed before the Council at its Ordinary Meeting held on 12 June 2007:

*"OFFICER RECOMMENDATION:*

*That the Council;*

- (i) RECEIVES the report relating to the Draft Heritage Strategic Plan 2007-2012;*
- (ii) APPROVES IN PRINCIPLE the Draft Heritage Strategic Plan 2007 – 2012, as shown in Attachment 10.1.5; and*
- (iii) AUTHORISES the Chief Executive Officer to:*
  - (a) advertise the Draft Heritage Strategic Plan 2007 – 2012 for a period of 28 days seeking public comment;*
  - (b) report back to the Council with any public submissions received; and*
- (iv) APPROVES the Heritage Strategic Plan 2007-2012 (when adopted) to form part of the Town's Plan for the Future.*

---

*Moved Cr Farrell, Seconded Cr Torre*

*That the recommendation be adopted.*

*Debate ensued.*

*Moved Cr Chester, Seconded Cr Farrell*

*That the draft Heritage Strategic Plan be revised to include an indicative timeline for the performance measures before the Draft Plan is advertised.*

*AMENDMENT CARRIED (8-0)*

*(Cr Ker was an apology for the meeting)*

*Debate ensued.*

*Moved Cr Maier, Seconded Cr Chester*

*That clause (ii) be amended to read as follows:*

*"(ii) APPROVES IN PRINCIPLE the Draft Heritage Strategic Plan 2007 – 2012, as shown in Attachment 10.1.5; subject to the Plan being amended as follows:*

*(a) Key Result Area No. 2 - Statutory Provisions and Policies be amended to read as follows:*

*'Performance Measures:*

*...*

*\* ~~Complete the review of the Municipal Heritage Inventory~~*

*...'; and*

*(b) Key Result Area No. 4 - Council Property and Heritage be amended to read as follows:*

*'Performance Measures:*

- Identify increased revenue opportunities for heritage buildings and parks*
- Review the hire and lease policy for sensitive sites and facilities to ~~target maintenance cost reduction~~ and identify further revenue opportunities.*
- Develop and implement maintenance programs for heritage sites and facilities to enhance and promote good conservation practice and increase usage.*
- Conduct open Days for leased and non-leased heritage properties owned by the Town, eg. Lee Hops Cottage to increase public access and awareness*
- Promote ~~environmentally friendly~~ sustainable practices and universal access for enhanced use and viability of places*
- Undertake a survey of the Town's heritage assets to identify tasks that require heritage referrals for regular maintenance and capital works improvements*
- Prepare Conservation Plans for all the Town's heritage assets listed on the Town's Municipal Heritage Inventory"*

*Moved Cr Chester, Seconded Cr Doran-Wu*

*That the item be DEFERRED to include an indicative timeline and also to consider the proposed changes indicated by Cr Maier.*

*CARRIED (8-0)*

*(Cr Ker was an apology for the meeting)*

---

**PURPOSE OF REPORT:**

*The purpose of the report is to present the Draft Heritage Strategic Plan 2007-2012 to the Council and advertise the document for public comment.*

**BACKGROUND:**

*A Heritage Strategic Plan was first mooted in 1998 by the Heritage Advisory Group. Early versions of the document have been reviewed and incorporated where appropriate into the Draft Heritage Strategic Plan 2007-2012.*

*In addition to having regard to early drafts of the document, attention has also been given to aligning the document with the Town of Vincent Plan for the Future 2006-2011 as well as the Vincent Vision 2024 outcomes. More recent documents, such as the Town's Draft Sustainable Environment Plan 2007 – 2012, has also been given due consideration.*

**DETAILS:**

*Heritage management throughout the Town of Vincent deals with aspects of asset management, town planning and community programs. An important component of the Draft Heritage Strategic Plan 2007 - 2012 is the Key Result Areas which group common goals to assist the Town to achieve its mission, and identify the resources and actions required to undertake and achieve the objectives of each Key Result Area.*

*Five Key Result Areas have been identified as follows:*

- 1. Community and Heritage - Education, Promotion and Celebration;*
- 2. Statutory Provisions and Policy - A major responsibility of Council;*
- 3. Funding Heritage Places - Resourcing and Supporting Heritage and Programmes;*
- 4. Council Property and Heritage - Effective Management of Heritage Assets and Leading by Example; and*
- 5. Heritage Expertise in Council - Improving Knowledge and Services.*

**CONSULTATION/ADVERTISING:**

*The Draft Heritage Strategic Plan 2007 - 2012 is to be advertised for 28 days in accordance with the Town's Community Consultation Policy 4.5.1.*

**LEGAL/POLICY:**

*There are no legal or policy implications applicable to this matter.*

**STRATEGIC IMPLICATIONS:**

*Strategic Plan 2006-2011: Strategic Objectives - 1. Natural and Built Environment*

*"... 1.1.3 Enhance and maintain the character and heritage of the Town:*

- (a) Adopt the Conservation Plan for Beatty Park Leisure Centre and Beatty Park, Plan and complete so that redevelopment plans can be guided by the Conservation Plan.*
- (b) Implement and promote the Municipal Heritage Inventory and Heritage Management Policies*
- (c) Implement and promote a Heritage Strategic Plan."*

*The Heritage Strategic Plan 2007-2012 will form part of the Town's Plan for the Future.*

**FINANCIAL/BUDGET IMPLICATIONS:**

*The current 2006/2007 Budget allocates \$88,760 for Town Planning Scheme Amendments and Policies.*

*COMMENTS:*

*It is considered that the Draft Heritage Strategic Plan 2007 - 2012 is to become a key document to direct the Town of Vincent towards the development of a heritage management service which is of the highest quality and upholds the Town of Vincent mission. The Heritage Strategic Plan provides a blue print for the future direction for Heritage Services at the Town of Vincent within the broader context of the organisation itself and the community. The document provides both overarching direction as well as more prescriptive guidance to assist the Town to achieve its mission, and identify the resources and actions required to undertake and achieve the Heritage Strategic Plan's key objectives. It is also important that the Heritage Strategic Plan remains flexible and responsive to change and that it is updated and reviewed as required. "*

*In light of the above, it is recommended that the Council receives this report, and approves the Draft Heritage Strategic Plan 2007 - 2012 in principle to be advertised."*

**10.1.9 Nos. 7-9 (Lot 100 D/P: 44042, Lot 14 D/P: 22227) Scarborough Beach Road, Dual Frontage to Howlett Street, North Perth - Additional Floor Area and Substation to Approved One - Three Storeys Commercial Development Comprising Shop and Offices**

<b>Ward:</b>	North	<b>Date:</b>	15 June 2007
<b>Precinct:</b>	Charles Centre ; P7	<b>File Ref:</b>	PRO3619; 5.2007.292.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	L Mach		
<b>Checked/Endorsed by:</b>	D Abel, J Maclean	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by McDonald Jones Architects on behalf of the owner Scarborough Beach Road Development Company Pty Ltd for proposed Additional Floor Area and Substation to Approved One - Three Storeys Commercial Development Comprising Shops and Offices, at Nos. 7-9 (Lot 100 D/P: 44042, Lot 14 D/P: 22227) Scarborough Beach Road, dual frontage to Howlett Street, North Perth, and as shown on plans stamp-dated 18 May 2007, subject to the following conditions:*

- (i) any vehicular entry gates adjacent to the Scarborough Beach Road and Howlett Street shall be either open at all times or suitable management measures shall be implemented to ensure access is readily available for visitors at all times. Details of the management measures shall be submitted to and approved by the Town prior to the issue of a Building Licence;*
- (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 a Building Licence, designs for art work(s) valued at a minimum of 1 per cent of the estimated total cost of the development (\$21,000) shall be submitted to and approved by the Town, OR alternatively, the applicant/owner shall pay a cash-in-lieu contribution of \$21,000, subject to the Town agreeing to this arrangement . 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);*
- (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. 5 Scarborough Beach Road and No. 11 Scarborough Beach Road for entry onto their land the owners of the subject land shall finish and maintain the surface of these boundary (parapet) walls facing No. 5 Scarborough Beach Road and No. 11 Scarborough Beach Road in a good and clean condition;*

- (vi) *prior to the issue of a Building Licence, the applicant/owner shall pay a cash-in-lieu contribution of \$15,184 for the equivalent value of 5.84 car parking spaces, based on the cost of \$2,600 per bay as set out in the Town's 2006/2007 Budget. Alternatively, if the car parking shortfall is reduced as a result of a greater number of car bays being provided, the cash in lieu amount can be reduced to reflect the new changes in car parking requirements;*
  - (vii) *prior to the first occupation of the development, seven (7) class- one or two and three (3) class three bicycle parking facilities, shall be provided at a location convenient to the entrance of the development. Details of the design and layout of the bicycle parking facilities shall be submitted and approved prior to the installation of such facilities;*
  - (viii) *all signage that does not comply with the Town's Policy relating to Signs and Advertising shall be subject to a separate Planning Application, and all signage shall be subject to a separate Sign Licence application, being submitted and approved prior to the erection of the signage;*
  - (ix) *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;*
  - (x) *doors, windows and adjacent floor areas fronting Howlett Street and Scarborough Beach Road shall maintain an active and interactive relationship with these streets. Glazing within the subject doors and windows on the ground floor shall be clear glazing with no heavy/dark tinting nor be reflective;*
  - (xi) *the maximum floor areas shall be limited to;*
    - (a) *594 square metres of gross floor area for the retail/shop component; and*
    - (b) *908 square metres of gross floor area for the office component.*
- 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;*
- (xii) *in keeping with the Town's practice for multiple dwellings, commercial, retail and similar developments the footpaths adjacent to the subject land are to be upgraded, by the applicant, to a brick paved standard to the Town's specification. A refundable footpath upgrading bond and/or bank guarantee of \$4200 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;*
  - (xiii) *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;*
  - (xiv) *the car parking area shall be shown as 'common property' on any strata or survey strata subdivision plan for the property;*

- (xv) *prior to the issue of a Building Licence, revised plans and details shall be submitted and approved demonstrating the following:*
- (a) *any proposed security gates being a minimum 50 percent visually permeable when viewed from the street;*
  - (b) *a minimum of two (2) significant and appropriate design features being incorporated along the ' BK-P' wall adjacent to Howlett Street to reduce its visual impact;*
  - (c) *the provision of a minimum of one tree per 4 car parking spaces in the open car parking area; and*
  - (d) *the provision of a screen wall adjacent to the proposed substation along the Scarborough Beach Road boundary and appropriate landscaping between this wall and the substation itself. The screen wall shall incorporate at least two (2) significant appropriate design features to reduce the visual impact. Examples of design features may include significant 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.*

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

- (xvi) *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); and*
- (xvii) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Scarborough Beach Road verges adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s); and*
- (xviii) *a bond of \$900 shall be lodged prior to the issue of a Building Licence for the removal of the street verge trees and the replacement of these trees with Chinese Tallows by the Town in suitable locations to be decided by the Town's Parks Services Section.*

---

**COUNCIL DECISION ITEM 10.1.9**

**Moved Cr Farrell , Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED "EN BLOC" (9-0)**

---

<b>Landowner:</b>	Scarborough Beach Road Development Company Pty Ltd
<b>Applicant:</b>	McDonald Jones Architects
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Commercial
<b>Existing Land Use:</b>	Vacant Building
<b>Use Class:</b>	"Shop", "Office Building"
<b>Use Classification:</b>	"P", "P"
<b>Lot Area:</b>	2345 square metres (in total)
<b>Access to Right of Way</b>	N/A

**BACKGROUND:**

The Council at its Ordinary Meeting held on 7 November 2006 conditionally approved an application for demolition of warehouse, office building and single house and proposed one - three storeys with undercroft car parking commercial development comprising retail and offices at the subject property.

**DETAILS:**

The proposal involves additional floor area and substation to the approved one - three storeys commercial development comprising shops and offices, at the subject property.

The main differences between the current development application and the previous plans are as follows:

- an increase in retail and office gross floor area, although the building envelope generally remains the same;
- a sub-station addition and therefore, the deletion of 3 car bays; and
- changes to building elevations and façade treatments (previously approved elevation attached).

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

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Plot Ratio	N/A	N/A	Noted.
No. of Storeys	2 storeys are strongly encouraged, a third storey can be considered.	1 storey along Scarborough Beach Road and 3 storeys along Howlett Street.	Supported- no undue impact on streetscape as established streetscape varies from single storey to three storeys in nature.
Car Parking	46.83 car bays (after adjustment factors).	41 car bays	Supported - minor shortfall in this instance that can be supported subject to cash-in-lieu payment.
Landscaping	Car parking spaces are to be planted with shade trees at the rate of one tree per four parking	None shown.	Not supported - undue impact on amenity of area and has been conditioned accordingly.

	spaces.		
Vehicular Access	Vehicular Access to properties abutting Scarborough Beach Road to be taken from another road where possible	Vehicular Access from Scarborough Beach Road and Howlett Street.	Supported - no undue impact and eases traffic impact on Howlett Street.
<b>Consultation Submissions</b>			
The current application was not advertised as it was not deemed to have any additional undue impact compared to the previously approved proposal. It is noted that one objection was previously received, with details of the objection not provided by the author.			
<b>Other Implications</b>			
Legal/Policy		TPS 1 and associated Policies.	
Strategic Implications		Nil	
Financial/Budget Implications		Nil	
<b>Car Parking- Commercial Component</b>			
Car parking requirement (nearest whole number)		58 car bays	
<ul style="list-style-type: none"> <li>• Retail/Shop (594 square metres) – 39.6 car bays</li> <li>• Office (908 square metres) – 18.16 car bays</li> </ul>			
Apply the adjustment factors.		(0.8075)	
<ul style="list-style-type: none"> <li>• 0.85 (within 400 metres of a bus stop)</li> <li>• 0.95 (within 400 metres of a car park with excess of 25 car parking spaces)</li> </ul>		46.84 car bays	
Minus the car parking provided on-site		41 car bays	
Minus the most recently approved on-site car parking shortfall		Not applicable as proposal is to redevelop a vacant site.	
Resultant shortfall		5.84 car bays	
<b>Bicycle Parking Facilities</b>			
Retail/Shop		Has been conditioned accordingly.	
<ul style="list-style-type: none"> <li>• 1 per 300 square metres public area for employees (class 1 or 2)- 1.98 spaces</li> <li>• 1 space per 200 square metres public area for visitors (class 3)- 2.97 spaces</li> </ul>			
Office			
<ul style="list-style-type: none"> <li>• 1 per 200 square metres public area for employees (class 1 or 2)- 4.54 spaces</li> <li>• 1 space per 750 square metres over 1000 square metres for visitors (class 3)- Nil</li> </ul>			

\* 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:**

**Cash-In-Lieu of Car Parking**

The Council at its Ordinary Meeting held on 12 April 2005, resolved the following:

“(ii) *ADOPTS the draft amended version of the Policy relating to Parking and Access to be applied in the interim during the advertising period and up to formal adoption of the draft amended Policy to those planning and building applications received after the date the draft amended Policy is adopted by Council;*”

The draft amended version of the Parking and Access Policy introduces a provision that the cash-in-lieu contribution is to be based on not only the construction costs, but also on a land component being 50 per cent of the land value of the area of a car parking bay on the subject property.

Given the debate and Council resolutions relating to Items 10.1.5 and 10.1.16 at the Ordinary Meeting of Council held on 26 July 2005, in the context of the current and draft amended cash-in-lieu of car parking provisions and the increase in cash-in-lieu construction costs in the 2005/06 Fees and Charges, the following practice is considered to be the most appropriate in such cases:

1. No land value component is to be included in the cash-in-lieu of car parking contribution until the draft amended Parking and Access Policy is finally adopted by the Council.
2. Planning applications received prior to and on 12 July 2005 (date of formal adoption of 2005/06 Budget and Fees and Charges) - the cash-in-lieu contribution is to be based on \$2,500 per car bay.
3. Planning application received after 12 July 2005 - the cash-in-lieu contribution is to be based on \$2,600 per car bay.

#### **Substation**

The applicant has provided the attached additional information regarding the substation. This matter has further been conditioned accordingly.

#### **Street Verge Trees**

There are street verge trees which have been omitted from the subject site plan. The Town's Parks and Technical Services Officers have assessed the two trees and have supported its removal subject to condition (xviii).

#### **Conclusion**

The proposal is not considered to have undue impact on the area and the variations from the Town's requirements are generally supported for the reasons detailed in the report.

In light of the above, the proposal is recommended for approval subject to standard and appropriate conditions to address the matters raised in this report, including significant and appropriate design features being incorporated along the 'BK-P' wall adjacent to Howlett Street to reduce its visual impact. The previous condition recommended by the Town's Officers relating to the provision of an entry statement has been deleted from the current recommendation as the Council had resolved to delete this condition. Other conditions relating to demolition (as previously recommended) are also considered redundant as the buildings have since received a Demolition Licence and have been demolished.

**10.1.13 East Perth Redevelopment Authority – Proposed Modifications to the ‘New Northbridge – Design Guidelines and Performance Standards for Development’**

<b>Ward:</b>	South	<b>Date:</b>	18 June 2007
<b>Precinct:</b>	Beaufort, P13	<b>File Ref:</b>	PRO2980
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	B McKean		
<b>Checked/Endorsed by:</b>	D Abel, J Maclean	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the letter dated 24 May 2007 and 28 May 2007 and associated documentation from the East Perth Redevelopment Authority (EPRA) in relation to the proposed modifications to the ‘New Northbridge – Design Guidelines and Performance Standards for Development’ as ‘Laid on the Table’; and*
- (ii) *ADVISES the East Perth Redevelopment Authority (EPRA) that the Council has NO OBJECTION to the proposed modifications to the ‘New Northbridge – Design Guidelines and Performance Standards for Development’.*

**COUNCIL DECISION ITEM 10.1.13**

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED “EN BLOC” (9-0)**

**PURPOSE OF REPORT:**

The purpose of this report is to outline to the Council the modifications proposed by the East Perth Redevelopment Authority (EPRA) to the ‘New Northbridge – Design Guidelines and Performance Standards for Development’ (Guidelines). EPRA are seeking comments from relevant stakeholders with the public comment period closing on 11 July 2007.

**BACKGROUND:**

26 September 2006

The Council at its Ordinary Meeting considered a report on several minor modifications proposed by the East Perth Redevelopment Authority (EPRA) to the Lindsay Street Precinct Design Guidelines where the following decision was adopted:

*"That the Council;*

- (i) *RECEIVES the letter dated 5 September 2006 and associated documentation from the East Perth Redevelopment Authority (EPRA) in relation to the proposed minor modifications to the Lindsay Street Precinct Design Guidelines as shown in Attachment 10.1.14; and*

- (ii) *ADVISES the East Perth Redevelopment Authority (EPRA) that the Council has NO OBJECTION to the proposed modifications to the Lindsay Street Precinct Design Guidelines.*”

13 February 2007

The Council at its Ordinary Meeting considered a report on modifications proposed by the East Perth Redevelopment Authority (EPRA) to the Lindsay Street Precinct Design Guidelines where the following decision was adopted:

*“That the Council;*

- (i) *RECEIVES the letter dated 17 January 2007 and associated documentation from the East Perth Redevelopment Authority (EPRA) in relation to the proposed modifications to the Lindsay Street Precinct Design Guidelines as ‘Laid on the Table’; and*
- (ii) *ADVISES the East Perth Redevelopment Authority (EPRA) that the Council has NO OBJECTION to the proposed modifications to the Lindsay Street Precinct Design Guidelines subject to the Guidelines being amended as follows:*

*Clause 5.8.3 Lot 557 - Design Guidelines and Performance Standards be amended to read as follows:*

*‘...*

*Appearance*

*...*

- *Continuous pedestrian protection from sun and rain through the use of a suspended awning 2.5m wide along ~~Lindsay~~ William and Newcastle Streets. Applicants should seek advice from the Town of Vincent and the City of Perth in this regard;*

*...”*

#### **DETAILS:**

The Town has received letters dated 24 May 2007 and 28 May 2007 and associated documentation advising that the EPRA seeks the Town’s comments on the most recent changes to the Guidelines.

The Guidelines are EPRA’s precinct-specific development provisions and more general guidelines and consist of the following:

- Executive Summary;
- Section 1 – Core/Common Design Guidelines for all Precincts;
- Section 2 – Russell Square Precinct Design Guidelines;
- Section 3 – Lake Street Precinct Design Guidelines;
- Section 4 – Museum Street Precinct Design Guidelines;
- Section 5 – Lindsay Street Precinct Design Guidelines;
- Section 6 – Parry Street Precinct Design Guidelines.

The changes to the Guidelines are listed in EPRA's letters and indicated in red throughout the Guidelines document. A copy of the subject letters is attached to this report and the Guidelines are "*Laid on the Table*" for the Council's consideration.

A summary of the major changes are listed below:

- Update of information and improvement of readability;
- Reduction in repetition;
- Rectification of errors; and
- Changes to Section 5 – Lindsay Street Design Guidelines and the 'Auto Masters' site.

**CONSULTATION/ADVERTISING:**

Not required by the Town.

**LEGAL/POLICY:**

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

**STRATEGIC IMPLICATIONS:**

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

*"1.1.4 Minimise negative impacts on the community and environment".*

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

The Guidelines that directly affect the Town of Vincent relate to Section 5 – Lindsay Street Precinct Design Guidelines, and Section 6 – Parry Street Precinct Design Guidelines (as at 1 July 2007).

The proposed modifications to the Guidelines have been initiated in an attempt to facilitate a more 'user-friendly' document to guide development in the subject area and produce more desirable planning outcomes for future development of the area. The proposed modifications are considered acceptable, and as such it is recommended that the Council receives the documentation relating to the proposed modifications to the Guidelines and advises EPRA that it has no objections.

**10.2.2 Proposed Introduction of three (3) Fifteen Minute Parking Bays - Grosvenor Road, Mount Lawley**

<b>Ward:</b>	North Perth Ward	<b>Date:</b>	19 June 2007
<b>Precinct:</b>	Mount Lawley Centre Precinct (P11)	<b>File Ref:</b>	PKG0034
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	A. Munyard		
<b>Checked/Endorsed by:</b>	R Lotznicker,	<b>Amended by:</b>	

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) **RECEIVE** the report on the introduction of fifteen (15) minute parking bays in Grosvenor Road, Mount Lawley;
- (ii) **APPROVES** the introduction of three (3) parking bays, time restricted to fifteen (15) minutes between 8.00 am until 8.00 pm Monday to Sunday on the south side of Grosvenor Road, Mount Lawley, as shown on attached plan 2144-PP-1;
- (iii) **PLACES** a moratorium on issuing infringement notices for a period of two (2) weeks from the installation of the new parking restriction signs; and
- (iv) **ADVISES** the adjacent businesses of the Council's decision.

**COUNCIL DECISION ITEM 10.2.2**

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED “EN BLOC” (9-0)**

**PURPOSE OF REPORT:**

The purpose of this report is to request that the Council reconsider the reinstatement of parking in Grosvenor Road.

**BACKGROUND:**

At the Ordinary Meeting of Council held on 25 February 2003, it was recommended that the Council approve the introduction of fifteen (15) minute parking bays adjacent to the existing supermarket in Grosvenor Road. At the meeting the Council decided to defer the item and no further action on the matter ensued. Recently the Town has received a request that the proposal be reconsidered.

The introduction of parking bays restricted to fifteen (15) minutes on the south side of Grosvenor Road, adjacent to the supermarket, would be beneficial to the adjacent businesses and provide an improved amenity for their customers.

**DETAILS:**

The south side of Grosvenor Road, near the intersection of Beaufort Street, is currently a *NO STOPPING* zone. Modification of the intersection, carried out some years ago by the Town, has resulted in there being no apparent justification for this restriction to remain.

It is therefore proposed that parking be permitted adjacent to the supermarket, and that this be restricted to a short term of fifteen (15) minutes. This restriction will ensure short-term parking is frequently available, providing a convenient point for commuters to pick up essential items on their way to and from work.

Three (3) parking bays can be accommodated adjacent to the supermarket, with diagonal line marking at the east end, to ensure a safe setback from the intersection.

This matter has been discussed with the Town's Ranger Services, who can see no impediment to the introduction of the bays.

**CONSULTATION/ADVERTISING:**

This action will remove a current restriction and make more parking available and will have no detrimental affect on residents therefore consultation is not necessary.

**STRATEGIC IMPLICATIONS:**

In line with Key Result Area One of the Draft Strategic Plan 2006-2011: 1.1.6 (e) *Review, Implement and promote the Car Parking Strategy.*

**FINANCIAL/BUDGET IMPLICATIONS:**

Signage and line marking would cost approximately \$250.00.

**COMMENTS:**

This area of Grosvenor Road can accommodate short term parking. Many vehicles park there now albeit illegally, for short periods of time to access the supermarket with little or no adverse impact on traffic movements.

The introduction of three (3) short term parking bays as shown on attached plan 2144-PP-1 is supported.

**10.2.4 Proposed Changes to on Road Parking - Wasley Street, North Perth**

<b>Ward:</b>	South	<b>Date:</b>	20/06/2007
<b>Precinct:</b>	North Perth Centre Precinct (P9)	<b>File Ref:</b>	PKG0160
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	T Blankenburg		
<b>Checked/Endorsed by:</b>	R Lotznicker; C Wilson	<b>Amended by:</b>	

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) **RECEIVES** the report on the proposed changes to on road parking restrictions in Wasley Street North Perth.
- (ii) **APPROVES** the removal of the existing loading zone and 1 hour parking bay as illustrated on plan 2521-PP-1 and the introduction of the 15 minute parking restriction as illustrated on Plan 2522-PP-1; and
- (iii) **PLACES** a moratorium on issuing infringement notices for a period of two (2) weeks from the installation of the new parking restriction signs.

**COUNCIL DECISION ITEM 10.2.4**

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED “EN BLOC” (9-0)**

**PURPOSE OF REPORT:**

The purpose of this report is to seek the Council's approval of the introduction of a 15 minute parking restriction on the northern side of Wasley Street, within the North Perth Centre Precinct, adjacent the corner of Fitzgerald Street.

**BACKGROUND:**

The Town has received complaints from nearby businesses regarding the operating times and use of the existing loading zone and adjacent 1 hour parking bay.

**DETAILS:**

No. 450 Fitzgerald Street, North Perth, located on the corner of Wasley Street, has several commercial tenancies with access from Wasley Street. The tenancies are serviced by an embayed on-road parking area. The parking is currently configured as a loading zone and single parking bay with a 1 hour restriction. The restrictions are enforced 8am to 5:30pm Monday to Friday and 8am to 12 noon on Saturdays. The common complaint is that the current restrictions do not adequately serve the nearby businesses.

The Town's Technical Services Officers have discussed the matter with the surrounding businesses and have recommended the following changes to provide them (the businesses) with the required flexibility and amenity.

It is recommended that the existing Loading Zone and 1 hour restriction be removed and that the entire section be designed a 15 minute parking zone. The 15 minute restriction is proposed to be in place at all hours and is considered adequate for customers of the adjacent businesses to drop off and collect items while ensuring a turnover of vehicles to cater for delivery vehicles.

**CONSULTATION/ADVERTISING:**

Given that the proposed changes have the support of those businesses most directly affected and will improve access to other nearby businesses, most notably those fronting Fitzgerald Street with no on-road parking, further consultation is not considered necessary.

**LEGAL/POLICY:**

The Town's Rangers will enforce the restrictions once implemented.

**STRATEGIC IMPLICATIONS:**

In accordance with Key Result Area One of Strategic Plan 2006-2011 – 1.1.6 Natural and Built Environment: “e) *Review, implement and promote the Car Parking Strategy;*

**FINANCIAL/BUDGET IMPLICATIONS:**

Existing poles can be utilized and the cost of implementing the measures is estimated to be approximately \$200.00.

**COMMENTS:**

As the proposed changes will cater for the a range of businesses in the immediate area, including the late night take away food premises at 458 Fitzgerald Street, the 15 minute parking zone will ensure a continual turn over of vehicles while also providing for delivery vehicles.

### 10.3.1 Financial Statements as at 31 May 2007

Ward:	Both	Date:	18 June 2007
Precinct:	All	File Ref:	FIN0026
Attachments:	<a href="#">001</a>		
Reporting Officer(s):	B C Tan		
Checked/Endorsed by:	M Rootsey	Amended by:	

**OFFICER RECOMMENDATION:**

*That the Council RECEIVES the Financial Reports for the month ended 31 May 2007 as shown in Appendix 10.3.1.*

---

**COUNCIL DECISION ITEM 10.3.1**

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED "EN BLOC" (9-0)**

---

**PURPOSE OF REPORT:**

The purpose of this report is to present the financial statements for the month ended 31 May 2007.

**BACKGROUND:**

The Local Government Act and Local Government (Financial Management) Regulations 1996 require monthly reports and quarterly financial reports to be submitted to Council. The Financial Statements attached are for the month ended 31 May 2007.

**DETAILS:**

The Financial Statements comprise:

- Operating Statement
- Summary of Programmes/Activities
- Capital Works Schedule
- Balance Sheet (Statement of Financial position) and Statement of Changes in Equity
- Reserve Schedule
- Debtor Report
- Rate Report
- Beatty Park Report – Financial Position
- Statement of Financial Activity
- Net Current Asset Position
- Variance Comment Report

**Operating Statement and Detailed Summary of Programmes/Activities**

The Operating Statement shows revenue and expenditure by Programme whereas the Summary of Programmes/Activities provides detail to Programme/Sub Programme level.

Both reports compare actual results for the period with the Budget. The Operating Statement and the Summary of the Programmes Activities reports are in a new format providing a comparison between the year to date actual revenue and expenditure with the year to date budget.

The statements place emphasis on results from operating activity rather than construction of infrastructure or purchase of capital items and principally aim to report the change in net assets resulting from operations.

### **Operating Revenue**

Operating revenue is currently 5% over the budget year to date as at the end of the month of May.

### **General Purpose Funding (Page 1)**

General Purpose Funding is showing 102% of the budget levied to date. This is due to rates being levied for the financial year; the rates revenue represents 100% of the budgeted amount for the rates income. In addition interest income has exceeded budgeted estimates.

### **Governance (Page 2)**

Governance is showing 262% of the budget received to date; this is due the sale of electoral rolls.

### **Law Order & Public Safety (Page 3)**

Revenue of Law Order & Public Safety is on budget..

### **Health (Page 4)**

Health is showing 8%, over budget this is due to 339 Health Licences being issued for Lodging Houses, Eating Houses and Alfresco dining.

### **Education & Welfare (Page 5)**

Education and Welfare is now showing 13% below budget, this is as a result of the adjustment of the budget to account for the increased operating surplus Leederville Garden Retirement Village.

### **Community Amenities (Page 6)**

Community Amenities is 14 % above the year to date budget, this is the result of 584 planning applications being processed to date and the issue of non rateable and commercial properties for their refuse charges.

### **Recreation & Culture (Page 9)**

The total revenue for Recreation and Culture is above target at 7% above their revenue budget. Beatty Park Leisure Centre revenue is 68 % of the total Recreation and Culture revenue budget and performing favourably with the centre year to date budget of 106%.

### **Economic Services (Page 12)**

Economic Services is 39% over budget which is due to the increase number of 535 building licences issued compared to last year 487 licences.

### **Other Property & Services (Page 13)**

The total revenue for Other Property & Services is 111% over the budget which is due the higher insurance claims for the last 11 months and lease on Tamala Park exceeded budget.

### **Operating Expenditure**

Operating expenditure for the month of May is on budget with the year to date budget.

**Capital Expenditure Summary (Pages 18 to 24)**

The Capital Expenditure summary details projects included in the 2006/07 budget and reports the original budget and compares actual expenditure to date against these. Capital works show total expenditure including commitment for May amount of \$6,270,119 which is 33% of the revised budget of \$25,119,045.

	<b>Revised Budget</b>	<b>Actual to Date</b>	<b>%</b>
Furniture & Equipment	96,800	42,798	44%
Plant & Equipment	905,925	492,299	54%
Land & Building	14,079,334	2,223,094	16%
Infrastructure	10,036,986	5,406,315	54%
<b>Total</b>	<b>25,119,045</b>	<b>8,164,506</b>	<b>33%</b>

**Balance Sheet (Statement of Financial Position) and Statement of Changes in Equity (Pages 25 & 26)**

The statement shows the current assets of \$17,973,110 and non current assets of \$118,768,158 for total assets of \$136,741,267.

The current liabilities amount to \$4,175,456 and non current liabilities of \$13,759,206 for the total liabilities of \$17,934,662. The net asset of the Town or Equity is \$118,806,605.

**Restricted Cash Reserves (Page 27)**

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

**Debtors and Rates Financial Summary**

**General Debtors (Page 28)**

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 \$363,337 is outstanding at the end of May. Of the total debt \$12,849 (4%) relates to debts outstanding for over 60 days. The Debtor Report identifies significant balances that are well overdue.

Finance has been following up with debt recovery by issuing reminder when it is overdue.

It should be noted that as at 21 June 2007 the outstanding debt by Floreat Athena Soccer Club has been paid in full.

**Rate Debtors (Page 29)**

The notices for rates and charges levied for 2006/07 were issued on the 1 August 2006.

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

First Instalment	5 September 2006
Second Instalment	6 November 2006
Third Instalment	4 January 2007
Fourth Instalment	6 March 2007

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

Instalment Administration Charge (to apply to second, third, and fourth instalment)	\$4.00
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 are \$371,691 which represents 2.4% of the outstanding collectable income.

### **Beatty Park – Financial Position Report (Page 30)**

As at 31 May 2007 the operating deficit for the Centre was \$291,271 in comparison to the budgeted year to date deficit of \$618,910 and annual deficit of \$639,155.

It is very pleasing to report that the cash position showed a current **cash surplus of \$144,848** in comparison to the year to date budget of cash deficit of \$104,316 and an annual budget estimate of a cash deficit of \$81,056. The cash position is calculated by adding back depreciation to the operating position.

### **Statement of Financial Activity (Page 31)**

The closing surplus carry forward for the year to date 31 May 2007 was \$3,397,700.

### **Net Current Asset Position (Page 32)**

The net current asset position is \$13,964,824.

### **Variance comment Report (Pages 33 to 36)**

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

**The Presiding Member advised the meeting that several items had been requested to be Deferred at the request of the applicant and these should be considered now in order to save time for the applicant.**

**10.1.8 No. 136 (Lot: 96 D/P: 2001) East Parade, East Perth - Proposed Demolition of Existing Single House and Construction of Two (2) Two - Storey Grouped Dwellings and One Two-Storey with Loft Grouped Dwelling and Associated Ancillary Accommodation**

<b>Ward:</b>	South	<b>Date:</b>	19 June 2007
<b>Precinct:</b>	Banks; P15	<b>File Ref:</b>	PRO3624; 5.2006.295.1
<b>Attachments:</b>	<a href="#">001_002</a>		
<b>Reporting Officer(s):</b>	D Pirone S Kendall		
<b>Checked/Endorsed by:</b>	D Abel, J Maclean	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by Anthony J Casella Designers on behalf of the owner R Lee, C G Mulroy and Y F Lee for proposed Demolition of Existing Single House and Construction of Two (2) Two -Storey Grouped Dwellings and One Two-Storey with Loft Grouped Dwelling and Associated Ancillary Accommodation, at No. 136 (LOT: 96 D/P: 2001) East Parade, East Perth, and as shown on plans stamp-dated 7 March 2007, subject to the following conditions:*

- (i) *all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, solar panels, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating any new street/front wall, fence and gate between the East Parade 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;*
  - (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; and*

- (f) *the solid portion adjacent to East Parade boundary from the above truncation(s), can increase to a maximum height of 1.8 metres, provided that the fence and gate have at least two (2) significant appropriate design features to reduce the visual impact. Examples of design features may include 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.*

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

- (iii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
- (a) *the height of the boundary/parapet wall of unit 1 on the southern elevation being reduced to a maximum of 3 metres;*
  - (b) *the loft floor of unit 1 being deleted from the proposal;*
  - (c) *the building external wall height being reduced to a maximum of 6 metres above natural ground level;*
  - (d) *the lift of unit 1 being directly accessible from the kitchen or dining room on the ground floor; and*
  - (e) *the opening between the kitchen and the laundry of unit 1 having a door, which when closed shall completely fill the opening.*

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

- (iv) *first obtaining the consent of the owners of No. 132 East Parade for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 132 East Parade in a good and clean condition;*
- (v) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the East Parade verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (vi) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on the site;*
- (vii) *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;*

- (viii) *prior to the issue of a Building Licence, a Section 70A Transfer of Land Act 1893 Notification being registered against the Certificate of Title for the land advising proprietors or prospective proprietors of the existence of the following conditions which affect the use or enjoyment of the ancillary accommodation structure on the land:*
- (a) *the ancillary accommodation structure shall only be occupied by a member or members of the family of the occupier of the main dwelling;*
  - (b) *the ancillary accommodation structure shall not be used or rented out as a separate dwelling to the main building;*
  - (c) *the person or persons for whom the ancillary accommodation structure is to be constructed, is for use by that person or persons and shall be used for no other purposes or by other persons; and*
  - (d) *the ancillary accommodation structure shall not be occupied by any more than two (2) occupiers at any one time.*

*This notification shall be prepared and registered by the Town's solicitors or other solicitors agreed upon by the Town at the cost of the applicant/owner;*

- (ix) *prior to the issue of a Building Licence, the applicant shall submit to the Town written support/approval of the Department for Planning and Infrastructure and/or Western Australian Planning Commission for the development, and demonstrate compliance with its comments and conditions at the applicant(s)/owner(s)' full expense; and*
- (x) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the balcony to the family room and bedroom 1 on the northern, southern and eastern elevations of unit 1, the balcony to the lounge room on the northern, southern and western elevations of unit 1, the windows to the dining room and lounge room on the western elevation of the first floor of unit 1, the windows to the lounge room on the northern elevation of the first floor of unit 1, the balcony to bedroom 1 on the southern and eastern elevations of unit 2, the balcony to bedroom 2 on the southern elevation of unit 2, the balcony to bedroom 1 on the northern and eastern elevations of unit 3, and the balcony to bedroom 2 on the northern elevation of unit 3 being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be major openings as defined in the Residential Design Codes 2002. 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 Nos. 132 and 140 East Parade 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; and*

- (xi) *Prior to the first occupation of the development, the full length and width of the right of way from Westralia Road to the Southern most boundary abutting the subject land shall be sealed, drained and paved to the specifications of and supervision under the Town, at the applicant's/owner(s)' full expense;*
- (xii) *A bond and/or bank guarantee for \$14500 for the full upgrade of the right of way shall be lodged prior to the issue of a Building License; and*
- (xiii) *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.*

---

**COUNCIL DECISION ITEM 10.1.8**

**Moved Cr Torre , Seconded Cr Farrell**

*That the recommendation be DEFERRED at the request of the applicant and also to allow the Town's officers to investigate the various issues raised during Public Question Time.*

**MOTION PUT AND CARRIED (7-2)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Chester
Cr Doran-Wu	Cr Ker
Cr Farrell	
Cr Lake	
Cr Maier	
Cr Messina	
Cr Torre	

---

<b>Landowner:</b>	R Lee, C G Mulroy and Y F Lee
<b>Applicant:</b>	Anthony J Casella Designers
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R60
<b>Existing Land Use:</b>	Single House
<b>Use Class:</b>	Grouped Dwelling
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	620 square metres
<b>Access to Right of Way</b>	East side, 4 metres wide, unsealed, Town owned

**BACKGROUND:**

No specific background directly relates to the proposal.

**DETAILS:**

The proposal involves the demolition of the existing single house and the construction of the two, two storey grouped dwellings and one, two storey with loft grouped dwelling and associated ancillary accommodation.

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

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Density:	3.44 dwellings at R60	3 dwellings at R48.38	Supported – no variation.
Plot Ratio: Unit 1	0.65 110.32 square metres	0.62 105.23 square metres	Supported – no variation.
Unit 2	0.65 96.09 square metres	0.51 73.39 square metres	Supported – no variation.
Unit 3	0.65 79.42 square metres	0.58 70.87 square metres	Supported – no variation.
Minimum Lot Size: Lot 2/Unit 2	160 square metres	147.83 square metres	Supported – the development complies with the R60 average lot size/density, open space and plot ratio requirements.
Lot 3/Unit 3	160 square metres	122.19 square metres	Supported – the development complies with the R60 average lot size/density, open space and plot ratio requirements.
Setbacks: Unit 1- Ground Floor South	1.5 metres	Nil	Supported – the boundary/parapet wall is not considered to have an undue impact on the neighbouring property and it complies with the length requirements of building on boundary.
Upper Floor South	2.1 metres	1.09 metres – 1.2 metres – 2 metres – 2.2 metres – 4.5 metres	Supported – not considered to have an undue impact on adjoining property.
North	1.5 metres	1.2 metres – 2.9 metres – 3.5 metres	Supported – not considered to have an undue impact on adjoining property.

Loft Floor South	3.3 metres	2.3 metres	Not supported – considered to have an undue impact on neighbouring property. Condition the loft to be deleted from the proposal.
Unit 2- Ground Floor South	1.5 metres	1.2 metres – 3 metres – 4.2 metres	Supported – not considered to have an undue impact on adjoining property.
Upper Floor West (East Parade)	6 metres	4.2 metres to planter and dividing wall, and 5.06 metres to the balcony	Supported – not considered to have an undue impact on the streetscape and the amenity of the area.
South	2.1 metres	1.2 metres – 2.3 metres	Supported – not considered to have an undue impact on adjoining property.
Unit 3 Upper Floor West (East Parade)	6 metres	4.2 metres to planter and dividing wall, and 5.06 metres to the balcony	Supported – not considered to have an undue impact on the streetscape and the amenity of the area.
North	2.0 metres	1.2 metres – 2.3 metres	Supported – not considered to have an undue impact on adjoining property.
Building on Boundary: Unit 1	Walls not higher than 3.5 metres with average of 3 metres for 2/3 the length of the balance of the boundary behind the front setback, to one side boundary.	One boundary/parapet walls proposed  South Wall Height – 3.1 metres – 3.2 metres (average wall height is 3.15 metres). Wall length is compliant.	Supported in part – the wall lengths are compliant therefore not considered to have an undue impact on neighbouring properties provided the height of the wall is conditioned to be a maximum of 3 metres above natural ground level.
Street Walls and Fences	Fence to be 50 per cent visually permeable above 1.2 metres.	Details are not indicated on plans.	Not supported – condition all proposed street walls and fences to comply with the Town's Policy relating to Street Walls and Fences.

Outdoor Living Area Units 2 and 3	To be provided behind the front setback.	Provided within the front setback.	Supported – not considered to have an undue impact on the streetscape and the amenity of the area.
Driveway: Minimum width	4 metres	3.2 metres	Supported – The Town’s Technical Services Officers have assessed and supported this variation
Building Wall Height: Unit 1- Loft/ Third Storey North	6 metres	8.2 metres	Not supported – considered to have an undue impact on the streetscape and the amenity of the area. Condition applied for the loft to be deleted from the proposal and the building wall height to be reduced to a maximum of 6 metres.
Town’s Policy relating to Ancillary Accommodation: Unit 1	Where the ancillary accommodation structure is to be attached to the existing dwelling, direct internal access between the main dwelling and the ancillary accommodation structure is to be provided.	No direct internal access provided.	Not supported – condition the lift to be openable from the kitchen or dining room as well as the lobby, therefore direct internal access is provided.

**Consultation Submissions**

Support	Nil	Noted
Objection (2)	<ul style="list-style-type: none"> <li>A three dwelling development will create more people living along East Parade, therefore limited verge parking for visitors</li> </ul>	<ul style="list-style-type: none"> <li>Not supported – the development complies with the parking requirements of the Residential Design Codes and the Town’s Policies.</li> </ul>
	<ul style="list-style-type: none"> <li>Concerns that there are too many non-compliant requirements.</li> </ul>	<ul style="list-style-type: none"> <li>Not supported – the Town has the discretion to consider variations to the R Codes as per clause 1.3.3 of the R Codes.</li> </ul>

	<ul style="list-style-type: none"> <li>The development should not rely on the right of way for vehicular access.</li> </ul>	<ul style="list-style-type: none"> <li>Not supported – the Town’s policy relating to Vehicular Access states that if the property has legal access to a right of way then this shall be utilised for all access of vehicles.</li> </ul>
	<ul style="list-style-type: none"> <li>Concerns of privacy regarding the upper floor balconies and windows.</li> </ul>	<ul style="list-style-type: none"> <li>Not supported – all windows and balconies that are located 0.5 metre above natural ground level have been appropriately screened.</li> </ul>
	<ul style="list-style-type: none"> <li>The construction of the dwellings (for example, trucks) shall not cause an impact on the amenity of the street.</li> </ul>	<ul style="list-style-type: none"> <li>Not supported – this is a civil matter between the land owner and the surrounding neighbours.</li> </ul>
	<ul style="list-style-type: none"> <li>Objection to the minimum site area for Units 2 and 3.</li> </ul>	<ul style="list-style-type: none"> <li>Not supported – the development complies with the R60 average site area/density, open space and plot ratio requirements.</li> </ul>
	<ul style="list-style-type: none"> <li>The plot ratio is non-compliant.</li> </ul>	<ul style="list-style-type: none"> <li>Not supported – the plot ratio complies with the requirements of the Residential Design Codes.</li> </ul>
	<ul style="list-style-type: none"> <li>The boundary wall on the southern elevation.</li> </ul>	<ul style="list-style-type: none"> <li>Supported in part – the wall length are compliant therefore not considered to have an undue impact on neighbouring properties provided the height of the wall is conditioned to be a maximum of 3 metres above natural ground level.</li> </ul>
	<ul style="list-style-type: none"> <li>The variation of the setback of the ground floor and upper floor of unit 2 on the southern boundary.</li> </ul>	<ul style="list-style-type: none"> <li>Not supported – not considered to have an undue impact on adjoining property.</li> </ul>
	<ul style="list-style-type: none"> <li>The building wall height of 8.2 metres.</li> </ul>	<ul style="list-style-type: none"> <li>Supported – condition of approval applied that the loft be deleted from the proposal and the building wall height be reduced to a maximum of 6 metres from natural ground level.</li> </ul>
	<ul style="list-style-type: none"> <li>The overshadowing onto the northern neighbouring property.</li> </ul>	<ul style="list-style-type: none"> <li>Not supported – the overshadowing complies with the requirements of the Residential Design Codes.</li> </ul>
	<ul style="list-style-type: none"> <li>The outdoor living area of units 2 and 3 being located in the front setback.</li> </ul>	<ul style="list-style-type: none"> <li>Not supported – not considered to have an undue impact on the streetscape and the amenity of the area.</li> </ul>

	<ul style="list-style-type: none"> <li>The driveway with a reduced width of 3.2 metres is reflective of the excessive scale of the development.</li> </ul>	<ul style="list-style-type: none"> <li>Not supported – the Town’s Technical Services Officers have assessed and supported this variation and the development is compliant in terms of plot ratio.</li> </ul>
	<ul style="list-style-type: none"> <li>Unit 1 is classed as a multiple dwelling not a unit with an ancillary accommodation structure.</li> </ul>	<ul style="list-style-type: none"> <li>Not supported – the ancillary accommodation will comply with the Town’s Policy relating to Ancillary Accommodation provided that conditions are applied that the lift be accessible from the kitchen or dining room on the ground floor and a Section 70A notification is registered.</li> </ul>
	<ul style="list-style-type: none"> <li>The third storey/loft is totally out of character with the existing two and mostly single storey character of the streetscape and is a contributing factor to excessive height of the proposed dwelling.</li> </ul>	<ul style="list-style-type: none"> <li>Supported – a third storey is not permitted in the Banks Locality. Condition applied that the loft be deleted from the proposal.</li> </ul>
<b>Other Implications</b>		
Legal/Policy	TPS 1 and associated Policies, and Residential Design Codes (R Codes).	
Strategic Implications	Nil	
Financial/Budget Implications	Nil	

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

**COMMENTS:**

The application was sent to the Department for Planning and Infrastructure on 28 June 2006 for their comments and recommendation as East Parade is classed as a Primary Regional Road in the Metropolitan Region Scheme. No response was received from the Commission.

The plans submitted for approval show insufficient details of screening and therefore this matter has been conditioned accordingly.

**Heritage:**

A detailed Heritage Assessment is contained in Appendix 10.1.

The subject dwelling at No. 136 (Lot 96) East Parade, Mount Lawley is a single storey timber and iron residence, which was constructed circa 1906 in the Federation Georgian style of architecture as part of the East Norwood Estate. The dwelling follows a common standard four-roomed plan, with central hallway, rear skillion and front verandah extending the length

of the facade. Internally much of the original features and fittings remain intact, however externally the dwelling has been altered. Such alterations include the replacement of the original roof and verandah, removal of the chimneys and replacement of the original verandah floor and window detail.

The majority of the properties along East Parade, including the subject place, are considered to have some degree of significance in terms of local heritage, as they are representative of the Federation style of architecture and as they formed part of the East Norwood Estate, which was development circa 1900 through to the First World War. However, it is considered that the historic and representative values identified are common elements of most original building stock in the Town and are not unique to the subject buildings to warrant inclusion on the Town's Municipal Heritage Inventory (MHI).

As a weatherboard dwelling the place has some rarity value as it represents a building material that is no longer widely used in the construction of residential buildings in Perth. However, in considering the comparable thresholds for including properties on the Town's MHI resultant from the recent MHI review, it is considered that the application should be recommended for approval, subject to archival to a quality archival record and other standard demolition conditions.

**Summary:**

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

**10.1.12 No. 355 (Lot 270 D/P:1237) Fitzgerald Street, North Perth -  
Unauthorised Alterations and Two-Storey Additions to Existing Single  
House - Request for Reconsideration of Condition**

<b>Ward:</b>	South	<b>Date:</b>	19 June 2007
<b>Precinct:</b>	Smith's Lake; P06	<b>File Ref:</b>	PRO1605; 00/33/0468; 00/33/2883; 5.2006.433.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	N Wellington		
<b>Checked/Endorsed by:</b>	D Abel, J MacLean	<b>Amended by:</b>	-

*That the Council AUTHORISES the Chief Executive Officer to proceed with legal proceedings against the owners of No. 355 (Lot 270) Fitzgerald Street, North Perth, in relation to the requirements of the Notices issued under Section 401 (1) (c) of the Local Government (Miscellaneous Provisions) Act 1960 and [former] Section 10 (3) of the Town Planning and Development Act 1928 to demolish and remove the unauthorised building structures to the satisfaction of the Town of Vincent.*

**COUNCIL DECISION ITEM 10.1.12**

**Moved Cr Torre , Seconded Cr Lake**

*That the recommendation be DEFERRED at the request of the applicant until 24 July 2007 to enable the requested plans to be submitted.*

Cr Farrell departed the Chamber at 7.05pm

**MOTION PUT AND CARRIED (5-3)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Chester
Cr Doran-Wu	Cr Ker
Cr Lake	Cr Maier
Cr Messina	
Cr Torre	

Cr Farrell was out of the Chamber and did not vote

Cr Farrell returned at 7.06pm

**PURPOSE OF REPORT:**

The owner's representative, Brent Shulman Architects has requested the Council to reconsider clause (ii) (b) of the Council resolution at the Ordinary Meeting held on 27 June 2006:

*"(b) submit a Building Licence Application to the Town within 28 days of being issued an Approval to Commence Development; "*

**BACKGROUND:**

13 February 2001 The Council at its Ordinary Meeting approved an application alterations and two storey alterations and additions to existing dwelling, subject to the following conditions:

- (i) compliance with all relevant Environmental Health, Building and Engineering requirements;
  - (ii) any filling placed on the site shall not exceed a height of 300 millimetres above the established natural ground level of any adjoining lot. A height in excess of 300 millimetres to a maximum of 600 millimetres above the established natural ground level of any adjoining lot may be permitted, subject to the written consent of the owners of all adjoining properties to the proposed depth of filling;
  - (iii) all front fences and gates shall comply with the Town's Policy relating to Front Fences and Screen Walls, and full details shall be submitted to and approved prior to the erection of such fences and gates;
  - (iv) subject to first obtaining the consent of the owners of No.359 (Lot 2) Fitzgerald Street North Perth for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No.359 (Lot 2) Fitzgerald Street North Perth, in a good and clean condition; and
  - (v) prior to the issue of a Building Licence either, signed certification from a practising structural engineer stating that the proposed development will not have an adverse effect on the existing southern side retaining wall, OR signed plans from a practising structural engineer that details the necessary works to be taken out to ensure the structural adequacy of the southern side retaining wall, shall be submitted to and approved by the Town. All necessary works shall be undertaken prior to the first occupation of the development and maintained thereafter by the owner(s)/occupier(s);
- 26 February 2001 Approval to Commence Development 00/33/0468 for proposed alterations and two storey additions to existing dwelling was issued.
- 26 February 2001 Change of use from residential to residential and office was approved under delegated authority.
- 7 March 2001 The Town sent a letter sent to the owners requesting the following information in order for the Building Licence to be issued:
- 1. Two (2) copies of suitable specifications of the proposed building work.
  - 2. The plans to be endorsed by a qualified practising Structural Engineer, stating the adequacy of all the proposed structural elements of the construction work, including confirmation that the existing structure is structurally adequate to support the proposed second storey additions.

- The applicant was also advised *"If you wish to proceed with the proposal, please ensure that you submit the abovementioned information within thirty five (35) days of the date of this letter, ie, by no later than 12 April 2001. If the required information has not been received by this date, it will be assumed that you wish to withdraw your application. In that event the relevant file will be closed, and your application returned."*
- 13 January 2005 The Town received a letter of enquiry from a member of the public with regard to the works at the subject property.
- 7 February 2005 Investigations revealed that a Building Licence had not been issued for the works and Notices under Section 401 (1) (c) of the Local Government (Miscellaneous Provisions) Act 1960 and Section 10 (3) of the former Town Planning and Development Act 1928 were issued requiring the removal of the subject unauthorised building works. The unauthorised works included a two-storey structure, constructed of brick walls and concrete ground floor and first floor slab, measuring approximately 13 metres long, 11 metres wide and 6 metres high.
- 25 February 2005 The applicant submitted an application for review against the requirements of the Notices issued by the Town to the State Administrative Tribunal (SAT), references CC2056 of 2005 and DR361 of 2005.
- 25 May 2005 The applicant submitted an application for retrospective approval for alterations and two-storey additions to existing single house, reference 00/33/2883.
- 5 August 2005 The Town requested the applicant to provide additional information and accurate plans in order to proceed with the application. The information was required within 14 days (that is, by 19 August 2005) or the application would be deemed refused.
- 20 October 2005 The applicant requested, in writing, that application reference 00/33/2883 be withdrawn.
- 7 April 2006 The State Administrative Tribunal Order 'Dismissed' the application for review CC2056 of 2005, of the Notice issued by the Town under Section 401(1)(c) of the Local Government (Miscellaneous Provisions) Act 1960. The stay of the S10(3) directions and the stay of S401 notices, issued under S25(2) of the SAT Act 2004 (LA) be lifted.
- 26 April 2006 SAT Order and Reasons included in the Information Bulletin to Council.
- 13 June 2006 Report on the SAT determination and authorisation of legal proceedings deferred at the Ordinary Meeting of Council at the request of the applicant.
- 27 June 2006 The Council at its Ordinary Meeting resolved as follows:
- "That the Council;*
- (i) *RECEIVES the determination of the State Administrative Tribunal dated 7 April 2006 to dismiss the review submitted in relation to the unauthorised building structure at No. 355 (Lot 270 D/P:1237) Fitzgerald Street, North Perth;*

- (ii) *in respect to the proposed alterations and two-storey additions to existing single house at No. 355 (Lot 270) Fitzgerald Street, North Perth, the owner/applicant is required to undertake the following:*
  - (a) *submit a new detailed and complete Planning Application to the Town with relevant fees within 28 days of notification by the Town;*
  - (b) *submit a Building Licence Application to the Town within 28 days of being issued an Approval to Commence Development;*
  - (c) *commence construction works in accordance with the abovementioned approvals within 60 days of issue of the Building Licence; and*
  - (d) *submit to the Town a site survey plan certified by a licensed land surveyor confirming whether the subject building works is contained entirely within the boundaries of No. 355 (Lot 270) Fitzgerald Street, North Perth within 28 days of notification by the Town; and*
- (iii) *AUTHORISES the Chief Executive Officer to proceed with legal proceedings against the owners of No. 355 (Lot 270) Fitzgerald Street, North Perth, in relation to the requirements of the Notices issued under Section 401 (1) (c) of the Local Government (Miscellaneous Provisions) Act 1960 and [former] Section 10 (3) of the Town Planning and Development Act 1928 to demolish and remove the unauthorised building structures to the satisfaction of the Town of Vincent should clause (ii) above not be satisfied.."*

8 August 2006

The Council at its Ordinary Meeting resolved as follows:

*"That;*

- (i) *in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996 as referred to Section 5.25(e) of the Local Government Act 1995, the Council resolves to CHANGE clause (ii) (a) of the resolution adopted by the Council at its Ordinary Meeting held on 27 June 2006 (Item 10.1.19);*
- (ii) *Councillor Farrell MOVES a motion to CHANGE the decision by amending the following clause:*
  - "(a) submit a new detailed and complete Planning Application to the Town with relevant fees within 28 days of notification by the Town;"*
- (iii) *in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996 as referred to in Section 5.25(e) of the Local Government Act 1995, three Elected Members, namely Mayor Catania, Councillor Lake and Councillor Maier, being one third of the number of offices of members of the Council, SUPPORT this motion; and*

(iv) *the Council RESOLVES BY AN ABSOLUTE MAJORITY to CHANGE the decision by amending the subject clause to read as follows:*

*"(a) submit a new detailed and complete Planning Application to the Town with relevant fees within 28 days of ~~notification by the Town~~ the date the site survey plan is to be submitted to the Town as referred to in clause (ii) (d) and in no case later than 6 September 2006;"*

9 August 2006 A site survey plan certified by a licensed land surveyor confirming the subject building work is contained entirely within the boundaries of No. 355 (Lot 270) Fitzgerald Street, North Perth was submitted to the Town as per clause (ii) (d) of Council's resolution at its Ordinary Meeting held on 27 June 2006.

13 September 2006 A new Planning Application was submitted to the Town.

2 April 2007 The Town granted Approval to Commence Development for additions and alterations and two storey addition to existing single house (part application for retrospective approval) under delegated authority from the Council.

4 May 2007 The Town's Development Compliance Officer contacted the applicant to query the progress of the submission of a Building Licence to the Town, in accordance with the Council resolution made on 27 June 2006.

14 May 2007 The Town wrote to the applicant as follows:

*"Further to your conversation with the Town's Development Compliance Officer on 4 May 2007 regarding the abovementioned matter, I wish to advise the following.*

*This matter was referred to the Ordinary Meeting of Council held on 13 June 2006 recommending the owner be given a further 28 days to comply with the requirements of the Notices issued under Section 401 (1) (c) of the Local Government (Miscellaneous Provisions) Act 1960 and [former] Town Planning and Development Act 1928, which were issued in February 2005, and had been subject of an Appeal to the State Administrative Tribunal and were subsequently 'dismissed' by the Tribunal.*

*As you are aware, the Council deferred consideration of the matter at that meeting as a result of the concept proposal contained within your letter dated 13 June 2006. In an attempt to resolve the matter to the satisfaction of all parties, and in good faith, the Council at its Ordinary Meeting held on 27 June 2006 resolved not to proceed with legal proceedings subject to compliance with the following:*

*"(a) submit a new detailed and complete Planning Application to the Town with relevant fees within 28 days of notification by the Town;*

- (b) *submit a Building Licence Application to the Town within 28 days of being issued an Approval to Commence Development;*
- (c) *commence construction works in accordance with the abovementioned approvals within 60 days of issue of the Building Licence; and*
- (d) *submit to the Town a site survey plan certified by a licensed land surveyor confirming whether the subject building works is contained entirely within the boundaries of No. 355 (Lot 270) Fitzgerald Street, North Perth within 28 days of notification by the Town; and"*

*The Council also resolved on 8 August 2006, at your request, to change clause (a) above as follows:*

- "(a) *submit a new detailed and complete Planning Application to the Town with relevant fees within 28 days of notification by the Town the date the site survey plan is to be submitted to the Town as referred to in clause (ii) (d) and in no case later than 6 September 2006;"*

*The Town's records indicate that clause (ii) (a) to "submit a new detailed and complete Planning Application to the Town with relevant fees within 28 days of the date the site survey plan is to be submitted to the Town as referred to in clause (ii) (d) and in no case later than 6 September 2006;" has been satisfied, and the subject Approval to Commence Development was issued on 2 April 2007. However clause (ii) (b) to "submit a Building Licence Application to the Town within 28 days of being issued an Approval to Commence Development;", has not been complied with as the Building Licence was due to be submitted to the Town by 30 April 2007, which has not occurred.*

*The Town has made every reasonable effort in achieving compliance regarding this matter which will now be referred to the Town's Solicitors to commence legal proceedings, in accordance with the following resolution made by the Council at its Ordinary Meeting held on 27 June 2006:*

- "(iii) *AUTHORISES the Chief Executive Officer to proceed with legal proceedings against the owners of No. 355 (Lot 270) Fitzgerald Street, North Perth, in relation to the requirements of the Notices issued under Section 401 (1) (c) of the Local Government (Miscellaneous Provisions) Act 1960 and [former] Section 10 (3) of the Town Planning and Development Act 1928 to demolish and remove the unauthorised building structures to the satisfaction of the Town of Vincent should clause (ii) above not be satisfied."*

*You are, however, invited to submit in writing, your intentions with regard to this matter to the Town within 14 days of the date of this letter."*

**DETAILS:**

The following e-mail correspondence was received by the owner's representative, Brent Shulman Architects on 15 May 2007:

*"It was resolved by Council at their meeting 27 June 2006 that we submit Building Licence drawings within 28 days of the issue of the Planning Approval for the project.*

*This timeframe was likely to be unachievable given our workload commitments then ( and that of our sub consultants - engineers etc ) and is even more onerous now given the current business demand that exists, some eight months after submitting for Approval.*

*We advise that Nadine Wellington ( Compliance Officer) called our office on Friday 4th May asking when the working drawings would be presented for Building Licence as the timeframe determined by Council ,post Planning Approval ,had elapsed. We advised the timeframe for completion would be another ten weeks as:*

- *our workload does not allow sooner*
- *our engineer cannot start for another three weeks (and has advised a five week programme thereafter to complete)*
- *no documentation has commenced since Planning approval, given the above issues.*

*It is perceived unsatisfactory the while such an onerous determination was placed upon ourselves that the Planning Department could take SEVEN MONTHS to deliberate and approve this submission. (Submitted 19 September 2006, Approved 2 April 2007) This is perceived unsatisfactory, irrespective of the workload and staffing issues this Department may possess. We and our client have requested over these months , either by phone or in person over the counter, knowledge as to when the proposal would be assessed and on last advises ( approximately five months after submitting ) the Planning Officer handling the submission said it was in the hands of the Head of Planning awaiting determination.( this obviously took another two months )*

*We are now forced to allocate this projects completion concurrent with engineers input and in the list of projects we are undertaking and request Council respect this. We request Council redefine the required timelines for completion by ourselves and request it does so in line with the advices above and any protocol required.*

*We await your written advices."*

**CONSULTATION/ADVERTISING:**

Not required.

**LEGAL/POLICY:**

Town Planning Scheme No. 1 and associated Policies, Residential Design Codes, Local Government (Miscellaneous Provisions) Act 1960 and Planning and Development Act 2005.

The Town's Prosecution Policy No. 4.1.22 requires consideration to be given in taking prosecution action, instead of, or in addition to applying alternative enforcement actions, in circumstances including alleged failure to comply with a notice within a reasonable period of time.

**STRATEGIC IMPLICATIONS:**

Town of Vincent Strategic Plan 2006-2011 – Action 4.1.2 *"Manage the organisation in a responsible, efficient and accountable manner".*

**FINANCIAL BUDGET IMPLICATIONS:**

The 2006/2007 Budget lists \$5,000 for Building Control - Legal Expenses, and \$40,000 for Town Planning Administration - Legal Expenses. The costs associated with undertaking prosecution proceedings, including Solicitors costs, are to be determined. If successful in the prosecution proceedings, the Town may be able to recover associated costs.

**COMMENTS:**

The above applicant's comments are noted. The Town has made every reasonable effort in achieving compliance for an unauthorised development that has existed since prior to February 2005. The Town's Officers therefore do not support the change of date to submit a Building Licence to the Town. This matter is in accordance with Policy No 4.1.22 – Prosecutions.

In light of the above, it is recommended that the Chief Executive Officer be authorised to proceed with legal proceedings.

**10.1.7 No. 248 (Lot: 2 D/P: 5962) Fitzgerald Street, Perth – Proposed Alterations and Two-Storey Additions to Existing Office Building**

<b>Ward:</b>	South	<b>Date:</b>	18 June 2007
<b>Precinct:</b>	Hyde Park; P12	<b>File Ref:</b>	PRO3733 5.2007.185.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	R Rasiah		
<b>Checked/Endorsed by:</b>	J Maclean	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by Allerdig & Associates on behalf of the owner F Capone for proposed Alterations and Two-Storey Additions to Existing Office Building, at No. 248 (Lot: 2 D/P: 5962) Fitzgerald Street, Perth and as shown on plans stamp-dated 29 May 2007, subject to the following conditions:*

- (i) *prior to the issue of the Building Licence or first occupation of this development, whichever occurs first, the applicant/owner shall pay a cash-in-lieu contribution of \$6942.00 for the equivalent value of 2.67 car parking spaces, based on the construction cost of \$2,600 per bay as set out in the Town's 2006/2007 Budget. Alternatively, if the car parking shortfall is reduced as a result of a greater number of car bays being provided, the cash in lieu amount can be reduced to reflect the new changes in car parking requirements;*
- (ii) *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;*
- (iii) *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;*
- (iv) *any new street/front wall, fence and gate between the Fitzgerald Street boundary and the main building, including along the side boundaries within this front setback area, shall comply with the following:*
  - (a) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
  - (b) *decorative capping on top of posts and piers may extend the total maximum height of the posts and piers to 2.0 metres above the adjacent footpath level;*
  - (c) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*
  - (d) *the maximum height of the solid portion being 1.2 metres above the adjacent footpath level, and the section above this solid portion being visually permeable, with a minimum 50 per cent transparency; and*

- (e) *the provision of a minimum 1.5 metres by 1.5 metres truncation where walls, fences and gates adjoin vehicle access points, or where a driveway meets a public street or right of way; and a minimum 3.0 metres by 3.0 metres truncation where two streets intersect. Walls, fences and gates may be located within this truncation area where the maximum height of the solid portion is 0.65 metre above the adjacent footpath level;*
- (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) *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, traffic and heavy vehicle access, dust and any other appropriate matters, shall be submitted to and approved by the Town, and thereafter implemented and maintained;*
- (viii) *prior to the first occupation of the development, two (2) class 1 or 2 bicycle parking facilities shall be provided at a location convenient to the entrances and within the approved development. Details of the design and layout of the bicycle parking facilities shall be submitted and approved prior to installation of such facilities;*
- (ix) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (x) *the maximum floor space for the offices shall be limited 310 square metres of gross floor area;*
- (xi) *first obtaining the consent of the owners of Nos. 246 and 250 Fitzgerald 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. 246 and 250 Fitzgerald Street, in a good and clean condition;*
- (xii) *doors, windows and adjacent floor areas fronting Fitzgerald Street shall maintain an active and interactive relationship with these streets; and*
- (xiii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*

  - (a) *appropriate design features being incorporated into both the side blank walls of the building; and*
  - (b) *a continuous and complementary awnings being provided over the Fitzgerald Street. The awnings shall be 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 600 millimetres from the kerb line of Fitzgerald Street.*

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

**COUNCIL DECISION ITEM 10.1.7**

**Moved Cr Farrell , Seconded Cr Torre**

*That the recommendation be adopted.*

**MOTION PUT AND CARRIED (7-2)**

<b><u>For</u></b>	<b><u>Against</u></b>
Cr Chester	Mayor Catania
Cr Doran-Wu	Cr Farrell
Cr Ker	
Cr Lake	
Cr Maier	
Cr Messina	
Cr Torre	

<b>Landowner:</b>	F Capone
<b>Applicant:</b>	Allerding & Associates
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Commercial
<b>Existing Land Use:</b>	Office
<b>Use Class:</b>	Office Building
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	175 square metres
<b>Access to Right of Way</b>	Not applicable

**BACKGROUND:**

27 February 2007

Council at its Ordinary Meeting refused an application for proposed Additional Multiple Dwelling, Alterations and Additions to Existing Office Building at No. 248 (Lot 2 Diagram 5962) Fitzgerald Street, North Perth, for the following reasons:

- “
- (i) *the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
  - (ii) *the non-compliance with the on-site parking provision, design of parking spaces and vehicular access requirements of the Residential Design Codes and the Town's Policies relating to Hyde Park Precinct, Parking and Access, respectively; and*
  - (iii) *consideration of the objection received from the Department for Planning and Infrastructure regarding the proposed road reservation and vehicle manoeuvring issues.”*

- 3 April 2007 An application for review was lodged with the State Administrative Tribunal (SAT)-DR123 of 2007, in relation to the development refused at the Ordinary Meeting of Council held on 27 February 2007.
- 26 April 2007 Direction Hearing at SAT.
- 4 May 2007 Further Direction Hearing at SAT.
- 23 May 2007 New planning application for the current proposal submitted to the Town.

**DETAILS:**

There is an existing single storey office building at the subject site. The existing office has no off-street parking facilities.

Approval is sought for the modifications to the internal layout of the existing office, and the addition of two storeys of offices creating a three storey building. No car parking is provided on site. The owners are prepared to pay cash-in-lieu for the shortfall in car parking. A "nil" setback is proposed to all boundaries.

Following mediation at SAT, the owners have lodged a new planning application to respond to the issues relating to the refusal of Council of a mixed use development at the above site at its Ordinary Meeting of Council held on 26 February 2007. The applicant's submission is attached.

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Plot Ratio (R80)	1.0 or 175 square metres.	1.49 of 260.84 square metres.	Supported - as increase in number of floors results in the increased plot ratio.
Building Height	Two storeys are strongly encouraged, three storeys can be considered provided the amenity of the adjoining residential area is protected in terms of privacy, scale and bulk.  Walls on boundary for 2/3 of the boundary behind the street setback up to 6 metres in height.	Three storeys.  Walls to 10 metres proposed.	Supported – third storey component is orientated towards Fitzgerald Street creating strong urban corridor/edge. Development is predominantly single storey where it abuts residential properties.  Supported – Hyde Park Precinct Policy permits three storey developments along Fitzgerald Street to create strong urban corridor/edge.

Consultation Submissions		
Support	Nil.	Noted.
Objection	Nil.	Noted.
Other Implications		
Legal/Policy	TPS 1 and associated Policies.	
Strategic 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.

### Car parking

Office: 1 car bay per 50 square metres gross office floor area (proposed 310 square metres) = 6.2 car bays. Car parking requirement (nearest whole number) = 6	6 car bays
Apply the adjustment factors. 0.85 (within 400 metres of a bus stop) 0.85 (400metres to car park with 75 car bays and greater) 0.95 (secure on-site bicycle parking)	(0.6863)  4.118 car bays
Minus the car parking provided on-site	Nil car bays
Minus the most recently approved on-site car parking shortfall (existing office of same GFA)	1.445 car bays
Resultant shortfall	2.673 car bays

### Bicycle Parking Facilities

Requirements	Required	Provided
<b>Offices</b> <ul style="list-style-type: none"> <li>1 space per 200 (proposed 310) square metres gross floor area (class 1 or 2).</li> <li>1 space per 750 (proposed 310) square metres over 1000 square metres for visitors (class 3).</li> </ul>	1.55 spaces  N/A	No bicycle parking facilities shown on submitted plans.

### COMMENTS:

#### Department for Planning and Infrastructure (DPI) Comments

The DPI has previously advised that the subject lot is affected by a 3.2 metre road widening requirement for Fitzgerald Street, which is reserved as an Other Regional Road in the Metropolitan Region Scheme. The current proposal is not within this road reservation area.

The DPI has also previously advised that the Western Australian Planning Commission's Liveable Neighbourhood Operational Policy, Edition 3, Element 2, states that vehicle reversing into the moving traffic stream where the ultimate traffic volume will be over 5000 vehicles per day should be avoided. The DPI's comments in relation for this proposal had not been received when his agenda report was prepared. However the DPI's Officers have advised by email that the current proposal was supportable.

The current proposal is a fully commercial development, as compared to the mixed use development consisting of office and residential which was previously refused, as there was no car parking provided even for the residential component, which would have been needed after hours. It is to be noted that the Town does not issue on-street car parking permits to owner/tenants/visitors of commercial developments.

#### Conclusion

A "nil" car parking can be supported in this instance for the following reasons:

- It is to be acknowledged that no car parking can be provided on-site where vehicles can reverse out onto Fitzgerald Street due to the narrow frontage width of the lot (6.38 metres), and also based on the previous response received from the DPI that no reversing onto to Fitzgerald Street will be allowed.
- There is on street car parking available in front of the subject site, surrounding streets, and accessibility to a public car park within 400 metres of the subject site.
- The short fall of 2.67 car bays is considered minor in this instance.

The proposal supported on the above basis, subject to appropriate conditions.

**10.1.11 No. 448 (Lots 2, 3 and 4), Fitzgerald Street, Corner Wasley Street, North Perth- Proposed Partial Demolition of Existing Single Storey Commercial Building and Construction of Four (4) Storey Mixed Use Development Comprising Shops, Office Buildings, Consulting Rooms (Dental Practitioners), Eating House, part Alfresco and Existing Basement Car Park**

<b>Ward:</b>	North	<b>Date:</b>	20 June 2007
<b>Precinct:</b>	North Perth Centre; P09	<b>File Ref:</b>	PRO1047 5.2007.192.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	R Rasiah		
<b>Checked/Endorsed by:</b>	Jim Maclean, J Giorgi	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by Labirynth Design & Development on behalf of the owner, Tizzano Group, for Proposed Partial Demolition of Existing Single Storey Commercial Building and Construction of four (4) Storey Mixed Use Development Comprising Shops, Office Buildings, Consulting Rooms (Dental Practitioners), Eating House, part Alfresco and Existing Basement Car Park at No. 448 (Lots 2, 3 and 4) Fitzgerald Street, corner Wasley Street, North Perth, and as shown on overshadowing, demolition, landscaping, new elevations 1 and 2, site plan and amended undercroft plan, existing floor plans and new floor plans 1 and 2 stamp-dated 25 May 2007 subject to the following conditions:*

- (i) *prior to the issue of the Building Licence or first occupation of this development, whichever occurs first, the applicant/owner shall pay a cash-in-lieu contribution of \$44,096 for the equivalent value of 16.96 car parking spaces, based on the construction cost of \$2,600 per bay as set out in the Town's 2006/2007 Budget. Alternatively, if the car parking shortfall is reduced as a result of a greater number of car bays being provided, the cash-in-lieu amount can be reduced to reflect the new changes in car parking requirements;*
- (ii) *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;*
- (iii) *the consulting rooms shall be used for dentistry/dental practitioners purpose only and should the applicant/owner wish to change the nature of the consulting rooms use, it shall be necessary to reapply to and obtain approval from the Town prior to commencement of the new use;*
- (iv) *the hours of operation for the consulting rooms (dental practitioners) shall be limited to the following times: 8.00am to 6.00 pm Monday to Friday and 8.00 am to 1.00 pm Saturday, inclusive;*
- (v) *a maximum of four (4) dental consultants/practitioners and consulting rooms are permitted to operate at the property at any one time;*

- (vi) *any new street/front wall, fence and gate between the Fitzgerald Street and Wasley Street boundaries and the main building, including along the side boundaries within this front setback area, shall comply with the following:*
- (a) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
  - (b) *decorative capping on top of posts and piers may extend the total maximum height of the posts and piers to 2.0 metres above the adjacent footpath level;*
  - (c) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*
  - (d) *the maximum height of the solid portion being 1.2 metres above the adjacent footpath level, and the section above this solid portion being visually permeable, with a minimum 50 per cent transparency; and*
  - (e) *the provision of a minimum 1.5 metres by 1.5 metres truncation where walls, fences and gates adjoin vehicle access points, or where a driveway meets a public street or right of way; and a minimum 3.0 metres by 3.0 metres truncation where two streets intersect. Walls, fences and gates may be located within this truncation area where the maximum height of the solid portion is 0.65 metre above the adjacent footpath level;*
- (vii) *a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*
- (viii) *all signage that does not comply with the Town's Policy relating to Signs and Advertising shall be subject to a separate Planning Application, and all signage shall be subject to a separate Sign Licence application, being submitted and approved prior to the erection of the signage;*
- (ix) *the multi-purpose electronic screen shall be restricted to displaying time, day, month or weather information only, and shall not be used for advertising of any other nature;*
- (x) *the vehicular entry gates to the undercroft car park shall be either open at all times or suitable management measures shall be implemented to ensure access is available for visitors for the development 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;*
- (xi) *prior to the issue of a Building Licence, a Construction Management Plan addressing noise, hours of construction, traffic and heavy vehicle access, dust and any other appropriate matters, shall be submitted to and approved by the Town, and thereafter implemented and maintained;*
- (xii) *the car parking area(s) on the subject land shall be sealed, drained, paved and line marked in accordance with the approved plans prior to the first occupation of the development and maintained thereafter by the owner(s)/occupier(s) to the satisfaction of the Town. All with tandem car bays being sign posted and set aside specifically for staff use only;*

- (xiii) *a detailed landscaping plan, including a list of plants on the fourth floor of the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (xiv) *prior to the first occupation of the development, nine (9) class 1 or 2 and seven(7) class 3 bicycle parking facility shall be provided at a location convenient to the entrances and within the approved development. Details of the design and layout of the bicycle parking facilities shall be submitted and approved prior to installation of such facilities;*
- (xv) *the car parking area shall be shown as 'common property' on any strata or survey strata subdivision plan for the property,;*
- (xvi) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (xvii) *the maximum floor space shall be limited as follows:*
  - (a) *shops - 204 square metres of gross floor area;*
  - (b) *eating house (café/restaurant) -55 square metres of public area;*
  - (c) *offices - 1435 square metres of gross floor area; and*
  - (d) *office - 55 square metres of gross retail banking floor area;*
- (xviii) *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);*
- (xix) *prior to the issue of a Building Licence, designs for art work(s) valued at a minimum of 1 per cent of the estimated total cost of the development (\$25,000) shall be submitted to and approved by the Town, OR alternatively, the applicant/owner shall pay a cash-in-lieu contribution of \$25,000, subject to the Town agreeing to this arrangement . 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 Section with reference to the Percent for Art Scheme Policy Guidelines for Developers. The art work(s) shall be installed prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (xx) *prior to the issue of a Building Licence, the following matters are to be submitted to and approved by the Town:*
  - (a) *the written approvals of the Minister for Lands and/or the Minister for Local Government and Regional Development whichever is appropriate, for the balcony encroachment over the adjacent road reserve (Crown land); OR*
  - (b) *revised plans demonstrating no structures within the adjacent road reserves; and*

- (c) *detailed third floor plans clearly demonstrating that the third floor will be used for four consulting rooms only.*

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

- (xxi) *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;*
- (xxii) *doors, windows and adjacent floor areas fronting Fitzgerald Street and Wasley Street shall maintain an active and interactive relationship with these streets;*
- (xxiii) *prior to the issue of a Building Licence, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title and Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town;*
- (xxiv) *prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the following:*
- (a) *end of trip facilities for bicycle users being provided in accordance with the Town's Policy relating to Parking and Access;*
- (b) *the building being redesigned to accommodate a truncation of 3 metres by 3 metres at the intersection of Wasley Street and Fitzgerald Street - without any encroachment into the truncation other than awnings to the satisfaction of the Town;*
- (c) *continuous and complementary awnings being provided over the Fitzgerald Street and Wasley Street footpaths. The awnings shall follow the line of truncation, and be 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 600 millimetres from the kerb line of Fitzgerald Street and Wasley Street; and*
- (d) *the tandem car bays shown on the approved site plans being allocated to and marked for staff use only.*

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

- (xxv) *prior to the issue of a Building Licence, the owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the property that the Town of Vincent will not issue a owner 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;*

- (xxvi) *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;*
- (xxvii) *the subject property is not to be used for massage activity of a sensual nature, prostitution, as a brothel business, as an agency business associated with prostitution, as an escort agency business, or the like; and*
- (xxviii) *the sustainability measures identified by the applicant Labirynt Design and Development in their presentation to the Elected Members Forum held on 19 September 2006, which included waterless urinals, grey water recycling systems, low-E glass, new low consumption LED and fluorescent lighting and intelligent after-dark security lighting using off-peak power shall be incorporated into the development design and Building Licence plans and be demonstrated to be met to the satisfaction of the Town prior to the issue of a Building Licence. These measures shall be installed prior to the first occupation of the development and maintained thereafter.*

**COUNCIL DECISION ITEM 10.1.11**

**Moved Cr Farrell , Seconded Cr Torre**

*That the recommendation be adopted*

Debate ensued.

**MOTION PUT AND CARRIED (5-4)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Chester
Cr Doran-Wu	Cr Ker
Cr Farrell	Cr Lake
Cr Messina	Cr Maier
Cr Torre	

<b>Landowner:</b>	Tizzano Group
<b>Applicant:</b>	Labirynt Design & Development
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): District Centre
<b>Existing Land Use:</b>	Shop
<b>Use Class:</b>	Shop, Office Building, Eating House, Consulting Rooms
<b>Use Classification:</b>	"P", "P", "P" and "AA"
<b>Lot Area:</b>	1094 square metres
<b>Access to Right of Way</b>	East side, 4.6 metres wide, sealed, Town owned

**BACKGROUND:**

- 27 September 2005 The Council at its Ordinary Meeting conditionally approved an application for proposed change of use from shop to shop and eating house and alterations at the above site.
- 19 September 2006 The above proposal was presented to an Elected Members Forum.
- 3 November 2006 The proposal was forwarded to the Western Australian Planning Commission for comments.
- 19 December 2006 The Council at its Ordinary Meeting (OMC) conditionally approved the partial demolition of existing single storey commercial building and construction of four (4) storey mixed use development comprising shops, office buildings, consulting rooms (dental practitioners) and eating house.
- 8 May 2007 The Council at its Ordinary Meeting (OMC) refused partial demolition of existing single storey commercial building and construction of four (4) storey mixed use development comprising shops, office buildings, consulting rooms (dental practitioners), eating house and existing basement car park at No. 448 (Lots 2, 3 and 4) Fitzgerald Street, corner Wasley Street, North Perth, for the following reason:

*"Significant parking shortfall."*

**DETAILS:**

The current proposal involves partial demolition of the existing building and the construction of an additional three storeys, resulting in a four storey development with an existing basement car park. The only change in plans refused at the Ordinary Meeting of Council held on 8 May 2007 and the current plans is the beauty salon and spa facility on the third floor terrace has been replaced with offices.

The uses proposed are offices, retail, retail (banking), eating house and consulting rooms. Access to the site is off Wasley Street by way of the rear right of way. The applicant submission is attached.

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Plot Ratio	0.70 or 766 square metres	1.28 or 1400 square metres	Supported - as increase in number of floors results in the increased plot ratio. In the past, for corner developments, the Town has considered higher plot ratios provided that the "total development" fits in with the surrounding development

			and the likely benefits to be achieved by such integrated developments, such as this proposal.
Number of storeys	3 storey on corners	4 storeys and existing basement car park	Supported - as it is considered acceptable in terms of the height and scale, and also gives prominence to this strategically located corner site, and previously approved at the OMC on 19 December 2006.
Height of building	10 metres	16.5 metres	Supported –as the site is a strategically located corner site and is not considered to create an undue, adverse effect on the existing streetscape.
Building Setbacks: Front setback- West (Fitzgerald Street) elevation	"Nil"	"Nil" to 1 metre and 5.43 metres on fourth floor	Supported- as the front setback is not considered to create an undue, adverse effect on the existing streetscape, and previously approved at the OMC on 19 December 2006.
Side-North (Wasley Street) elevation	"Nil"	"Nil" and 1 metre	Supported - as the greater setback is considered not to unduly affect the streetscape in the area.
Side-South elevation	"Nil"	"Nil" to 2 metres on the fourth floor	Supported, as the adjoining lot to the south is also within the District Centre zone, and is likely to be redeveloped in the near future.
Rear-East elevation	9 metres	6.3 metres	Supported- as one of the main reasons for the 9 metres rear setback is to allow for court yard space for residential developments. The proposal does not involve a residential component and previously approved at the OMC on 19 December 2006.
Landscaping	10 per cent or 109.4 square metres	2.28 per cent or 25 square metres	Supported- on the basis that most of the developments along

			Fitzgerald Street within the Precinct do not have landscaping, mainly due to the nature and urban form of surrounding developments.
<b>Consultation Submissions</b>			
The revised proposal does not propose any other further variation to the Town's Policies, and does not have an undue impact on the amenity of the area. It is therefore considered that there is no need to further re-advertise the proposal. Moreover, the amended plans are being referred to the Council for its consideration and determination. The previous comments raised in the submission received and considered at the Ordinary Meeting of Council held on 8 May 2007 are in verbatim as follows:			
<i>"Support (1)</i>	<i>No comments provided.</i>	<i>Noted.</i>	
<i>Objection (1)</i>	<i>Not anti-development and on the contrary pleased to support development that adds value to the area in the best interest of the Town. While the proposal will bring in more lunch hour trade, it will be deserted after 5 pm when the workers go home. Surely the area needs more shops, cafes and people living in them. Why hasn't the Council encouraged a residential component in this development. A residential development for two of the floors would be more accepting.</i>	<i>Noted - as a mixed use development with a residential component would additionally create a more active environment after hours together with the proposed eating house use.</i>	
	<i>The proposal resembles a four storey office block. Is that what the Town has planned for the North Perth precinct? If so then the business operators in the area should be notified of this so that they can make their own development arrangements accordingly.</i>	<i>Not supported - as the District Centre zoning of the property allows the proposed uses, and the proposal is a mixed used development site, where the Fitzgerald and Wasley Streets elevations have been articulated to reflect an urban style 'City-Like' character.</i>	
	<i>The current proposal will place more pressure on available car parking in the area and will discourage people coming to North Perth to do their shopping.</i>	<i>Noted - as stated in the Agenda Report to the Ordinary Meeting of Council Report held on 19 December 2006, that there is a Town-owned 42 car bay car park at the rear of the proposed development site, which has a maximum 3 hour time limit. In addition, the car park off View Street has another 41 car bays and is within close proximity to the development site.</i>	

	<i>Plot ratio is excessive for the area. Building should be scaled down in size.</i>	<i>Not supported-as it is considered acceptable in terms of height and scale. The proposal also gives prominence to this strategically located corner site, where a fourth storey can be considered for corner sites.</i>
	<i>Proposal does not comply with the Town's standard. If this sort of development is approved, then the scheme should be amended and community consulted.</i>	<i>Not supported- as the variations are within acceptable limits, and considered not to unduly affect the amenity of the area.</i>
	<i>The Town should be charging higher cash-in-lieu amounts, as the land area for provided the shortfall in car parking far exceeds the current land value for the provision of the car bay shortfall.</i>	<i>Noted."</i>
<b>Other Implications</b>		
Legal/Policy		TPS 1 and associated Policies.
Strategic Implications		Nil
Financial/Budget Implications		Nil
<b>Car Parking</b>		
Office: 1 car bay per 50 square metres gross office/administration floor area (proposed 1435 square metres) = 28.7 car bays. Office: 1 car bay per 15 square metres of gross retail banking floor area (proposed 55 square metres) =3.67 car bays. Café/Eating House -1 space per 4.5 square metres of public area (55 square metres) = 12.22 car bays. Shop: 1car bay per 15 square metres of gross floor area (proposed 204 square metres) = 13.6 car bays. Consulting rooms: 3 car bays per consulting room (proposed 4 consulting rooms) = 12 car bays. Total 70.19 car bays To nearest whole number Apply the parking adjustment factors.		70 car bays (0.5852)
	<ul style="list-style-type: none"> <li>▪ 0.85 (within 400 metres of a bus stop)</li> <li>▪ 0.85 (within 400 metres of one or more public car parks in excess of 75 spaces)</li> <li>▪ 0.90 (provision of "end of trip" facilities for bicycle users)</li> <li>▪ 0.90 (proposed development as within the District Centre)</li> <li>▪</li> </ul>	40.96 car bays
Car parking provided on-site		24 car bays, of which 2 are tandem car bays.
Resultant shortfall		16.96 car bays

<b>Bicycle Parking Facilities</b>		
<b>Requirements</b>	<b>Required</b>	<b>Provided</b>
<b>Offices</b>		
<ul style="list-style-type: none"> <li>1 space per 200 (proposed 1234) square metres gross floor area (class 1 or 2).</li> </ul>	6.17 spaces	No bicycle parking facilities shown on submitted plans.
<ul style="list-style-type: none"> <li>1 space per 750 (proposed is 1234-1000=234) square metres over 1000 square metres for visitors (class 3), as the class 3 facilities for a bank office of 201 square metres is a separate requirement as below.</li> </ul>	0.31 spaces	
<b>Bank</b>		
<ul style="list-style-type: none"> <li>1 space per 200 (proposed 256) square metres gross floor area (Class 2).</li> </ul>	1.28	As above.
<ul style="list-style-type: none"> <li>2 spaces for class 3.</li> </ul>	2 spaces	
<b>Consulting rooms</b>		
<ul style="list-style-type: none"> <li>1 space per 4 practitioners (proposed 4 consulting rooms) (Class 3)</li> </ul>	1 space	As above.
<b>Shop</b>		
<ul style="list-style-type: none"> <li>1 space per 300 (proposed 204) square metres gross floor area (Class 1 or 2).</li> </ul>	0.68 space	As above.
<ul style="list-style-type: none"> <li>1 space per 200 (proposed 204) square metres (Class 3).</li> </ul>	1.02 space	As above.
<b>Eating house</b>		
<ul style="list-style-type: none"> <li>1 space per 100 (proposed 55) square metres public area (class 1 or 2).</li> </ul>	0.55 space	As above.
<ul style="list-style-type: none"> <li>2 spaces plus 1 space per 100 (proposed 55) square metres of public area (class 3).</li> </ul>	2.55 spaces	As above.

\* 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:**

### **Western Australian Planning Commission Referral**

The proposal has been referred to the Western Australian Planning Commission (WAPC) as the proposal abuts Fitzgerald Street, which is classified as an "Other Regional Road" and also due to regional implications.

In the previous proposals the WAPC has advised that a 3 metre by 3 metre truncation is required at the corner of Fitzgerald and Wasley Street, and recommends a 1.5 metre by 1.5 metre corner truncation where Wasley Street intersects with the rear right of way, with the awning to be contained within the Fitzgerald Street road reservation to the satisfaction of the Town.

The Town has not received a further response from the WAPC, at the time this Agenda Report was prepared for this revised development proposal.

### **Partial Demolition**

The subject place, known as the Fitzgerald Arcade located at No. 448 Fitzgerald Street, North Perth was constructed circa 1987 in the Late Twentieth Century Retail style of architecture. Located on a prime corner location at the Fitzgerald and Wasley Street intersection, the place forms part of a commercial landscape dating from 1898.

The single storey painted brick arcade is positioned on the corner of Fitzgerald Street and Wasley Street. The place has a substantial set back from the road and maintains an interactive presentation to each street. The façade features a simple parapet, a corrugated iron bull nose verandah, aluminium framed fenestration detail and a prominent protruding barrel roof entrance to Fitzgerald Street. The rear of the place abuts a public car park and features two small barrel roofed areas, three aluminium framed windows and two large roller doors, which provide access to under croft parking. The complex comprises five shops, which are located around a central passage underneath the prominent protruding barrel roof entrance off Fitzgerald Street.

The arcade is not listed on the Town's Municipal Heritage Inventory and 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, the application to part demolish the building is supported.

### **Cash-In-Lieu of Car Parking**

The Council at its Ordinary Meeting held on 12 April 2005, resolved the following:

“(ii) *ADOPTS the draft amended version of the Policy relating to Parking and Access to be applied in the interim during the advertising period and up to formal adoption of the draft amended Policy to those planning and building applications received after the date the draft amended Policy is adopted by Council;*”

The draft amended version of the Parking and Access Policy introduces a provision that the cash-in-lieu contribution is to be based on not only the construction costs, but also on a land component being 50 per cent of the land value of the area of a car parking bay on the subject property.

Given the debate and Council resolutions relating to Items 10.1.5 and 10.1.16 at the Ordinary Meeting of Council held on 26 July 2005, in the context of the current and draft amended cash-in-lieu of car parking provisions and the increase in cash-in-lieu construction costs in the 2005/06 Fees and Charges, the following practice is considered to be the most appropriate in such cases:

1. No land value component is to be included in the cash-in-lieu of car parking contribution until the draft amended Parking and Access Policy is finally adopted by the Council.
2. Planning applications received prior to and on 12 July 2005 (date of formal adoption of 2005/06 Budget and Fees and Charges) -the cash-in-lieu contribution is to be based on \$2,500 per car bay.
3. Planning application received after 12 July 2005-the cash-in-lieu contribution is to be based on \$2,600 per car bay.

### **Alfresco**

Part of the proposed alfresco which is within the adjacent road reserve will require a separate Alfresco Eating House Licence application to be submitted to and approved by the Town.

### **Conclusion**

At the Ordinary Meeting of Council held on 19 December 2006, the Council approved a shortfall of 12.28 car bays. The most recent proposal refused at the Ordinary Meeting of Council held on 8 May 2007, was based on a significant shortfall of 22.82 car bays. The current proposal results in a shortfall of 16.96 car bays. However, the shortfall is considered acceptable subject to the payment of a cash-in-lieu contribution. It is considered that the proposed development will act as a catalyst for the rejuvenation of this area and is therefore recommended for approval.

**10.1.5 No. 36C (Lot 500 D/P: 89560) Gardiner Street , East Perth- Proposed Two Storey Single House**

<b>Ward:</b>	South	<b>Date:</b>	18 June 2007
<b>Precinct:</b>	Banks; P15	<b>File Ref:</b>	PRO1865; 5.2007.38.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	L Mach		
<b>Checked/Endorsed by:</b>	D Abel, J Maclean	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That;*

(i) *in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by P Versaci on behalf of the owner A C Da Silva for proposed Two Storey Single House, at No.36C (Lot 500 D/P: 89560 ) Gardiner Street, East Perth, and as shown on plans stamp-dated 5 February 2007 , subject to the following conditions:*

(a) *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.*

(b) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating any new street/front wall, fence and gate between the Gardiner Street boundary and the main building, including along the side boundaries within this front setback area, complying with the following:*

(1) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*

(2) *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;*

(3) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*

(4) *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*

(5) *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 metres 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;*

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

- (1) *the balcony on the northern and southern elevations;*
- (2) *the window to the lounge on the northern elevation;*
- (3) *the window to bedroom 3 on the eastern elevation (adjacent to W/C window) ; and*
- (4) *the windows to bedroom 2 on the western elevation.*

*being screened with a permanent obscure material and be non openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be major openings as defined in the Residential Design Codes 2002. The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies. 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.34A Gardiner Street and No.36B Gardiner Street stating no objections to the proposed privacy encroachment.*

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

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

- (1) *any retaining wall and fill being a maximum height of 0.5 metre above the natural ground level;*
- (2) *the finished floor level of the ground floor of the dwelling (including the alfresco area) being a maximum height of 0.5 metre above the natural ground level; and*
- (3) *the southern garage boundary wall being a maximum height of 3.0 metres and maximum average height of 2.7 metres from the average natural ground level of the subject property and the adjoining property.*

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

- (e) *subject to first obtaining the consent of the owners of No. 34A Gardiner Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 34A Gardiner Street in a good and clean condition;*
  - (f) *a Certified Practising Consulting Engineer's certification as to the capability of the subject site and adequacy of the proposed foundations for the development, taking into account the hydrogeological composition and history of the site, shall be submitted and approved prior to the issue of a Building Licence; and*
  - (g) *the alfresco area shall be one hundred (100) per cent open on all sides and at all times, except where it abuts the main dwelling building wall(s);and*
- (ii) *the Council ADVISES the applicant and owners that the existing unauthorised fill shall be removed from No.36C (Lot 500 D/P: 89560 ) Gardiner Street, East Perth, the site made good and documentary evidence from a licensed land surveyor be provided demonstrating the removal of the unauthorised fill to the level shown of the site plan dated 5 February 2007. These works shall be completed within sixty (60) days of notification, and the Council AUTHORISES the Chief Executive Officer to continue legal proceedings should the above works have not been completed within this sixty (60) days period.*

---

**COUNCIL DECISION ITEM 10.1.5**

**Moved Cr Farrell , Seconded Cr Torre**

*That the recommendation be adopted*

Debate ensued

**Moved Cr Farrell , Seconded Cr Torre**

*That this item be DEFERRED to allow the officers to investigate the matters raised during Public Question Time (including the alleged unauthorised fill, natural level of the ground, level of the sewer and level of the ground floor pad).*

Cr Torre and Messina departed the Chamber at 7.34pm

**MOTION PUT AND CARRIED (7-0)**

(Cr Torre and Messina were out of the Chamber and did not vote)

---

<b>Landowner:</b>	AC Da Silva
<b>Applicant:</b>	P Versaci
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No.1: Residential R20
<b>Existing Land Use:</b>	Vacant
<b>Use Class:</b>	Single House
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	450 square metres
<b>Access to Right of Way</b>	N/A

**BACKGROUND:**

- 1 March 2000                      The Western Australian Planning Commission (WAPC) endorsed a diagram of survey for the creation of two (2) fee simple lots (including the subject site and a rear battleaxe site) at No. 36 Gardiner Street.
- 6 November 2001                The Council at its Ordinary Meeting conditionally approved the application for limestone retaining walls (to a maximum height of 1.47 metres) and fence.
- 14 May 2002                      The Council at its Ordinary Meeting adopted the recommendation to advise the owners(s) of No. 36C Gardiner Street that the unauthorised fill shall be removed within 14 days of the notification by the Town.
- 7 December 2004                The Council at its Ordinary Meeting conditionally approved an application for a two-storey single house.

**DETAILS:**

The proposal involves two storey single house at the subject property.

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Plot Ratio	N/A	N/A	Noted.
Building Setbacks: Ground Floor - South (meals/dine, and kitchen)  - South (guest and laundry)  First Floor - South	1.1 metres  1.5 metres  5.7 metres (or 2.4 metres if balcony screened to full height)	1.0 metre  1.0-1.5 metres  1.5-3.0 metres	Supported- minor variation in this instance and no undue impact on neighbouring property. Supported - as above and portion of wall less than 1.5 metres setback is only 1.95 metres long.  Supported- staggering of the subject wall, no undue impact on the neighbouring property, similar setbacks has previously been approved and balcony has been conditioned to be screened (although not to full height).
Privacy Setbacks	Habitable rooms other than bedrooms - 6.0 metres	Balcony is 2.5 metres to south and 5.0 metres to north (inclusive of	Not supported - undue impact on neighbouring properties and has been

	Bedrooms - 4.5 metres  Outdoor habitable spaces- 7.5 metres	driveway)  Bed 3 is 2.2 metres to south  Bed 2 is 4.0 metres to north (inclusive of driveway)  Lounge is 5.0 metres to north (inclusive of driveway)	conditioned to comply.
Driveway Width	40 per cent	77 per cent	Supported- unusual shape lot, limited frontage (5.18 metres) for vehicular access to the property and the Town's Technical Services has not raised any objections to the driveway.
Buildings on Boundary	Maximum of 3.0 metres and average of 2.7 metres	Maximum of 3.7 metres and average of 3.6 metres	Not supported- undue impact on subject neighbour given its location on the southern elevation and ground level being lower. Therefore, has been conditioned to comply from average natural ground level of the two adjoining lots as the subject lot is higher.
Retaining Wall Height	Up to 0.5 metre	Up to approximately 1.0 metre	Not supported- has been conditioned to comply.
<b>Consultation Submissions</b>			
Support	Nil		Noted.
Objection (4)	Privacy		Supported- refer to above.
	Overshadowing		Not supported- compliant with relevant requirements of the R-Codes.
	Inaccurate natural ground level shown/unauthorised fill		Supported- refer to "Comments".
	Setbacks		Not supported- refer to above.
	Buildings on Boundary		Supported- refer to above.
	Eastern retaining wall		Supported- refer to above.
	Sewer manhole is shown incorrectly and no notation of easement on sewer line.		Noted- builder will be required to obtain necessary clearances from relevant authorities prior to building.

<b>Other Implications</b>	
Legal/Policy	TPS 1 and associated Policies, and Residential Design Codes (R Codes).
Strategic 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**

### **Fill**

There is an extensive history relating to the unauthorised fill on the subject site. The subject assessment has been based on the levels shown of the current site plan (and the levels which the Council has previously approved). To ensure compliance, clause (ii) of the Officer Recommendation has been included accordingly. Others matters which are affected by the discrepancy of the fill shown on the plans such as finished floor level has also been conditioned accordingly.

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

**10.1.10 Nos. 179-183 (Lot 102, D/P: 20762) Charles Street, Dual Frontage to Oak Lane, West Perth- Proposed Eight (8) Three-Storey Grouped Dwellings**

<b>Ward:</b>	South	<b>Date:</b>	19 June 2007
<b>Precinct:</b>	Cleaver; P5	<b>File Ref:</b>	PRO1118; 5.2006.520.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	L Mach		
<b>Checked/Endorsed by:</b>	D Abel, J MacLean	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council REFUSES the application submitted by J Nardizzi on behalf of the owner Choice Constructions Pty Ltd for proposed Eight (8) Three-Storey Grouped Dwellings, at Nos. 179-183 (Lot 102 D/P: 20762) Charles Street, Dual Frontage to Oak Lane, West Perth, and as shown on plans stamp-dated 18 January 2007 and 19 June 2007 (overshadowing diagram) for the following reasons:*

- (i) the development will unduly adversely affect the orderly and proper planning and the preservation of the amenities of the locality;*
- (ii) the non-compliance with the density, plot ratio, minimum site area, outdoor living area, buildings on boundary, building setbacks and number of storeys requirements of the Residential Design Codes and the Town's Policy relating the Florence Locality, respectively;*
- (iii) the plot ratio, outdoor living area and building height requirements proposed to be varied is as specified in the Town's Policy relating to Non-Variation of Specific Development Standards and Requirements; and*
- (iv) consideration of the objections received.*

---

**COUNCIL DECISION ITEM 10.1.10**

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

*That the recommendation be adopted*

Debate ensued.

Cr Torre returned to the Chamber at 7.36pm

Debate ensued.

Cr Messina returned to the Chamber at 7.38pm

Debate ensued.

**MOTION PUT AND LOST (4-5)**

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

**Reasons:**

1. Development is appreciated by people in the community.
2. It is considered an appropriate development.

**ALTERNATIVE RECOMMENDATION:**

*"That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES BY AN ABSOLUTE MAJORITY the application submitted by J Nardizzi on behalf of the owner Choice Constructions Pty Ltd for proposed Eight (8) Three-Storey Grouped Dwellings, at Nos. 179-183 (Lot 102 D/P: 20762) Charles Street, Dual Frontage to Oak Lane, West Perth, and as shown on plans stamp-dated 18 January 2007 and 19 June 2007 (overshadowing diagram), subject to the following conditions:*

- (i) all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, solar panels, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) any new street/front wall, fence and gate between the Charles Street and Oak Lane boundary and the main building, including along the side boundaries within this front setback area, shall comply with the following:*
  - (a) the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
  - (b) decorative capping on top of posts and piers may extend the total maximum height of the posts and piers to 2.0 metres above the adjacent footpath level;*
  - (c) the maximum width, depth and diameter of posts and piers being 350 millimetres;*
  - (d) the maximum height of the solid portion being 1.2 metres above the adjacent footpath level, and the section above this solid portion being visually permeable, with a minimum 50 per cent transparency;*
  - (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; and*

- (f) *the solid portion adjacent to the Charles Street boundary from the above truncation(s) can increase to a maximum height of 1.8 metres, provided that the fence and gate have at least two (2) significant appropriate design features to reduce the visual impact. Examples of design features may include 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;*
- (iii) *first obtaining the consent of the owners of No. 2A Janet Street and No. 1 Hammond 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. 2A Janet Street and No. 1 Hammond Street in a good and clean condition;*
- (iv) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Charles Street and Oak Lane verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (v) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the balcony of unit 1 on the western elevation being screened with a permanent obscure material and be non openable to a minimum of 1.6 metres above the finished first floor level within the 7.5 metres cone of vision. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. 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.1 Hammond Street stating no objections to the proposed privacy encroachment. The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*
- (vi) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating:*
- (a) *a minimum of two (2) significant and appropriate design features being incorporated along the garage wall/door of units 1, 2 and 8 adjacent to Oak Lane to reduce its visual impact;*
- (b) *all courtyards being a minimum dimension of 4.0 metres; and*
- (c) *all storerooms having a minimum dimension of 1.5 metres and area of 4 square metres.*

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

- (vii) *prior to the first occupation of the development, the applicant/owner(s) shall, in at least 12-point size writing, advise (prospective) purchasers of the residential units/dwellings that:*

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

**Moved Cr Torre, Seconded Cr Farrell**

*That the recommendation be adopted*

Debate ensued

**Moved Cr Maier, Seconded Cr Ker**

*That clause (vii) - first paragraph be amended to read as follows:*

(vii) *prior to the issue of a Building Licence, the owners 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;*

Debate ensued

**AMENDMENT PUT AND CARRIED (7-2)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Farrell
Cr Chester	Cr Torre
Cr Doran-Wu	
Cr Ker	
Cr Lake	
Cr Maier	
Cr Messina	

Debate ensued

**MOTION AS AMENDED PUT AND CARRIED  
BY AN ABSOLUTE MAJORITY (5-4)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Chester
Cr Doran-Wu	Cr Ker
Cr Farrell	Cr Lake
Cr Messina	Cr Maier
Cr Torre	

**COUNCIL DECISION ITEM 10.1.10**

*"That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES BY AN ABSOLUTE MAJORITY the application submitted by J Nardizzi on behalf of the owner Choice Constructions Pty Ltd for proposed Eight (8) Three-Storey Grouped Dwellings, at Nos. 179-183 (Lot 102 D/P: 20762) Charles Street, Dual Frontage to Oak Lane, West Perth, and as shown on plans stamp-dated 18 January 2007 and 19 June 2007 (overshadowing diagram), subject to the following conditions:*

- (i) *all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, solar panels, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*

- (ii) *any new street/front wall, fence and gate between the Charles Street and Oak Lane boundary and the main building, including along the side boundaries within this front setback area, shall comply with the following:*
- (a) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
  - (b) *decorative capping on top of posts and piers may extend the total maximum height of the posts and piers to 2.0 metres above the adjacent footpath level;*
  - (c) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*
  - (d) *the maximum height of the solid portion being 1.2 metres above the adjacent footpath level, and the section above this solid portion being visually permeable, with a minimum 50 per cent transparency;*
  - (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; and*
  - (f) *the solid portion adjacent to the Charles Street boundary from the above truncation(s) can increase to a maximum height of 1.8 metres, provided that the fence and gate have at least two (2) significant appropriate design features to reduce the visual impact. Examples of design features may include 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;*
- (iii) *first obtaining the consent of the owners of No. 2A Janet Street and No. 1 Hammond 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. 2A Janet Street and No. 1 Hammond Street in a good and clean condition;*
- (iv) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Charles Street and Oak Lane verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (v) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the balcony of unit 1 on the western elevation being screened with a permanent obscure material and be non openable to a minimum of 1.6 metres above the finished first floor level within the 7.5 metres cone of vision. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. 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.1 Hammond Street stating no objections to the proposed privacy encroachment. The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*

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

- (a) *a minimum of two (2) significant and appropriate design features being incorporated along the garage wall/door of units 1, 2 and 8 adjacent to Oak Lane to reduce its visual impact;*
- (b) *all courtyards being a minimum dimension of 4.0 metres; and*
- (c) *all storerooms having a minimum dimension of 1.5 metres and area of 4 square metres.*

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

(vii) *prior to the issue of a Building Licence, the owners 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;*

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

<b>Landowner:</b>	Choice Constructions Pty Ltd
<b>Applicant:</b>	J Nardizzi
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R 80
<b>Existing Land Use:</b>	Vacant
<b>Use Class:</b>	Grouped Dwelling
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	1000 square metres
<b>Access to Right of Way</b>	N/A

**BACKGROUND:**

9 October 1995      The Council at its Ordinary Meeting approved the development of seven 2-storey grouped dwellings on Lot 102. This Planning Approval incorporated variations to the density, plot ratio, setbacks, total open space, private open space, car parking and storeroom requirements of the Residential Planning Codes (R-Codes) under the R80 standard. The majority of variations were approved under clause 48 of the previous Town of Vincent Town Planning Scheme (1985).

12 October 1995      Approval to Commence Development issued by the Town for seven 2-storey grouped dwellings, valid for two years from the date of issue.

- 18 January 2000      The Council at its Ordinary Meeting refused a proposal for eight 2-storey grouped dwellings for the following reasons:
1. *Plot ratio in excess of requirement.*
  2. *Number of dwellings and density in excess of requirement.*
  3. *Lack of visitor car parking bays on site.*
  4. *Lack of street car parking in area.*
  5. *Loft area is considered habitable space.*
  6. *Objections received.*
- 14 March 2000      Appeal to the Minister for Planning against the refusal for eight 2-storey grouped dwellings at the Ordinary Meeting of Council held on 18 January 2000 referred to the Town for response.
- 28 March 2000      The Council at its Ordinary Meeting refused a proposal for eight 2-storey grouped dwellings. This proposal was submitted by the same applicant/owner as the previous refusal and was predominantly the same, other than the following modifications:
1. Addition of two visitor car parking spaces;
  2. Deletion of the loft floor levels; and
  3. Deletion of the southern boundary wall.
- 27 April 2000      The applicant's further submission of revised plans to the Minister, received by the Town. Revisions included:
1. Addition of two visitor car parking spaces;
  2. Deletion of the loft floor levels; and
  3. Deletion of the southern boundary wall.
- 24 May 2000      Letter outlining the Minister's decision to uphold the appeal.
- 25 June 2002      The Council, at its Ordinary Meeting, recommended refusal to the Western Australian Planning Commission for the construction of eight (8), three storey grouped dwellings.
- 4 November 2002      Advice returned from the Western Australian Planning Commission advising that the Commission's determination of the application is not required as the affected property is located outside of, but adjacent to, the Planning Control Area (PCA) No. 54 for Charles Street.
- 17 December 2002      The Council at its Ordinary Meeting refused a proposal for eight 3-storey grouped dwellings.
- 14 February 2003      The Town received a copy of Notice of Appeal to the former Town Planning Appeal Tribunal against the Council's refusal.
- 14 March 2003      The Town received an amended copy of Notice of Appeal.
- 17 March 2003      The First Sitting of Appeal.
- 21 March 2003      The Town lodged its Respondent Statement to the former Town Planning Appeal Tribunal.
- 27 March 2003      Appeal Mediation held between the Town Officer's and the applicant.
- 8 May 2003      The Town received amended plans for proposed eight 3-storey grouped dwellings.

27 May 2003                      The Council at its Ordinary Meeting refused a proposal for proposed eight (8) three-storey grouped dwellings.

**DETAILS:**

The proposal involves proposed eight (8) three-storey grouped dwellings at the subject property. The applicant's submission is "*Laid on the Table*".

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Density	5.55 dwellings R 60  (R 60 standards applied as grouped dwellings are proposed and multiple dwelling are not permitted in the Cleaver Locality)	8 dwellings R 80  44 per cent density bonus	Not supported- overdevelopment of the site and undue impact on the surrounding area.
Plot Ratio	Unit 1 0.65- 77.37 square metres Unit 2 0.65- 68.46 square metres Unit 3 0.65- 79.45 square metres Unit 4- 0.65- 94.98 square metres Unit 5 0.65- 93.04 square metres Unit 6 0.65- 81.73 square metres Unit 7 0.65- 78.47 square metres Unit 8 0.65- 77.82 square metres  Overall 0.65- 650 square metres	Unit 1 1.073- 127.75 square metres Unit 2 1.120- 117.95 square metres Unit 3 1.101- 134.6 square metres Unit 4- 0.927- 135.5 square metres Unit 5 0.947- 135.5 square metres Unit 6 1.071- 134.6 square metres Unit 7 1.115- 134.6 square metres Unit 8 1.132 - 135.5 square metres  Overall 1.056- 1056 square metres	Not supported- as above.

Minimum Site Area	160 square metres	Unit 1 -83.85 square metres Unit 2-70.15 square metres Unit 3-87.05 square metres Unit 4-110.95 square metres Unit 5-107.95 square metres Unit 6-90.55 square metres Unit 7-85.55 square metres Unit 8-84.55 square metres	Not supported- as above.
Open Space	45 percent	Unit 1 -36 per cent Unit 2- 33 per cent Unit 3- 48 per cent Unit 4- 57 per cent Unit 5- 57 per cent Unit 6-51 per cent Unit 7- 49 per cent Unit 8- 48 per cent  Overall - 48 per cent	Supported- compliant overall and no undue impact on surrounding area.
Garage Setback	Setback 6.0 metres or behind main building	Not demonstrated	Supported- no undue impact on Charles Street as concealed by existing street wall and no undue impact on Oak Lane due to the nature of Oak Lane being mainly a secondary street (subject to significant design features being incorporated into blank walls in event of approval).
Number of Storeys	2 storeys	3 storeys	Not supported- undue impact on streetscape and amenity of the area.
Garage Wall Width	50 per cent	59 per cent	Supported- no undue impact on Charles Street as concealed by existing street wall and no undue impact on Oak Lane due to the nature of Oak Lane being mainly a secondary street (subject to significant design features being incorporated into blank walls in event of approval).
Outdoor Living Area	Behind the street setback area	Not demonstrated for units 1 and 2.	Not supported- inadequate amenity provided for prospective residents.

	Minimum dimension of 4.0 metres	Not demonstrated for units 1, 2, 5 and 8.	Not supported- as above (noted that applicant has provided additional information, as ' <i>Laid on Table</i> ' to demonstrate that this matter can be addressed for units 1,5 and 8 )
Landscaping	Maximum 50 per cent hard surface within front setback area	Has not been demonstrated.	Supported- no undue impact on Charles Street as concealed by existing street wall and no undue impact on Oak Lane due to the nature of Oak Lane being mainly a secondary street. In addition, some landscaping has been provided on the Oak Lane frontage.
Privacy Setbacks	Balconies-7.5 metres	Unit 1- 1.0 metre to northern boundary.	Not supported- potential undue impact and should be conditioned to comply in event of approval (noted that applicant has provided additional information, as ' <i>Laid on Table</i> ' to demonstrate that this matter can be addressed in the event of approval).
Storerooms	Minimum dimension of 1.5 metres and area of 4 square metres	Not demonstrated for all units	Not supported- inadequate amenity for prospective residents (noted that applicant has provided additional information, as ' <i>Laid on Table</i> ' to demonstrate that this matter can be addressed in the event of approval).
Building Setbacks: Ground Floor- - East (Charles Street) - West (Oak Lane)  - North	See 'Garage Setback'  4.0 metres  1.5 metres	  2.78-4.4 metres  1.25-4.0 metres	  Supported- refer to 'Garage Setback' above. Supported- no undue impact on Oak Lane due to the nature of Oak Lane being predominately a secondary street. Supported- minor variation in this instance and no undue impact on adjoining property.

First Floor- - East (Charles Street)	6.0 metres	1.75-2.2 metres	Not supported- undue impact on streetscape. Not supported- undue impact on streetscape. Not supported- undue impact on adjoining neighbour.
- West (Oak Lane)	6.0 metres	2.78-4.4 metres	
- North	2.4 metres	Nil -4.0 metres	
Second Floor- - East (Charles Street)	6.0 metres	1.75-2.2 metres	Not supported- undue impact on streetscape. Not supported- undue impact on streetscape. Not supported- undue impact on adjoining neighbour.
- West (Oak Lane)	6.0 metres	2.78-5.56 metres	
- North	3.6 metres	1.2-4.0 metres	
Buildings on Boundary	Maximum of 3.5 metres and average of 3.0 metres	Northern wall is 4.8 metres.	Not supported- undue impact on subject neighbour.

**Consultation Submissions**

Support (9)	<ul style="list-style-type: none"> <li>• Fresh approach to inner city living</li> <li>• Current eyesore of undeveloped land causes visual pollution and security risks</li> <li>• Location of development is suitable for the subject development</li> <li>• Development is high quality</li> <li>• Will increased value in the area</li> <li>• Ample carparking provided</li> <li>• No impact on surrounding houses</li> <li>• Development will enhance amenity of area</li> <li>• Development similar bulk and scale to adjoining properties</li> <li>• Privacy of surrounding area is not affected</li> </ul>	<p>Noted- however, variations sought and bulk and scale not considered appropriate for the area. Noted- as above.</p> <p>Noted- as above.</p> <p>Noted- as above. Not supported - not considered to be a major planning consideration.</p> <p>Noted- car parking provided is in accordance with R Codes requirements.</p> <p>Not supported- proposal considered to result in undue impact on streetscape and amenity of the area.</p> <p>Not supported- as above.</p> <p>Not supported- as above.</p> <p>Supported- proposal is generally compliant with R Codes privacy requirements.</p>
-------------	--	--

	<ul style="list-style-type: none"> <li>• Traffic will not be an issue</li> </ul>	Supported- traffic is not considered to have an undue impact given the site's context.
Objections (4)	<ul style="list-style-type: none"> <li>• Density</li> <li>• Height</li> <li>• Landscaping</li> <li>• Privacy</li> <li>• Traffic movement</li> <li>• Accessibility</li> <li>• Parking problems</li> <li>• Lack of visitor car parking</li> <li>• Noise</li> <li>• Feeling of confinement</li> <li>• Overshadowing</li> </ul>	<p>Supported- refer to above.</p> <p>Supported- refer to above.</p> <p>Not supported- refer to above.</p> <p>Not supported- proposal is generally compliant with R Codes privacy requirements.</p> <p>Not supported- traffic not considered to have an undue impact given the site's context.</p> <p>Not supported- proposal not considered to have an undue impact on accessibility.</p> <p>Not supported - car parking bays has generally been provided in accordance with R Codes requirements (subject to amendments to the visitor car bays for compliance).</p> <p>Not supported- visitor car bays has been provided in accordance with R Codes requirements (subject to amendments to the visitor car bays for compliance in terms of width).</p> <p>Noted- however, proposal is required to comply with Environmental Protection (Noise) Regulations 1997.</p> <p>Supported- proposal considered to be overdevelopment of the subject site.</p> <p>Not supported- proposal is compliant with relevant R Codes requirements.</p>
<b>Other Implications</b>		
Legal/Policy		TPS 1 and associated Policies, and Residential Design Codes (R Codes).

---

Strategic 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:**

In light of the above, the proposal is recommended for refusal.

**10.1.1 Further Report – Nos. 2A, 2B and 2C (Lot Pt 3: Strata Lot 1 STR: 49788, Lot 2 STR: 49788 and Lot 3 STR: 49788) Haynes Street, corner Charles Street, North Perth - Front Fence and Roller Doors Additions to Existing Single Houses (Application for Retrospective Approval)**

<b>Ward:</b>	North	<b>Date:</b>	15 June 2007
<b>Precinct:</b>	North Perth; P08	<b>File Ref:</b>	PRO2700; 5.2006.615.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	D Pirone		
<b>Checked/Endorsed by:</b>	D Abel, J Maclean	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That;*

- (i) *in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council REFUSES the application submitted by B Di Paulo on behalf of the owners D Dissisomino, K Hall and S Rogers for Front Fence and Roller Doors Additions to Existing Single Houses (Application for Retrospective Approval), at Nos. 2A, 2B and 2C (Lot Pt 3: Strata Lot 1 STR: 49788, Lot 2 STR: 49788 and Lot 3 STR: 49788) Haynes Street, corner Charles Street, North Perth and as shown on plans stamp-dated 21 December 2006, for the following reasons:*
  - (a) *the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
  - (b) *the non-compliance with the Town's Policy relating to Street Setbacks as the carports are required to be unenclosed except to the extent that abuts the existing dwelling and being without doors or panels unless these doors and/or panels are visually permeable such as with open grilles;*
  - (c) *the non-compliance with the Town's Policy relating to Street Walls and Fences as the pillars exceed a maximum height of 1.8 metres above the adjacent footpath level; and*
  - (d) *the front fence requirements proposed to be varied is as specified in the Town's Policy relating to Non-Variation of Specific Development Standards and Requirements; and*
- (ii) *the Council ADVISES the applicant and owners that the unauthorised roller doors and front fencing shall be removed within twenty-eight (28) days of notification, and the Council AUTHORIZES the Chief Executive Officer to proceed with legal proceedings should the above roller doors and front fencing remain after this twenty-eight (28) days period.*

---

**COUNCIL DECISION ITEM 10.1.1**

**Moved Cr Farrell , Seconded Cr Torre**

*That the recommendation be adopted*

Debate ensued.

Cr Torre departed the Chamber at 8.10pm

Debate ensued.

Cr Torre returned to the Chamber at 8.13pm

**MOTION PUT AND LOST (4-5)**

<b><u>For</u></b>	<b><u>Against</u></b>
Cr Chester	Mayor Catania
Cr Ker	Cr Doran-Wu
Cr Lake	Cr Farrell
Cr Maier	Cr Messina
	Cr Torre

Reasons:

1. Consideration of security issues
2. Permeability of the existing structures
3. To provide an amenity for passive surveillance

**ALTERNATIVE RECOMMENDATION**

*“That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by B Di Paulo on behalf of the owner S M Rogers for proposed Front Fence and Rollerdoor Additions to Existing Single Houses (Retrospective Application), at Nos. 2A, 2B and 2C (Lot Pt 3: Strata Lot 1 STR: 49788, Lot 2 STR: 49788 and Lot 3 STR: 49788) Haynes Street, corner Charles Street, North Perth, and as shown on plans stamp-dated 21 December 2006, subject to nil conditions.”*

Debate ensued

**AMENDMENT PUT AND CARRIED (5-4)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Chester
Cr Doran-Wu	Cr Ker
Cr Farrell	Cr Lake
Cr Messina	Cr Maier
Cr Torre	

---

**FURTHER REPORT:**

The Council considered the application at its Ordinary Meeting held on 22 May 2007 and resolved as follows:

*“That the Item be DEFERRED at the request of the applicant.”*

No additional information has been submitted by the applicant since the Ordinary Meeting of Council held on 22 May 2007.

In light of the above, the previous Officer Recommendation remains unchanged.

The following is a verbatim copy of the Minutes of the Item placed before the Council at its Ordinary Meeting held on 22 May 2007.

*“OFFICER RECOMMENDATION:*

*That;*

- (i) *in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council REFUSES the application submitted by B Di Paulo on behalf of the owners D Dissisomino, K Hall and S Rogers for Front Fence and Roller Doors Additions to Existing Single Houses (Application for Retrospective Approval), at Nos. 2A, 2B and 2C (Lot Pt 3: Strata Lot 1 STR: 49788, Lot 2 STR: 49788 and Lot 3 STR: 49788) Haynes Street, corner Charles Street, North Perth and as shown on plans stamp-dated 21 December 2006, for the following reasons:*
- (a) *the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
  - (b) *the non-compliance with the Town's Policy relating to Street Setbacks as the carports are required to be unenclosed except to the extent that abuts the existing dwelling and being without doors or panels unless these doors and/or panels are visually permeable such as with open grilles;*
  - (c) *the non-compliance with the Town's Policy relating to Street Walls and Fences as the pillars exceed a maximum height of 1.8 metres above the adjacent footpath level; and*
  - (d) *the front fence requirements proposed to be varied is as specified in the Town's Policy relating to Non-Variation of Specific Development Standards and Requirements; and*
- (ii) *the Council ADVISES the applicant and owners that the unauthorised roller doors and front fencing shall be removed within twenty-eight (28) days of notification, and the Council AUTHORIZES the Chief Executive Officer to proceed with legal proceedings should the above roller doors and front fencing remain after this twenty-eight (28) days period.*

---

COUNCIL DECISION ITEM 10.1.8

Moved Cr Farrell, Seconded Cr Torre

*That the Item be DEFERRED at the request of the applicant.*

CARRIED (6-1)

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

*Cr Lake*  
*Cr Torre*  
(*Crs Ker and Messina on leave of absence.*)

<i>Landowner:</i>	<i>D Dissisomino, K Hall and S Rogers</i>
<i>Applicant:</i>	<i>B Di Paulo</i>
<i>Zoning:</i>	<i>Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R60</i>
<i>Existing Land Use:</i>	<i>Three Single Houses</i>
<i>Use Class:</i>	<i>Single House</i>
<i>Use Classification:</i>	<i>"P"</i>
<i>Lot Area:</i>	<i>574 square metres</i>
<i>Access to Right of Way</i>	<i>N/A</i>

**BACKGROUND:**

*11 May 2004*                      *The Council at its Ordinary Meeting granted conditional approval for the demolition of an existing single house and construction of three two-storey single houses. Conditions (v) and (vii) of this approval state as follows:*

- “(v) no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to Charles Street and Haynes Street shall be a maximum height of 1.2 metres above the adjacent footpath level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (vii) the carports shall be one hundred (100) per cent open on all sides and at all times (open type gates/panels are permitted), except where it abuts the proposed dwelling;”.*

*11 April 2006*                      *The Council at its Ordinary Meeting resolved to refuse the application for proposed three solid garage roller door additions to existing three two-storey single houses at the subject property 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; and*
- (ii) non-compliance with the Town's Policy relating to Street Setbacks”.*

*22 November 2006*                      *The application for side walls and roller doors additions to existing single houses (application for retrospective approval) was refused by the Town under delegated authority from the Council for the following reasons:*

- “(i) the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*

- (ii) *the non-compliance with the Town's Policy relating to Street Setbacks as the carports are required to be unenclosed except to the extent that abuts the existing dwelling and/or a property boundary on one side, and being without a doors or panels unless these doors and/or panels are visually permeable such as with open grilles; and*
- (iii) *the non-compliance with the Town's Policy relating to Street Walls and Fences as the pillars exceed a maximum height of 1.8 metres above the adjacent footpath level”.*

**DETAILS:**

*The proposal involves seeking retrospective approval for front fence and roller door additions to existing three two-storey single houses.*

*The applicant's submissions are "Laid on the Table" and summarised as follows:*

- *Applicant raises the point that the current carport/garage doors installed has 60 per cent visual permeability with dark glazing.*
- *The owners agree to reduce the height of the internal carport/garage walls to Unit 2 and 3 from 1.8 metres to 1.2 metres.*
- *Applicant does not wish to reduce front fence to Units 2C (Unit 3) and 2A (Unit 1) due to design appearance, as it would require the height of the fence to be varied as a result of the sloping land.*
- *Evidence of nominations and award for State and National Building Design Awards.*
- *Support for the current design from surrounding neighbours.*

**ASSESSMENT:**

<i>Non-Compliant Requirements</i>			
<i>Requirements</i>	<i>Required</i>	<i>Proposed *</i>	<i>Officer Comments Pursuant to Clause 38(5) of TPS 1</i>
<i>Plot Ratio</i>	<i>N/A</i>	<i>N/A</i>	<i>Noted</i>
<i>Carports:</i>			
<i>Town's Policy relating to 'Street Setbacks'</i>	<i>Unenclosed except to the extent that abuts the existing dwelling and being without a doors or panels unless these doors and/or panels are visually permeable such as with open grilles.</i>	<i>Roller door with 60 per cent visual permeability.</i>	<i>Not supported –</i> <ul style="list-style-type: none"> <li>• <i>Non compliant with the Town's Policy relating to 'Street Setbacks';</i></li> <li>• <i>non-compliant with condition (vii) of conditional approval granted by the Council at its Ordinary Meeting of Council held on 11 May 2004;</i></li> <li>• <i>considered to have an undue impact on the</i></li> </ul>

			<i>streetscape and the surrounding amenity.</i>
<i>Street Fence: Primary Street (Haynes Street)</i>	<i>Not to exceed a maximum height of 1.8 metres above the adjacent footpath level within the front setback.</i>	<i>Pillars range from 1.76 metres – 2.4 metres in height.</i>	<i>Not supported –</i> <ul style="list-style-type: none"> <li>• <i>Non compliant with Town’s Policy relating to ‘Street Walls and Fences’;</i></li> <li>• <i>proposes variations as outlined in the Town’s Policy relating to ‘Non Variation of Specific Development Standards and Requirements’;</i></li> <li>• <i>non-compliant with condition (v) of conditional approval granted by the Council at its Ordinary Meeting of Council held on 11 May 2004; and</i></li> <li>• <i>considered to have an undue impact on the streetscape and surrounding amenity.</i></li> </ul>
	<i>The solid portion of the wall or fence excepting piers is to be a maximum height of 1.2 metres above the adjacent footpath level within the front setback</i>	<i>1.8 metres high wall west of the carport to Unit 3 and between the carport for Unit 1 and the carport for Unit 2 within the front setback.</i>	<i>Not supported –</i> <ul style="list-style-type: none"> <li>• <i>Non compliant with Town’s Policy relating to ‘Street Walls and Fences’;</i></li> <li>• <i>proposes variations as outlined in the Town’s Policy relating to ‘Non Variation of Specific Development Standards and Requirements’; and</i></li> <li>• <i>considered to have and undue impact on the streetscape and surrounding amenity.</i></li> </ul>
	<i>The pillars not to exceed 350 millimetres wide.</i>	<i>Pillars are 700 millimetres wide east of the carport to Unit 1 and west of the carport to Unit 2.</i>	<i>Not supported – considered to have an undue impact on the streetscape and surrounding amenity.</i>

<i>Consultation Submissions</i>
<i>Consultation is not required as this Category 3 application is not supportable and is being</i>

<i>referred to the Council for determination.</i>	
<i>Other Implications</i>	
<i>Legal/Policy</i>	<i>TPS 1 and associated Policies, and Residential Design Codes (R Codes).</i>
<i>Strategic Implications</i>	<i>Nil</i>
<i>Financial/Budget Implications</i>	<i>Nil</i>

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

**COMMENTS:**

*The proposed front fence and roller doors additions to existing three two-storey single houses are non-compliant with the Town's Policies relating to Street Setbacks and Front Walls and Fences respectively and proposes variations outlined in the Town's Policy relating to Non-Variation of Specific Development Standards and Requirements.*

*The proposed front fence and roller doors additions are considered to have an undue impact on the streetscape and surrounding amenity and is therefore recommended for refusal”.*

**10.1.2 Further Report – No. 33 (Lot 12 D/P: 2358) Anzac Road, corner Shakespeare Street Leederville - Proposed Additional Two Storey Single House and Partial Demolition of and Carport Addition to Existing Single House**

<b>Ward:</b>	North	<b>Date:</b>	19 June 2007
<b>Precinct:</b>	Leederville; P03	<b>File Ref:</b>	PRO3843; 5.2006.610.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	D Pirone		
<b>Checked/Endorsed by:</b>	D Abel, J Maclean	<b>Amended by:</b>	-

***FURTHER OFFICER RECOMMENDATION:***

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owners S and C E Clocherty for proposed Additional Two Storey Single House and Partial Demolition of and Carport Addition to Existing Single House, at No. 33 (Lot 12 D/P: 2358) Anzac Road, corner Shakespeare Street, Leederville, and as shown on plans stamp-dated 20 March 2007, 10 May 2007 (excluding south elevation), and 15 June 2007 (south elevation) subject to the following conditions:*

- (i) *all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, solar panels, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
  - (a) *the porch of the proposed dwelling being setback a minimum of 1 metre from the Shakespeare Street boundary;*
  - (b) *the window to bedroom 2 on the northern elevation, and the balcony on the western elevation, on the first floor, being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole window can be top hinged and the obscure portion of the window openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject window not exceeding one square metre in aggregate in the respective subject walls, so that it is not considered to be major opening as defined in the Residential Design Codes 2002. Alternatively prior to the issue of a Building Licence, these revised plans are not required if the Town receives written consent from the owners of No. 35 Anzac Road stating no objection to the respective proposed privacy encroachments; and*

- (c) *a visual truncation of a minimum 2.0 metre by 2.0 metre being provided at the corner of the lot between the existing right of way and Shakespeare Street.*

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

- (iii) *where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title and Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town;*
- (iv) *no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services Section. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*
- (v) *first obtaining the consent of the owners of No. 35 Anzac 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. 35 Anzac Road in a good and clean condition;*
- (vi) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Anzac Road and Shakespeare Street verges adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (vii) *the carport to the existing dwelling shall be one hundred (100) per cent open on all sides and at all times (open type gates/panels are permitted), except where it abuts the main dwelling; and*
- (viii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating any new street/front wall, fence and gate between the Shakespeare Street boundary and Anzac Road boundary and the main building, including along the side boundaries within this front setback area, shall comply with the following:*
- (a) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
- (b) *decorative capping on top of posts and piers may extend the total maximum height of the posts and piers to 2.0 metres above the adjacent footpath level;*
- (c) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*
- (d) *the maximum height of the solid portion being 1.2 metres above the adjacent footpath level, and the section above this solid portion being visually permeable, with a minimum 50 per cent transparency; and*

- (e) *the provision of a minimum 1.5 metres by 1.5 metres truncation where walls, fences and gates adjoin vehicle access points, or where a driveway meets a public street or right of way; a minimum 3.0 metres by 3.0 metres truncation where two streets intersect and a minimum 2.0 metres by 2.0 metres truncation at the corner of the lot between the existing right of way and Shakespeare Street. 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 10.1.2**

Mayor Catania advised that Cr Messina had declared a proximity interest in this item. Cr Messina departed the Chamber at 8.15pm and did not speak or vote on the matter.

**Moved Cr Farrell , Seconded Cr Ker**

*That the recommendation be adopted*

**MOTION PUT AND CARRIED (8-0)**

**(Cr Messina was out of the Chamber and did not vote)**

---

### **FURTHER REPORT:**

The Council considered the application at its Ordinary Meeting held on 22 May 2007 and resolved as follows:

*“That the Item be DEFERRED for further consideration.”*

The applicant has since submitted an amended southern (right of way) elevation stamp dated 15 June 2007. The difference between the previous elevation and the current elevation is that the sill height to the bedroom 1 has increased to 1.629 metres above the finished floor level (subsequent to negotiations with the affected neighbours). This has resulted in no further variations in terms of these elevations.

The neighbour at No. 30 Shakespeare Street, wished to comment on the proposal before the application is considered at the Ordinary Meeting of Council to be held on 26 June 2007. The main concern was that the window to Bedroom 1 on the upper floor on the southern elevation would overlook into the neighbour's garden. This window complies with the privacy requirements of the R Codes, therefore is not required to be screened. In light of the above, the owner of No. 30 Shakespeare Street requested the applicant to increase the sill height of this window. The applicant then submitted the amended southern elevation and the neighbour is now prepared to support the application at No. 33 Anzac Road.

In regards to condition (viii), significant changes to the street/front fence along Shakespeare Street is required to satisfy this condition.

In light of the above, the previous Officer Recommendation remains unchanged, except to reflect the amended southern elevation.

The following is a verbatim copy of the Minutes of the Item placed before the Council at its Ordinary Meeting held on 22 May 2007.

*“OFFICER RECOMMENDATION:*

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owners S and C E Clocherty for proposed Additional Two Storey Single House and Partial Demolition of and Carport Addition to Existing Single House, at No. 33 (Lot 12 D/P: 2358) Anzac Road, corner Shakespeare Street, Leederville, and as shown on plans stamp-dated 20 March 2007 and 10 May 2007, subject to the following conditions:*

- (i) all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, solar panels, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
  - (a) the porch of the proposed dwelling being setback a minimum of 1 metre from the Shakespeare Street boundary;*
  - (b) the window to bedroom 2 on the northern elevation, and the balcony on the western elevation, on the first floor, being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole window can be top hinged and the obscure portion of the window openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject window not exceeding one square metre in aggregate in the respective subject walls, so that it is not considered to be major opening as defined in the Residential Design Codes 2002. Alternatively prior to the issue of a Building Licence, these revised plans are not required if the Town receives written consent from the owners of No. 35 Anzac Road stating no objection to the respective proposed privacy encroachments; and*
  - (c) a visual truncation of a minimum 2.0 metre by 2.0 metre being provided at the corner of the lot between the existing right of way and Shakespeare Street.*

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

- (iii) where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title and Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town;*
- (iv) no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services Section. Should such an approval be granted all cost*

*associated with the removal and replacement shall be borne by the applicant/owner(s);*

- (v) *first obtaining the consent of the owners of No. 35 Anzac 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. 35 Anzac Road in a good and clean condition;*
- (vi) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Anzac Road and Shakespeare Street verges adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (vii) *the carport to the existing dwelling shall be one hundred (100) per cent open on all sides and at all times (open type gates/panels are permitted), except where it abuts the main dwelling; and*
- (viii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating any new street/front wall, fence and gate between the Shakespeare Street boundary and Anzac Road boundary and the main building, including along the side boundaries within this front setback area, shall comply with the following:*
  - (a) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
  - (b) *decorative capping on top of posts and piers may extend the total maximum height of the posts and piers to 2.0 metres above the adjacent footpath level;*
  - (c) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*
  - (d) *the maximum height of the solid portion being 1.2 metres above the adjacent footpath level, and the section above this solid portion being visually permeable, with a minimum 50 per cent transparency; and*
  - (e) *the provision of a minimum 1.5 metres by 1.5 metres truncation where walls, fences and gates adjoin vehicle access points, or where a driveway meets a public street or right of way; ~~and~~ a minimum 3.0 metres by 3.0 metres truncation where two streets intersect and a minimum 2.0 metres by 2.0 metres truncation at the corner of the lot between the existing right of way and Shakespeare Street. 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.*

**Note:** *The above Officer Recommendation was corrected and distributed prior to the meeting. Changes are indicated by strikethrough, italic font and underline.*

COUNCIL DECISION ITEM 10.1.6

Moved Cr Farrell, Seconded Cr Doran-Wu

*That the recommendation be adopted.*

*Debate ensued.*

Moved Cr Farrell, Seconded Cr Doran-Wu

*That the Item be DEFERRED for further consideration.*

CARRIED (6-1)

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

*(Crs Ker and Messina on leave of absence.)*

Landowner:	S & C E Clocherty
Applicant:	S & C E Clocherty
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R30
Existing Land Use:	Single House
Use Class:	Single House
Use Classification:	"P"
Lot Area:	599 square metres
Access to Right of Way	Southern side, 5.02 metres wide, sealed, privately owned

**BACKGROUND:**

*No subdivision proposal for the subject property has been lodged with the Town.*

**DETAILS:**

*The proposal involves an additional two storey single house and partial demolition of and carport addition to existing single house.*

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

**ASSESSMENT:**

<i>Non-Compliant Requirements</i>			
<i>Requirements</i>	<i>Required</i>	<i>Proposed *</i>	<i>Officer Comments Pursuant to Clause 38(5) of TPS 1</i>
<i>Density</i>	<i>1.99 dwellings R 30</i>	<i>2 dwellings R 33.38</i>	<i>Supported – subject site has frontage to</i>

		<i>0.1667 per cent density bonus.</i>	<i>Shakespeare Street and right of way, whilst retaining the existing streetscape of Anzac Road and no undue impact on the amenity of the area. The variation is considered minor and neighbouring examples of similar subdivision exists along Shakespeare Street.</i>
<i>Minimum Site Area – Proposed Rear Site.</i>	<i>270 square metres</i>	<i>258 square metres</i>	<i>Supported – as above</i>
<i>Average Site Area</i>	<i>300 square metres</i>	<i>299.5 square metres</i>	<i>Supported – as above</i>
<i>Plot Ratio</i>	<i>N/A</i>	<i>N/A</i>	<i>Noted</i>
<i>Building Setbacks: East/Street - Ground Floor</i>	<i>2.5 metres to main building line</i>  <i>1.5 metres to porch/portico</i>	<i>1.5 – 2 metres</i>  <i>0.8 metre</i>	<i>Supported – no undue impact on streetscape and further variations to requirement already evident in street.</i> <i>Not supported – undue impact on streetscape and condition requiring 1 metre setback applied.</i>
<i>- Upper Floor</i>	<i>6 metres</i>  <i>6 metres</i>	<i>2 metres to main building line</i> <i>2.1 metres to balcony</i>	<i>Supported – no undue impact on streetscape and further variations to requirement already evident in street.</i>
<i>West - Ground Floor</i>	<i>1.5 metres</i>	<i>Nil – 1.2 metres</i>	<i>Supported – no undue impact on adjoining property and no objections received from the affected neighbour.</i>
<i>- Upper Floor</i>	<i>1.6 metres</i>	<i>1.2 – 1.5 metres</i>	<i>Supported – no undue impact on adjoining property and no objection received from the affected neighbour.</i>
<i>Building on Boundary</i>	<i>3.5 metres maximum height</i>  <i>3 metres average height</i>	<i>3.7 metres</i>  <i>3.6 metres</i>	<i>Supported – no undue impact on adjoining property and no objection received from the affected neighbour.</i> <i>Supported – as above.</i>
<i>Privacy Setbacks: North Elevation</i>			
<i>- Bed 2</i>	<i>4.5 metres</i>	<i>2.1 metres to western</i>	<i>Not supported – undue</i>

	<i>*Or screening in accordance with the R Codes</i>	<i>boundary</i>	<i>impact on neighbouring property and condition applied to comply.</i>
<i>- Balcony</i>	<i>7.5 metres *Or screening in accordance with the R Codes</i>	<i>4 metres to northern boundary</i>	<i>Supported – internal overlooking as applicant owns both sites.</i>
<i>Consultation Submissions</i>			
<i>Support</i>	<i>Nil</i>		<i>Noted</i>
<i>Objection</i>	<i>Nil</i>		<i>Noted</i>
<i>Other Implications</i>			
<i>Legal/Policy</i>			<i>TPS 1 and associated Policies, and Residential Design Codes (R Codes).</i>
<i>Strategic Implications</i>			<i>Nil</i>
<i>Financial/Budget Implications</i>			<i>Nil</i>

*\* 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:**

*Density Bonus*

*The density bonus is considered supportable pursuant to clause 20(2)(b) of the Town of Vincent Town Planning Scheme No. 1, given that the proposed site has frontage to Shakespeare Street and right of way whilst retaining the existing streetscape of Anzac Road with the retention of the existing dwelling. The variation is considered minor with no undue impact created on the amenity of the area.*

*Street Setbacks*

*Shakespeare Street currently has 2 examples of lots subdivided in the same manner to that proposed for the subject property. The dwelling at No. 30A Salisbury Street which has frontage onto Shakespeare Street, has a ground floor setback of nil-1 metre for the portico, 1.5 metres for the garage and 2.03 metres for the main dwelling. The upper floor is setback 2.03 metres from Shakespeare Street to the main dwelling. The dwelling at No. 28A appears to be setback approximately 1 metre from Shakespeare Street on the ground floor. It is on this basis that the proposed development is considered supportable, due to existing precedence and no further undue impact on the existing streetscape.*

*Summary*

*In light of the above, approval is recommended subject to standard and appropriate conditions to address the above matters.”*

**10.1.3 Further Report - Amendment No. 8 to Planning and Building Policies – Draft Policy Relating to Residential Design Elements**

<b>Ward:</b>	Both Wards	<b>Date:</b>	19 June 2007
<b>Precinct:</b>	All Precincts	<b>File Ref:</b>	PLA0141
<b>Attachments:</b>	<a href="#">001_002</a>		
<b>Reporting Officer(s):</b>	B McKean		
<b>Checked/Endorsed by:</b>	D Abel, Jim Maclean	<b>Amended by:</b>	-

**FURTHER OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the further amended version of the draft Policy relating to Residential Design Elements, as shown in Attachment 10.1.3;*
- (ii) *ADVERTISES the further amended version of the draft Policy relating to Residential Design Elements for public comment, in accordance with Clause 47 of the Town of Vincent Town Planning Scheme No. 1, including:*
  - (a) *advertising a summary of the subject draft Policy once a week for four (4) 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 draft Policy; and*
  - (c) *forwarding a copy of the draft Policy to the Western Australian Planning Commission (WAPC); and*
- (iii) *after the expiry of the period for submissions:*
  - (a) *REVIEWS the further amended version of the draft Policy relating to Residential Design Elements, having regard to any written submissions; and*
  - (b) *DETERMINES the further amended version of the draft Policy relating to Residential Design Elements, with or without amendments, to or not to proceed with them.*

**Moved Cr Farrell , Seconded Cr Torre**

*That the recommendations (i), (ii), (iii) be adopted together with the following:*

- (iv) *That the Council;*
  1. *The second paragraph in the Introduction 1.0 of the Draft Residential Design Elements Policy Report to be amended to read as follows:*

‘...  
For the purpose of preserving and maintaining this residential amenity, while still allowing new development to occur, the ~~Council~~ Town has prepared the Residential Design Elements Policy.
  2. *6.2 Vincent Vision last dot point be amended to read as follows:*

‘...  
Car parking requirements are strategically planned for and to meet the needs of the commercial and residential area...’
  3. *7.3 Objectives fourth dot point to be amended to read as follows:*

‘...’

- ~~To encourage well designed, attractive and site and streetscape responsive buildings;~~
- To encourage well designed and attractive buildings that contribute and interact responsively to the site and its surrounding streetscape

4. BDAC (1) second and third dot point to be amended to read as follows:

<p><b>BDAC</b> <b>Preservation</b> <b>Amenity</b> <b>on</b> <b>Adjoining Land and</b> <b>Surrounding Area</b></p>	<p><b>1.</b> <b>of</b> <b>on</b> <b>Land and Surrounding</b> <b>Area</b></p>	<p><b>BDR 1. Preservation of Amenity on Adjoining Land and Surrounding Area</b></p>	<p><b>7.4.1</b></p>
<p>(i) <del>Development is to avoid compromising the amenity of adjoining development in order to by:</del></p> <ul style="list-style-type: none"> <li>• <u>Maintaining</u> an appropriate visual relationship between dwellings;</li> <li>• <u>Ensuring</u> that appropriate solar access to the outdoor living area of the subject site and adjacent lots is not significantly reduced; and</li> <li>• <u>Ensuring</u> that the privacy and sense of space of the adjoining lots is not unduly compromised.</li> </ul>	<p>(a) This is to be achieved by:</p> <ul style="list-style-type: none"> <li>• Ensuring appropriate side setbacks and landscaping are incorporated into the development;</li> <li>• Compliance with the building height provisions of the Residential Design Codes and Residential Design Elements Policy;</li> <li>• Minimising the amount of excavation and fill on the development site;</li> <li>• Where appropriate, building to the boundary to maximise privacy for neighbouring dwellings and their private open space;</li> <li>• Staggering openings to habitable spaces (between properties) to preserve reasonable privacy;</li> <li>• Giving consideration of overshadowing on adjoining lots, particularly in relation to outdoor living areas and habitable rooms; and</li> <li>• Adequately articulating the upper floor to the satisfaction of the Town to mitigate the impact on adjoining neighbours.</li> </ul>		

5. **BDR 13. (2). Letterboxes second dot point to be amended to read as follows:**

<p><b>BDAC 13. Adaptable and Accessible Housing</b></p>	<p><b>BDR 13. Adaptable and Accessible Housing</b></p>	<p><b>7.4.10</b></p>
<p>(i) Development design will endeavour to incorporate design features that are reasonably adapted at a later date with the changing needs of the occupants.</p>	<p>(a) Applicants and designers are strongly encouraged to refer to the following standards when preparing development applications for ‘Accessible’ and ‘Adaptable’ Housing:</p> <p>(1) Siting</p> <ul style="list-style-type: none"> <li>• A lot not exceeding a 1:14 gradient is required for any development site proposing to construct ‘adaptable housing’;</li> </ul>	
	<ul style="list-style-type: none"> <li>• A continuous accessible path of travel is to be provided from the street frontage and the vehicle parking area to the entry of the dwelling; and</li> <li>• Paths and walkways are to be slip resistant.</li> </ul> <p>(2) Letterboxes</p> <ul style="list-style-type: none"> <li>• Letterboxes are to be situated in a central location and adjacent to the street entry; and</li> <li>• Letterboxes are to be located on a hard standing area connected by an accessible and <del>continuous</del> <u>continuous</u> pathway.</li> </ul> <p>(3) Car Parking</p> <ul style="list-style-type: none"> <li>• Car parking bays are to be a minimum of 6 metres by 3.8 metres;</li> <li>• The minimum internal clearance of the garage or carport is to be 2.5 metres;</li> </ul> <p>All car parking spaces are to be provided with permanent roof cover; and</p>	

**Cr Doran-Wu departed the Chamber at 8.16pm**

**Debate ensued**

**Crs Messina and Doran-Wu returned to the Chamber at 8.24pm**

**Debate ensued**

**Journalist Lindsay McPhee departed the Chamber at 8.25pm**

**Debate ensued**

Cr Farrell departed the Chamber at 8.27pm

Debate ensued

Cr Torre departed the Chamber at 8.28pm

Debate ensued

Cr Farrell returned to the Chamber at 8.32pm

Moved Cr Maier, Seconded Cr Ker

*That the amendments as shown be adopted;*

*That;*

1. *clauses (ii) - (iv) be renumbered to (iii) - (v); and*

2. *a new clause (ii) be added as follows:*

*“(ii) AMENDS the further amended version of the draft Policy relating to Residential Design Elements as follows prior to the draft Policy being advertised:*

*(a) 5.2 Advertising be amended to read as follows:*

*‘...  
Applications for development seeking variations to any part of the R Codes and/or this Policy ~~may~~ will be required to be advertised in accordance with Clause 37 of the Scheme. The advertising process will be guided by the Town’s Community Consultation Policy...’*

*(b) 6.2 Vincent Vision be amended to read as follows:*

*‘The Vincent Vision 2024 project indicates the community values the following relating to streetscape:*

- Heritage buildings, intact streetscapes and a sense of place;*
- Current density, scale and family friendly housing;*
- Open streetscapes and passive surveillance; and*
- ~~Good public transport and less traffic in residential streets.~~*

*...*

- ~~Car parking requirements are strategically planned for to meet the needs of the commercial and residential area. Car parking solutions are innovative and reduce the visual dominance and presence of cars in the environment./~~

(c) 6.4.1 Streetscape Character be amended to read as follows:

‘...  
Certain ~~Single~~ storey streetscapes are greatly valued within the Town, and effort should be retained wherever possible. Any new dwellings or extensions, which are located within an area that is characterised by single storey buildings or within a recognised streetscape, should be mindful of the streetscape character and maintain a single storey presentation to the street- (please refer to any Residential Streetscapes Policy)...’

(d) 6.4.2 (i) Street Setbacks be amended to read as follows:

‘The street setback area is the area between the front/street boundary and the building line ~~or the respective minimum street setback requirement of the R Codes, or as determined pursuant to Design Requirement SDR 5. Street Setbacks, whichever is the lesser distance.~~

Development must be appropriately located on the site having regard to the existing setback of adjoining properties, and the setback pattern of the street block within which the proposed development or addition is situated.’

(e) 6.4.4 (ii) Street Walls and Fences be amended to read as follows:

‘...  
Side and Rear Boundary Walls and Fences: The height is measured from the "certified" natural ground level immediately ~~inside~~ outside the boundary to the top of the fence.

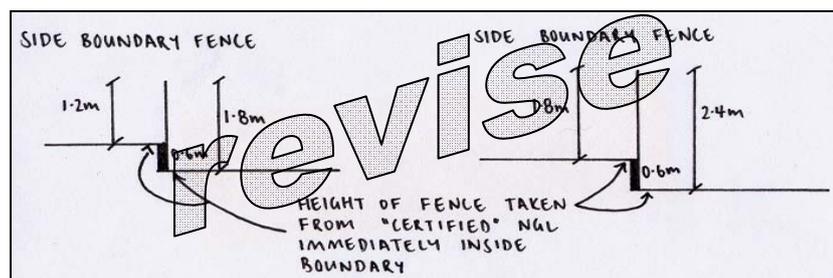


Figure 12: Measurement of Side and Rear Boundary Fence’

(f) **SDR 1. Streetscape Character be amended to read as follows:**

'SAC 1. Streetscape Character	<b>SDR 1. Streetscape Character</b>	<b>6.4.1</b>
(i) <i>The prominent characteristics of the locality is to be identified and considered as part of the design process...</i>	(a) <i>Any development which is located in an area that is <del>characterised by single storey buildings</del> or <del>with</del> a recognised streetscape is to be mindful of the streetscape character and maintain a single storey presentation to the street...</i>	

(g) **SDR 3. New Dwellings be amended to read as follows:**

'SAC 3. New Dwellings	<b>SDR 3. New Dwellings</b>	<b>6.4.1</b>
(i) <i>New dwellings are to respect the existing character of the locality and the streetscape.</i>	(a) <i>New dwellings are to <del>e complement</del> <u>be consistent with</u> the bulk and scale of the existing dwellings in the locality and the streetscape.'</i>	

(h) **SAC 5 Street Setbacks and DDR 5. Street Setbacks be amended to read as follows:**

'SAC 5. Street Setbacks	<b>SDR 5. Street Setbacks</b>	<b>6.4.2 (i)</b>
(i) <i>Development is to be appropriately located on site to:...</i>  • <i>Facilitate solar access <u>for the development site and adjoining properties</u>;</i> ...	(a) <i><u>When the street is a recognised streetscape (refer to any Residential Streetscape Policy), the primary street setback is to reflect the predominant streetscape pattern for the immediate locality which is defined as being within 5 adjoining properties on each side of the development...</u></i>	

(i) **SDR 6. Minor Incursions Into Street Setback Area be amended to read as follows:**

'SAC 6. Minor Incursions Into Street Setback Area	<b>SDR 6. Minor Incursions Into Street Setback Area</b>	<b>6.4.2 (ii)</b>
...	...  (b) <i><u>Eaves may project</u> <del>are not to project more than up to one (1) metre into the street setback area for the full width of the building provided there is no pillar, support structure or the like under the eaves.</del></i>	

- (j) SAC 10. Dual Street Frontages and Corner Sites be amended to read as follows:

<b>'SAC 10. Dual Street Frontages and Corner Sites</b>	<b>SDR 10. Dual Street Frontages and Corner Sites</b>	<b>6.4.2 (vi)</b>						
...	<p>...</p> <p>(b) For new development on the <u>front of the original corner site</u>, the following minimum street setbacks are to apply:...</p> <p>...</p> <p>(2) As measured from the secondary street:</p> <table border="1" data-bbox="608 707 1123 1184"> <thead> <tr> <th data-bbox="612 707 842 808"><i>Feature facing Secondary Street</i></th> <th data-bbox="847 707 1118 808"><i>Minimum Setback (metres)</i></th> </tr> </thead> <tbody> <tr> <td data-bbox="612 815 842 1016"><i>Building Walls on Ground Floor, including Porches, Verandahs and the Like</i></td> <td data-bbox="847 815 1118 1016" style="text-align: center;">1.5</td> </tr> <tr> <td data-bbox="612 1023 842 1184"><i>Building Walls on Upper Floor; <u>including Balconies and the Like</u></i></td> <td data-bbox="847 1023 1118 1184" style="text-align: center;">2.0</td> </tr> </tbody> </table> <p>Note:</p> <p><i>Upper floor walls (including balconies and the like) fronting the secondary street are to be vertically staggered and articulated by a minimum of 0.5 metre from the ground floor. Extensive blank or unarticulated walls to street frontages will not be supported.'</i></p>	<i>Feature facing Secondary Street</i>	<i>Minimum Setback (metres)</i>	<i>Building Walls on Ground Floor, including Porches, Verandahs and the Like</i>	1.5	<i>Building Walls on Upper Floor; <u>including Balconies and the Like</u></i>	2.0	
<i>Feature facing Secondary Street</i>	<i>Minimum Setback (metres)</i>							
<i>Building Walls on Ground Floor, including Porches, Verandahs and the Like</i>	1.5							
<i>Building Walls on Upper Floor; <u>including Balconies and the Like</u></i>	2.0							

- (k) SAC 13 and SDR 13. Street Walls and Fences be amended to read as follows:

<b>'SAC 13. Street Walls and Fences</b>	<b>SDR 13. Street Walls and Fences</b>	<b>6.4.4 (i), (ii) &amp; (iii)</b>
(i) Street walls and fences are to be designed so that:...	(a) Street walls and fences are to be of a style and materials compatible with those of the dwelling on site and/or walls or fences of the immediate surrounding area. Street walls and fences designed with fibre cement <u>or metal</u> sheeting <del>is</del> <u>are not acceptable</u> ...	

	<p>...</p> <ul style="list-style-type: none"><li>• <i>Posts and piers are to have a maximum width 355 millimetres and a maximum diameter of 500 millimetres; and</i></li><li>• <i><u>The distance between piers should not be less than the height of the piers except where pedestrian gates are proposed.</u></i></li></ul> <p>(2) <i>Street walls and fences to secondary streets, <u>behind the primary street setback line, or walls and fences to the primary streets where those streets are</u> district distributor roads <u>are to comply with the following be as follows: ...</u></i></p>	
--	---	--

(l) 7.3 Objectives be amended to read as follows:

‘...’

- ~~*To promote and create development that use less energy, cost less to run and are more climatically comfortable.*~~

*Energy Efficient Design*

- ~~*To maximise the use of renewable energy sources (such as rainwater and sunlight);*~~
- *To promote and create development that use less energy, cost less to run and are more climatically comfortable. ...* ‘

(m) 7.4.2 Streetscape Character Considerations be amended to read as follows:

‘...’

~~*It is strongly recommended that a*~~*Applicants must make reference to any Residential Streetscapes Policy, as part of the design process in preparing a development application.’*

(n) 7.4.4 Building Bulk be amended to read as follows:

*‘Where the streetscape character is predominantly single storey and is in a recognised streetscape area, any upper...*’

(o) 7.4.5 (ii) Measuring Building and Roof Height be amended to read as follows:

‘...’

- *Building height will be measured from the natural ground level immediately below the relevant point on the wall or roof to above the eaves/roof or highest point of the roof respectively;...*’

- (p) 7.4.5 Site Levels be amended to read as follows:  
'...  
In many locations within the Town of Vincent, the topography affords views ~~out of the locality~~. that These views are highly...'
- (q) 7.4.8 (i) Visual Privacy be amended to read as follows:  
'...  
Figure 19: Examples of Non-Compliant and ~~Non-Compliant~~ Scenarios and Demonstration of how Privacy Cone of Vision is Calculated.'
- (r) 7.4.10 Adaptable and Accessible Housing be amended to read as follows:  
'...  
Accessible housing is generally a purpose built dwelling for a person or persons with a ~~disability~~ special need...'
- (s) **BDAC 5. Building Height and BDR 5. Building Height** be amended to read as follows:

<b>'BDAC 5. Building Height</b>	<b>BDR 5. Building Height</b>	<b>7.4.5</b>								
<p>(i) Building height is to be considered to:</p> <ul style="list-style-type: none"> <li>• Limit the height of dwellings so that <del>not one</del> individual dwelling dominates the streetscape;</li> <li>• Limit the extent of overshadowing and visual intrusion on the private space of neighbouring properties; and</li> <li>• Maintain the character and integrity of the existing streetscape.</li> </ul>	<p>(a) <del>The maximum height of a dwelling is to be 2 storeys (including any garage, basement, loft or the like), and comply with the following measurements:</del></p> <table border="1" data-bbox="555 1144 1134 1637"> <thead> <tr> <th data-bbox="555 1144 810 1263"><i>Element</i></th> <th data-bbox="810 1144 1134 1263"><i>Maximum Allowable Heights For Two Storey Dwellings</i></th> </tr> </thead> <tbody> <tr> <td data-bbox="555 1263 810 1382"><del>Top of external wall (roof above)</del> (ii)</td> <td data-bbox="810 1263 1134 1382">6.0 metres</td> </tr> <tr> <td data-bbox="555 1382 810 1500"><del>Top of external wall (concealed roof)</del></td> <td data-bbox="810 1382 1134 1500">7.0 metres</td> </tr> <tr> <td data-bbox="555 1500 810 1637"><del>Top of pitched roof</del> (iii) (iv)</td> <td data-bbox="810 1500 1134 1637">9.0 metres</td> </tr> </tbody> </table> <p>Notes: Provisions for two storey development will apply unless the streetscape is identified to have a particular character or single storey streetscape, in which case heights are to be consistent with adjoining dwellings. The maximum height permitted for any single storey development located within the front six metres of a property is to be 3.5 metres (top of external wall height) and 6 metres (top of pitched roof) for a pitched roof development and 4 metres for a concealed roof development.</p>	<i>Element</i>	<i>Maximum Allowable Heights For Two Storey Dwellings</i>	<del>Top of external wall (roof above)</del> (ii)	6.0 metres	<del>Top of external wall (concealed roof)</del>	7.0 metres	<del>Top of pitched roof</del> (iii) (iv)	9.0 metres	
<i>Element</i>	<i>Maximum Allowable Heights For Two Storey Dwellings</i>									
<del>Top of external wall (roof above)</del> (ii)	6.0 metres									
<del>Top of external wall (concealed roof)</del>	7.0 metres									
<del>Top of pitched roof</del> (iii) (iv)	9.0 metres									

	<p><del>(1) Gable walls above eaves height:</del>  <del>— less than 9 metres long : exempted</del>  <del>— greater than 9 metres long: add one third of the height of the gable, between the eaves and the apex of the gable wall, to the eaves height; and</del></p> <p><del>(2) Applies to ridges greater than 6m long. Short ridges: add 0.5m height for each 2m reduction in length.'</del></p>	
--	---	--

(t) **BDR 2. Streetscape Character Considerations be amended to read as follows:**

<b>'BDAC 2. Streetscape Character Considerations</b>	<b>BDR 2. Streetscape Character Considerations</b>	<b>7.4.2</b>
...	<p>...</p> <ul style="list-style-type: none"> <li>• <b>Building height.</b></li> </ul> <p><u>Note:</u> <u>Refer to any Residential Streetscapes Policy.'</u></p>	

(u) **BDAC 3. Roof Forms be amended to read as follows:**

<b>'BDAC 3. Roof Forms</b>	<b>BDR 3. Roof Forms</b>	<b>7.4.3</b>
<p>...</p> <ul style="list-style-type: none"> <li>• <b><u>In areas of heritage value with recognised streetscape value it complements the existing streetscape character and the elements that contribute to this character; and...</u></b></li> </ul>	<p><b>(a) This is to be achieved through:</b></p> <ul style="list-style-type: none"> <li>• <b>The use of appropriate materials, colour and roof pitch;</b></li> <li>• <b>The use of roof pitches between 30 degrees and 45 degrees (inclusive) being encouraged; and...'</b></li> </ul>	

(v) **BDR 4. Building Bulk be amended to read as follows:**

<b>'BDAC 4. Building Bulk</b>	<b>BDR 4. Building Bulk</b>	<b>7.4.4</b>
...	<p><del>(c) Any upper floor addition to an existing dwelling recognised as positively contributing to a predominantly single storey streetscape, cannot be contained within the existing roof space, it is to be built at the rear of the existing dwelling, that is, a minimum of 2 metres behind the main roof ridge line, such that its' visual streetscape impact is minimised to the satisfaction of the Town. <u>In recognised single storey streetscapes, if an upper floor addition can not be contained within an existing roof space, it is to be built at the rear of the dwelling such that its visual impact on the streetscape is minimised to the satisfaction of the Town...</u></del></p>	

(w) **BDR 6. Lofts be amended to read as follows:**

<b>'BDAC 6. Lofts</b>	<b>BDR 6. Lofts</b>	<b>7.4.6</b>
...	<p>...</p> <p>(c) <b>Dormer windows and gables to lofts are to comply with the following requirements:</b></p> <ul style="list-style-type: none"> <li>• <b>Not project beyond the roof pitch <u>nor</u> exceed 2.4 metres above the loft finished floor level, whichever is the <u>lesser greater</u>; and</b></li> <li>• <b>Maximum aggregate length of 4.5 metres or 20 per cent of the length of the dwelling <u>on that particular elevation</u>, whichever is the lesser.'</b></li> </ul>	

- (x) **amending the terms "Assessment Criteria" and "Design Requirements" to "Performance Criteria" and "Acceptable Development Criteria" respectively in order to maintain consistency of terminology with the Residential Design Codes.**
- (y) **the column headings for the Assessment Tables being repeated on each page of each table (ie "Performance Criteria", Acceptable Development Criteria" and "Guidance Note Clause Reference").**
- (z) **Inclusion of a diagram in Section 7.4.6 - Lofts which clearly demonstrates the intention of BDR 6 (c ) relating to dormer windows.**

Debate ensued

The Presiding Member ruled that he would consider each amendment separately.

Debate ensued

All amendments other than clauses (c) (e) (f) (i) (k) (m) (o) (p) (r) (s) (w)

**AMENDMENT PUT & CARRIED (9-0)**

**Moved Cr Ker, Seconded Cr Chester**

*That Clause (c) be adopted subject to the deletion of the word “certain”.*

(c) *6.4.1 Streetscape Character be amended to read as follows:*

*‘...  
~~Certain~~ Single storey streetscapes are greatly valued within the Town, and effort should be retained wherever possible. Any new dwellings or extensions, which are located within an area that is characterised by single storey buildings or within a recognised streetscape, should be mindful of the streetscape character and maintain a single storey presentation to the street- (please refer to any Residential Streetscapes Policy)...’*

Debate ensued

**AMENDMENT PUT & CARRIED (8-1)**

**For**  
Mayor Catania  
Cr Chester  
Cr Doran-Wu  
Cr Farrell  
Cr Ker  
Cr Lake  
Cr Maier  
Cr Torre

**Against**  
Cr Messina

**Moved Cr Farrell, Seconded Cr Ker**

*That the amendment be adopted subject to changing the word “outside” to “inside”.*

(e) *6.4.4 (ii) Street Walls and Fences be amended to read as follows:*

*‘...  
Side and Rear Boundary Walls and Fences: The height is measured from the "certified" natural ground level immediately inside ~~outside~~ the boundary to the top of the fence.*

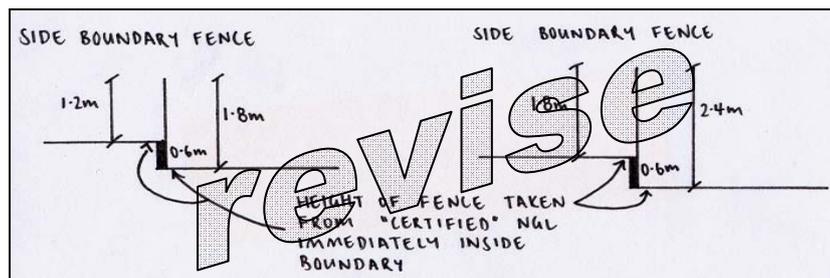


Figure 12: Measurement of Side and Rear Boundary Fence'

Debate ensued

**AMENDMENT PUT & CARRIED (7-2)**

**For**

Mayor Catania  
Cr Chester  
Cr Doran-Wu  
Cr Farrell  
Cr Ker  
Cr Messina  
Cr Torre

**Against**

Cr Lake  
Cr Maier

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

(f) *SDR 1. Streetscape Character be amended to read as follows:*

'SAC 1. Streetscape Character	SDR 1. Streetscape Character	6.4.1
(i) <i>The prominent characteristics of the locality is to be identified and considered as part of the design process...</i>	(a) <i>Any development which is located in an area that is <u>characterised by single storey buildings or with</u> a recognised streetscape is to be mindful of the streetscape character and maintain a single storey presentation to the street...</i>	

Debate ensued

**AMENDMENT PUT & CARRIED (7-2)**

**For**

Mayor Catania  
Cr Chester  
Cr Doran-Wu  
Cr Farrell  
Cr Ker  
Cr Lake  
Cr Torre

**Against**

Cr Maier  
Cr Messina

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

*That the following amendment be adopted:*

(i) *SDR 6. Minor Incursions Into Street Setback Area be amended to read as follows:*

'SAC 6. Minor Incursions Into Street Setback Area	SDR 6. Minor Incursions Into Street Setback Area	6.4.2 (ii)
...	...  (b) <i>Eaves <del>may project</del> <u>are not to project more than <del>up to</del> one (1) metre into the street setback area for the full width of the building provided there is no pillar, support structure or the like under the eaves.</u></i>	

Debate ensued

**AMENDMENT PUT & CARRIED (6-3)**

**For**

Mayor Catania  
Cr Chester  
Cr Doran-Wu  
Cr Farrell  
Cr Ker  
Cr Torre

**Against**

Cr Lake  
Cr Maier  
Cr Messina

**Moved Cr Maier, Seconded Cr Ker**

*That the following amendment be carried:*

(k) *SAC 13 and SDR 13. Street Walls and Fences be amended to read as follows:*

'SAC 13. Street Walls and Fences	SDR 13. Street Walls and Fences	6.4.4 (i), (ii) & (iii)
(i) <i>Street walls and fences are to be designed so that:...</i>	(a) <i>Street walls and fences are to be of a style and materials compatible with those of the dwelling on site and/or walls or fences of the immediate surrounding area. Street walls and fences designed with fibre cement <u>or metal</u> sheeting <del>is</del> <u>are not acceptable...</u></i>	

Debate ensued

**AMENDMENT PUT & CARRIED (5-4)**

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

Moved Cr Maier, Seconded Cr Ker

*That the following amendment be adopted:*

- (m) 7.4.2 *Streetscape Character Considerations be amended to read as follows:*  
'...  
~~*It is strongly recommended that a*~~ *Applicants must make reference to any Residential Streetscapes Policy, as part of the design process in preparing a development application.'*

Debate ensued

AMENDMENT PUT & CARRIED (7-2)

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

Moved Cr Maier, Seconded Cr Lake

*That the following amendment be adopted:*

- (o) 7.4.5 (ii) *Measuring Building and Roof Height be amended to read as follows:*  
'...  
• *Building height will be measured from the natural ground level immediately below the relevant point on the wall or roof to above the eaves/roof or highest point of the roof respectively;...*

Debate ensued

AMENDMENT PUT & CARRIED (6-3)

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

**Moved Cr Maier, Seconded Cr Lake**

*That the following amendment be adopted:*

- (p) 7.4.5 Site Levels be amended to read as follows:

‘...  
*in many locations within the Town of Vincent, the topography affords views ~~out of the locality~~. that These views are highly...*’

Debate ensued

**AMENDMENT PUT AND LOST (3-6)**

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

**Moved Cr Maier, Seconded Cr Torre**

*That the following amendment be adopted:*

- (r) 7.4.10 Adaptable and Accessible Housing be amended to read as follows:

‘...  
*Accessible housing is generally a purpose built dwelling for a person or persons with a ~~disability~~ special need...*’

Debate ensued

**AMENDMENT PUT AND LOST (4-5)**

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

**Moved Cr Farrell, Seconded Cr Maier**

*That amendment (r) as follows be adopted:*

- (r) 7.4.10 Adaptable and Accessible Housing be amended to read as follows:

‘...  
*Accessible housing is generally a purpose built dwelling for a person or persons with a ~~disability~~ special need...disability or universal access needs*’.

Debate ensued

**AMENDMENT WITHDRAWN**

**Moved Cr Maier, Seconded Cr Torre**

*That the recommendation be adopted:*

- (s) ***BDAC 5. Building Height and BDR 5. Building Height be amended to read as follows:***

<b><i>'BDAC 5. Building Height</i></b>	<b><i>BDR 5. Building Height</i></b>	<b><i>7.4.5</i></b>								
<p>(i) <i>Building height is to be considered to:</i></p> <ul style="list-style-type: none"> <li>• <i>Limit the height of dwellings so that not <del>one</del> individual dwelling dominates the streetscape;</i></li> <li>• <i>Limit the extent of overshadowing and visual intrusion on the private space of neighbouring properties; and</i></li> <li>• <i>Maintain the character and integrity of the existing streetscape.</i></li> </ul>	<p>(a) <i>The maximum height of a dwelling is to be 2 storeys (including any garage, basement, loft or the like), <del>and comply with the following measurements:</del></i></p> <table border="1" data-bbox="555 680 1134 1171"> <thead> <tr> <th data-bbox="555 680 810 801"><i>Element</i></th> <th data-bbox="810 680 1134 801"><i>Maximum Allowable Heights For Two Storey Dwellings</i></th> </tr> </thead> <tbody> <tr> <td data-bbox="555 801 810 913"><i>Top of external wall (roof above)</i></td> <td data-bbox="810 801 1134 913"><i>6.0 metres</i></td> </tr> <tr> <td data-bbox="555 913 810 1034"><i>(ii) Top of external wall (concealed roof)</i></td> <td data-bbox="810 913 1134 1034"><i>7.0 metres</i></td> </tr> <tr> <td data-bbox="555 1034 810 1171"><i>Top of pitched roof</i></td> <td data-bbox="810 1034 1134 1171"><i>9.0 metres</i></td> </tr> </tbody> </table> <p><i>Notes:</i></p> <p><i>Provisions for two storey development will apply unless the streetscape is identified to have a particular character or single storey streetscape, in which case heights are to be consistent with adjoining dwellings. The maximum height permitted for any single storey development located within the front six metres of a property is to be 3.5 metres (top of external wall height) and 6 metres (top of pitched roof) for a pitched roof development and 4 metres for a concealed roof development.</i></p> <p><i>(1) Gable walls above eaves height:</i></p> <ul style="list-style-type: none"> <li><i>— less than 9 metres long : exempted</i></li> <li><i>— greater than 9 metres long: add one third of the height of the gable, between the eaves and the apex of the gable wall, to the eaves height; and</i></li> </ul> <p><i>(2) Applies to ridges greater than 6m long. Short ridges: add 0.5m height for each 2m reduction in length.'</i></p>	<i>Element</i>	<i>Maximum Allowable Heights For Two Storey Dwellings</i>	<i>Top of external wall (roof above)</i>	<i>6.0 metres</i>	<i>(ii) Top of external wall (concealed roof)</i>	<i>7.0 metres</i>	<i>Top of pitched roof</i>	<i>9.0 metres</i>	
<i>Element</i>	<i>Maximum Allowable Heights For Two Storey Dwellings</i>									
<i>Top of external wall (roof above)</i>	<i>6.0 metres</i>									
<i>(ii) Top of external wall (concealed roof)</i>	<i>7.0 metres</i>									
<i>Top of pitched roof</i>	<i>9.0 metres</i>									

**Debate ensued**

**AMENDMENT PUT AND LOST (3-6)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Chester
Cr Maier	Cr Doran-Wu
Cr Messina	Cr Farrell
	Cr Ker
	Cr Lake
	Cr Torre

**Moved Cr Ker, Seconded Cr Torre**

*That the word "basement" is deleted from building height and a definition of basement be inserted which specifies it being below ground level.*

Debate ensued

**AMENDMENT PUT & CARRIED (8-1)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Messina
Cr Chester	
Cr Doran-Wu	
Cr Farrell	
Cr Ker	
Cr Lake	
Cr Maier	
Cr Torre	

**Moved Cr Maier, Seconded Cr Lake**

*That the following amendment be adopted:*

(w) ***BDR 6. Lofts be amended to read as follows:***

<b>'BDAC 6. Lofts</b>	<b>BDR 6. Lofts</b>	<b>7.4.6</b>
...	...  (c) <i>Dormer windows and gables to lofts are to comply with the following requirements:</i> <ul style="list-style-type: none"><li><i>Not project beyond the roof pitch <u>nor</u> exceed 2.4 metres above the loft finished floor level, whichever is the <del>lesser</del> <u>greater</u>; and</i></li><li><i>Maximum aggregate length of 4.5 metres or 20 per cent of the length of the dwelling <u>on that particular elevation</u>, whichever is the lesser.'</i></li></ul>	

Debate ensued

**AMENDMENT CARRIED (5-4)**

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

Moved Cr Chester, Seconded Cr Farrell

*That a new clause be added as follows:*

*“Request the Town’s Town Planning Consultant, Simon Bain, provide comments and any suggestions regarding the draft Residential Design Elements and their effectiveness in reducing the number of successful appeals lodged against the Town’s decisions.”*

**AMENDMENT CARRIED (9-0)**

Moved Cr Farrell, Seconded Cr Torre

*That the following amendment be adopted:*

(a) *SDR 8. Setback of Garages and Carports be amended to read as follows:*

<i>'SAC 8. Setback of Garages and Carports</i>	<i>SDR 8. Setback of Garages and Carports</i>	<i>6.4.2 (iv)</i>
	<p>...</p> <p>(b) <i>Notwithstanding the above, vehicular access to car parking, carports and garages for single houses may be from a street, regardless whether a right of way is available to the property, where:</i></p> <p><u>(1) the right of way is unsealed or not programmed to be sealed within the current, or subsequent, financial year in accordance with the Town’s right of way upgrade program;</u></p> <p><u>(2) there is a security or perceived security issue by using the right of way;</u></p> <p><u>(3) the applicant demonstrates there is a mobility or access issue by using the right of way; and</u></p> <p><u>(4) there is little lighting in the right of way...’</u></p>	

The Presiding Member ruled that he would consider each clause separately.

Moved Cr Messina, Seconded Cr Ker

*That clause (2) be adopted as follows:*

(2) *there is a security or perceived security issue by using the Right of Way.*

Debate ensued

**AMENDMENT PUT & LOST (3-6)**

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

Moved Cr Messina, Seconded Cr Ker

*That clause (2) be amended to read:*

(2) *there is a demonstrated issue for the use of the Right of Way.*

Debate ensued

**AMENDMENT PUT & CARRIED (6-3)**

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

Moved Cr Farrell, Seconded Cr Torre

*That clause (3) be amended to read:*

(3) *the applicant demonstrates there is a mobility or access issue by using the Right of Way;*

Debate ensued

**AMENDMENT PUT & CARRIED (8-1)**

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

**Moved Cr Farrell, Seconded Cr Torre**

*That clause (4) be amended to read:*

- (4) *the applicant demonstrates that there is a major impact on the amenity or open space at the rear of the property by using the Right of Way.*

Debate ensued

**AMENDMENT PUT & CARRIED (9-0)**

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

**COUNCIL DECISION ITEM 10.1.3**

*That the Council;*

- (i) *RECEIVES the further amended version of the Draft Policy relating to Residential Design Elements, as shown in Attachment 10.1.3; subject to;*

1. *The second paragraph in the Introduction 1.0 of the Draft Residential Design Elements Policy Report to be amended to read as follows:*

*‘...’*

*For the purpose of preserving and maintaining this residential amenity, while still allowing new development to occur, the ~~Council~~ Town has prepared the Residential Design Elements Policy.*

2. *6.2 Vincent Vision last dot point be amended to read as follows:*

*‘...’*

*Car parking requirements are strategically planned for and to meet the needs of the commercial and residential area....’*

3. *7.3 Objectives fourth dot point to be amended to read as follows:*

*‘...’*

*~~• To encourage well designed, attractive and site and streetscape responsive buildings;~~*

*• To encourage well designed and attractive buildings that contribute and interact responsively to the site and its surrounding streetscape*

4. *BDAC (1) second and third dot point to be amended to read as follows:*

<b>BDAC 1. Preservation of Amenity on Adjoining Land and Surrounding Area</b>	<b>BDR 1. Preservation of Amenity on Adjoining Land and Surrounding Area</b>	<b>7.4.1</b>
<p><i>(i) Development is to avoid compromising the amenity of adjoining development <del>in order to</del> <u>by</u>:</i></p> <ul style="list-style-type: none"> <li><i>• <u>Maintaining an appropriate visual relationship between</u></i></li> </ul>	<p><i>(a) This is to be achieved by:</i></p> <ul style="list-style-type: none"> <li><i>• Ensuring appropriate side setbacks and landscaping are incorporated into the development;</i></li> <li><i>• Compliance with the building height provisions of the Residential Design Codes <u>and Residential Design Elements Policy;</u></i></li> </ul>	

<p><i> dwellings;</i></p> <ul style="list-style-type: none"> <li>• <del>Ensuring</del> <u>Ensuring</u> <i>that appropriate solar access to the outdoor living area of the subject site and adjacent lots is not significantly reduced; and</i></li> <li>• <del>Ensuring</del> <u>Ensuring</u> <i>that the privacy and sense of space of the adjoining lots is not unduly compromised.</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>Minimising the amount of excavation and fill on the development site;</i></li> <li>• <i>Where appropriate, building to the boundary to maximise privacy for neighbouring dwellings and their private open space;</i></li> <li>• <i>Staggering openings to habitable spaces (between properties) to preserve reasonable privacy;</i></li> <li>• <i>Giving consideration of overshadowing on adjoining lots, particularly in relation to outdoor living areas and habitable rooms; and</i></li> <li>• <i>Adequately articulating the upper floor to the satisfaction of the Town to mitigate the impact on adjoining neighbours.</i></li> </ul>	
--	---	--

5. *BDR 13. (2). Letterboxes second dot point to be amended to read as follows:*

<b>BDAC 13. Adaptable and Accessible Housing</b>	<b>BDR 13. Adaptable and Accessible Housing</b>	<b>7.4.10</b>
<p>(i) Development design will endeavour to incorporate design features that are reasonably adapted at a later date with the changing needs of the occupants.</p>	<p>(a) Applicants and designers are strongly encouraged to refer to the following standards when preparing development applications for ‘Accessible’ and ‘Adaptable’ Housing:</p> <p>(1) Siting</p> <p>A lot not exceeding a 1:14 gradient is required for any development site proposing to construct ‘adaptable housing’;</p>	
	<ul style="list-style-type: none"> <li>• A continuous accessible path of travel is to be provided from the street frontage and the vehicle parking area to the entry of the dwelling; and</li> <li>• Paths and walkways are to be slip resistant.</li> </ul> <p>(2) Letterboxes</p> <ul style="list-style-type: none"> <li>• Letterboxes are to be situated in a central location and adjacent to the street entry; and</li> <li>• Letterboxes are to be located on a hard standing area connected by an accessible and <del>continuous</del> <u>continuous</u> pathway.</li> </ul>	

	<p>(3) Car Parking</p> <ul style="list-style-type: none"><li>• Car parking bays are to be a minimum of 6 metres by 3.8 metres;</li><li>• The minimum internal clearance of the garage or carport is to be 2.5 metres;</li></ul> <p>All car parking spaces are to be provided with permanent roof cover; and</p>	
--	---	--

(ii) *AMENDS the further amended version of the draft Policy relating to Residential Design Elements as follows prior to the draft Policy being advertised:*

(a) *5.2 Advertising be amended to read as follows:*

*‘...  
Applications for development seeking variations to any part of the R Codes and/or this Policy ~~may~~ will be required to be advertised in accordance with Clause 37 of the Scheme. The advertising process will be guided by the Town’s Community Consultation Policy...’*

(b) *6.2 Vincent Vision be amended to read as follows:*

*‘The Vincent Vision 2024 project indicates the community values the following relating to streetscape:*

- *Heritage buildings, intact streetscapes and a sense of place;*
- *Current density, scale and family friendly housing;*
- *Open streetscapes and passive surveillance; and*
- ~~*Good public transport and less traffic in residential streets.*~~

*...*

- ~~*Car parking requirements are strategically planned for to meet the needs of the commercial and residential area. Car parking solutions are innovative and reduce the visual dominance and presence of cars in the environment./*~~

*That Clause (c) be adopted subject to the deletion of the word “certain”.*

(c) *6.4.1 Streetscape Character be amended to read as follows:*

*‘...  
Single storey streetscapes are greatly valued within the Town, and effort should be retained wherever possible. Any new dwellings or extensions, which are located within an area that is characterised by single storey buildings or within a recognised streetscape, should be mindful of the streetscape character and maintain a single storey presentation to the street. (please refer to any Residential Streetscapes Policy)...’*

(d) 6.4.2 (i) Street Setbacks be amended to read as follows:

*'The street setback area is the area between the front/street boundary and the building line ~~or the respective minimum street setback requirement of the R-Codes, or as determined pursuant to Design Requirement SDR 5. Street Setbacks, whichever is the lesser distance.~~*

*Development must be appropriately located on the site having regard to the existing setback of adjoining properties, and the setback pattern of the street block within which the proposed development or addition is situated.'*

(e) 6.4.4 (ii) Street Walls and Fences be amended to read as follows:

*'...  
Side and Rear Boundary Walls and Fences: The height is measured from the "certified" natural ground level immediately inside ~~outside~~ the boundary to the top of the fence.*

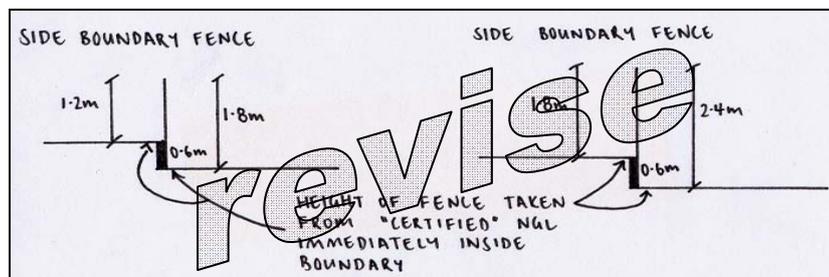


Figure 12: Measurement of Side and Rear Boundary Fence'

(f) SDR 1. Streetscape Character be amended to read as follows:

'SAC 1. Streetscape Character	SDR 1. Streetscape Character	6.4.1
(i) <i>The prominent characteristics of the locality is to be identified and considered as part of the design process...</i>	(a) <i>Any development which is located in an area that is <u>characterised by single storey buildings or with</u> a recognised streetscape is to be mindful of the streetscape character and maintain a single storey presentation to the street...'</i>	

(g) *SDR 3. New Dwellings be amended to read as follows:*

'SAC 3. New Dwellings	<i>SDR 3. New Dwellings</i>	6.4.1
(i) <i>New dwellings are to respect the existing character of the locality and the streetscape.</i>	(a) <i>New dwellings are to <del>e</del>omplement <u>be consistent with</u> the bulk and scale of the existing dwellings in the locality and the streetscape.'</i>	

(h) *SAC 5 Street Setbacks and DDR 5. Street Setbacks be amended to read as follows:*

'SAC 5. Street Setbacks	<i>SDR 5. Street Setbacks</i>	6.4.2 (i)
(i) <i>Development is to be appropriately located on site to:...</i>  • <i>Facilitate solar access <u>for the development site and adjoining properties</u>;...</i>	(a) <i>When the street is a recognised streetscape (refer to any Residential Streetscape Policy), <del>The</del> primary street setback is to reflect the predominant streetscape pattern for the immediate locality which is defined as being within 5 adjoining properties on each side of the development...</i>	

(i) *SDR 6. Minor Incursions Into Street Setback Area be amended to read as follows:*

'SAC 6. Minor Incursions Into Street Setback Area	<i>SDR 6. Minor Incursions Into Street Setback Area</i>	6.4.2 (ii)
...	...  (b) <i>Eaves <del>may project</del> are not to project more <u>than up to</u> one (1) metre into the street setback area for the full width of the building provided there is no pillar, support structure or the like under the eaves.'</i>	

(j) SAC 10. Dual Street Frontages and Corner Sites be amended to read as follows:

<b>'SAC 10. Dual Street Frontages and Corner Sites</b>	<b>SDR 10. Dual Street Frontages and Corner Sites</b>	<b>6.4.2 (vi)</b>						
...	<p>...</p> <p>(b) For new development on the <u>front of the original corner site</u>, the following minimum street setbacks are to apply:...</p> <p>...</p> <p>(2) <u>As measured from the secondary street:</u></p> <table border="1" data-bbox="730 631 1246 1111"> <thead> <tr> <th data-bbox="730 631 963 736"><i>Feature facing Secondary Street</i></th> <th data-bbox="963 631 1246 736"><i>Minimum Setback (metres)</i></th> </tr> </thead> <tbody> <tr> <td data-bbox="730 736 963 943"><i>Building Walls on Ground Floor, including Porches, Verandahs and the Like</i></td> <td data-bbox="963 736 1246 943" style="text-align: center;"><i>1.5</i></td> </tr> <tr> <td data-bbox="730 943 963 1111"><i>Building Walls on Upper Floor; including <u>Balconies and the Like</u></i></td> <td data-bbox="963 943 1246 1111" style="text-align: center;"><i>2.0</i></td> </tr> </tbody> </table>	<i>Feature facing Secondary Street</i>	<i>Minimum Setback (metres)</i>	<i>Building Walls on Ground Floor, including Porches, Verandahs and the Like</i>	<i>1.5</i>	<i>Building Walls on Upper Floor; including <u>Balconies and the Like</u></i>	<i>2.0</i>	
<i>Feature facing Secondary Street</i>	<i>Minimum Setback (metres)</i>							
<i>Building Walls on Ground Floor, including Porches, Verandahs and the Like</i>	<i>1.5</i>							
<i>Building Walls on Upper Floor; including <u>Balconies and the Like</u></i>	<i>2.0</i>							
	<p><i>Note:</i></p> <p><i>Upper floor walls (including balconies and the like) fronting the secondary street are to be vertically staggered and articulated by a minimum of 0.5 metre from the ground floor. Extensive blank or unarticulated walls to street frontages will not be supported.'</i></p>							

(k) SAC 13 and SDR 13. Street Walls and Fences be amended to read as follows:

<b>'SAC 13. Street Walls and Fences</b>	<b>SDR 13. Street Walls and Fences</b>	<b>6.4.4 (i), (ii) &amp; (iii)</b>
(i) Street walls and fences are to be designed so that:...	(a) Street walls and fences are to be of a style and materials compatible with those of the dwelling on site and/or walls or fences of the immediate surrounding area. Street walls and fences designed with fibre cement or metal sheeting <u>is not acceptable</u> ...	
	<p>...</p> <ul style="list-style-type: none"> <li>• Posts and piers are to have a maximum width 355 millimetres and a maximum diameter of 500 millimetres; and</li> </ul>	

	<ul style="list-style-type: none"> <li>• <u>The distance between piers should not be less than the height of the piers except where pedestrian gates are proposed.</u></li> </ul> <p>(2) <u>Street walls and fences to secondary streets, behind the primary street setback line, or walls and fences to the /primary streets where those streets are or district distributor roads are to comply with the following be as follows: ...</u></p>	
--	---	--

(l) 7.3 Objectives be amended to read as follows:

‘...’

- ~~To promote and create development that use less energy, cost less to run and are more climatically comfortable.~~

**Energy Efficient Design**

- To maximise the use of renewable energy sources (such as ~~rainwater and~~ sunlight);
- To promote and create development that use less energy, cost less to run and are more climatically comfortable. ... ‘

(m) 7.4.2 Streetscape Character Considerations be amended to read as follows:

‘...’

~~It is strongly recommended that a~~ Applicants must make reference to any Residential Streetscapes Policy, as part of the design process in preparing a development application.’

(n) 7.4.4 Building Bulk be amended to read as follows:

‘Where the streetscape character is predominantly single storey and is in a recognised streetscape area, any upper...’

(o) 7.4.5 (ii) Measuring Building and Roof Height be amended to read as follows:

‘...’

- Building height will be measured from the natural ground level immediately below the relevant point on the wall or roof to above the eaves/roof or highest point of the roof respectively;...’

(p) 7.4.8 (i) Visual Privacy be amended to read as follows:

‘...’

Figure 19: Examples of Non-Compliant and ~~Non-Compliant~~ Scenarios and Demonstration of how Privacy Cone of Vision is Calculated.’

(q) **BDAC 5. Building Height and BDR 5. Building Height be amended to read as follows:** (Clause (ii)(q) amended at OMC 10 July 2007)

<b>Building Height</b>	<b>Building Height</b>	<b>7.4.5</b>								
<b>BDAC 5. Building Height</b>	<b>BDR 5. Building Height</b>	<b>7.4.5</b>								
<p>(i) <b>Building height is to be considered to:</b></p> <ul style="list-style-type: none"> <li>• <b>Limit the height of dwellings so that <del>not one</del> <u>no</u> individual dwelling dominates the streetscape;</b></li> <li>• <b>Limit the extent of overshadowing and visual intrusion on the private space of neighbouring properties; and</b></li> <li>• <b>Maintain the character and integrity of the existing streetscape.</b></li> </ul>	<p>(a) <b>The maximum height of a dwelling is to be 2 storeys (including any garage, <del>basement,</del> loft or the like) and comply with the following measurements:</b></p> <table border="1"> <thead> <tr> <th><b>Element</b></th> <th><b>Maximum Allowable Heights For Two Storey Dwellings</b></th> </tr> </thead> <tbody> <tr> <td><b>Top of external wall (roof above) <del>(ii)</del> (1)</b></td> <td><b>6.0 metres</b></td> </tr> <tr> <td><b>Top of external wall (concealed roof) (1)</b></td> <td><b>7.0 metres</b></td> </tr> <tr> <td><b>Top of pitched roof <del>(iii)-(iv)</del> (1)</b></td> <td><b>9.0 metres</b></td> </tr> </tbody> </table> <p><b>Notes:</b> Provisions for two storey development will apply unless the streetscape is identified to have a particular character or single storey streetscape, in which case heights are to be consistent with adjoining dwellings. The maximum height permitted for any single storey development located within the front six metres of a property is to be 3.5 metres (top of external wall height) and 6 metres (top of pitched roof) for a pitched roof development and 4 metres for a concealed roof development.</p> <p><b>(1) <del>Gable walls above eaves height:</del></b>  <del>— less than 9 metres long : exempted</del>  <del>— greater than 9 metres long: add one third of the height of the gable, between the eaves and the apex of the gable wall, to the eaves height; and</del></p>	<b>Element</b>	<b>Maximum Allowable Heights For Two Storey Dwellings</b>	<b>Top of external wall (roof above) <del>(ii)</del> (1)</b>	<b>6.0 metres</b>	<b>Top of external wall (concealed roof) (1)</b>	<b>7.0 metres</b>	<b>Top of pitched roof <del>(iii)-(iv)</del> (1)</b>	<b>9.0 metres</b>	
<b>Element</b>	<b>Maximum Allowable Heights For Two Storey Dwellings</b>									
<b>Top of external wall (roof above) <del>(ii)</del> (1)</b>	<b>6.0 metres</b>									
<b>Top of external wall (concealed roof) (1)</b>	<b>7.0 metres</b>									
<b>Top of pitched roof <del>(iii)-(iv)</del> (1)</b>	<b>9.0 metres</b>									
	<p><b><del>(2) Applies to ridges greater than 6m long. Short ridges: add 0.5m height for each 2m reduction in length.</del></b></p> <p><b><u>(1) The above heights are the absolute maximum and are not to be increased, regardless of the length of gable walls or roof ridges as may be permitted under the requirements of the Residential Design Codes; and</u></b></p>									

	<p>(2) <u>Please refer to Guidance Notes clause 7.4.5 for instances where the Town may consider a variation to the building external wall and pitched roof height requirements.</u></p> <p>(b) The following matters are to be considered with regard to the potential impact on neighbouring properties:</p> <ul style="list-style-type: none"> <li>• minimise overshadowing and overlooking of living and private open space areas; and</li> <li>• relationship to the streetscape.</li> </ul> <p><u>Definition:</u></p> <p><u>“Basement” means a storey of a building partly or wholly underground, such structure which supports those portions of the building which come above it.</u></p>	
--	--	--

(r) **BDR 2. Streetscape Character Considerations be amended to read as follows:**

‘BDAC 2. Streetscape Character Considerations	BDR 2. Streetscape Character Considerations	7.4.2
...	<p>...</p> <ul style="list-style-type: none"> <li>• Building height.</li> </ul> <p><u>Note:</u></p> <p><u>Refer to any Residential Streetscapes Policy.’</u></p>	

(s) **BDAC 3. Roof Forms be amended to read as follows:**

‘BDAC 3. Roof Forms	BDR 3. Roof Forms	7.4.3
<p>...</p> <ul style="list-style-type: none"> <li>• <del>In areas of heritage value with recognised streetscape value</del> it complements the existing streetscape character and the elements that contribute to this character; and...</li> </ul>	<p>(a) This is to be achieved through:</p> <ul style="list-style-type: none"> <li>• The use of appropriate materials, colour and roof pitch;</li> <li>• The use of roof pitches between 30 degrees and 45 degrees (inclusive) being encouraged; and...’</li> </ul>	

(t) **BDR 4. Building Bulk** be amended to read as follows:

'BDAC 4. Building Bulk	BDR 4. Building Bulk	7.4.4
...	(c) <del>Any upper floor addition to an existing dwelling recognised as positively contributing to a predominantly single storey streetscape, cannot be contained within the existing roof space, it is to be built at the rear of the existing dwelling, that is, a minimum of 2 metres behind the main roof ridge line, such that its' visual streetscape impact is minimised to the satisfaction of the Town. In recognised single storey streetscapes, if an upper floor addition can not be contained within an existing roof space, it is to be built at the rear of the dwelling such that its visual impact on the streetscape is minimised to the satisfaction of the Town...</del>	

(u) **BDR 6. Lofts** be amended to read as follows:

'BDAC 6. Lofts	BDR 6. Lofts	7.4.6
...	<p>...</p> <p>(c) <del>Dormer windows and gables to lofts are to comply with the following requirements:</del></p> <ul style="list-style-type: none"> <li>• <del>Not project beyond the roof pitch nor exceed 2.4 metres above the loft finished floor level, whichever is the lesser greater; and</del></li> <li>• <del>Maximum aggregate length of 4.5 metres or 20 per cent of the length of the dwelling on that particular elevation, whichever is the lesser.'</del></li> </ul>	

(v) **SDR 8. Setback of Garages and Carports** be amended to read as follows:

'SAC 8. Setback of Garages and Carports	SDR 8. Setback of Garages and Carports	6.4.2 (iv)
	<p>...</p> <p>(b) <del>Notwithstanding the above, vehicular access to car parking, carports and garages for single houses may be from a street, regardless whether a right of way is available to the property, where;</del></p> <p><u>(1) the right of way is unsealed or not programmed to be sealed within the current, or subsequent, financial year in accordance with the Town's right of way upgrade program;</u></p> <p><u>(2) there is a demonstrated issue for the use of the right-of-way;</u></p>	

	<p><u>(3) the applicant demonstrates there is a mobility or access issue by using the right of way; and</u></p> <p><u>(4) the applicant demonstrates there is a major impact on the amenity or open space at the rear of the property by using the right-of-way...'</u></p>	
--	---	--

- (w) *amending the terms “Assessment Criteria” and “Design Requirements” to “Performance Criteria” and “Acceptable Development Criteria” respectively in order to maintain consistency of terminology with the Residential Design Codes;*
  - (x) *the column headings for the Assessment Tables being repeated on each page of each table (ie “Performance Criteria”, Acceptable Development Criteria” and “Guidance Note Clause Reference”);*
  - (y) *Inclusion of a diagram in Section 7.4.6 - Lofts which clearly demonstrates the intention of BDR 6 (c ) relating to dormer windows;*
- (iii) **REQUESTS** *the Town’s Town Planning Consultant, Simon Bain, provide comments and any suggestions regarding the draft Residential Design Elements and their effectiveness in reducing the number of successful appeals lodged against the Town’s decision;*
- (iv) **ADVERTISES** *the further amended version of the draft Policy relating to Residential Design Elements for public comment, in accordance with Clause 47 of the Town of Vincent Town Planning Scheme No. 1, including:*
- (a) *advertising a summary of the subject draft Policy once a week for four (4) 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 draft Policy; and*
  - (c) *forwarding a copy of the draft Policy to the Western Australian Planning Commission (WAPC); and*
- (v) *after the expiry of the period for submissions:*
- (a) **REVIEWS** *the further amended version of the draft Policy relating to Residential Design Elements, having regard to any written submissions; and*
  - (b) **DETERMINES** *the further amended version of the draft Policy relating to Residential Design Elements, with or without amendments, to or not to proceed with them.*

---

**FURTHER REPORT:**

The Council at its Ordinary Meeting held on 12 June 2007 considered the subject matter and resolved as follows:

*“That this item be DEFERRED to the next meeting as there were numerous changes indicated by Elected Members for this item.”*

The Executive Manager Environment and Development Services sent an email to Elected Members on 13 June 2007 requesting any further comments on the draft Residential Design Elements Policy to be submitted by 18 June 2007. Two sets of comments were received from Councillor Chester.

### **Councillor Chester's Further Comments**

Councillor Simon Chester submitted various comments and suggestions which are addressed as follows:

*1. The text is illegible on new figures 3, 16 and 17 please make clearer with larger text.*

Draft Policy amended accordingly.

*2. Figure 17 is contrary to BDR 6 (c) please show a diagram that is consistent.*

BDR 6 Lofts (c) states as follows:

- “c) *Dormer windows and gables to lofts are to comply with the following requirements:*
- *Not project beyond the roof pitch or exceed 2.4 metres above the loft finished floor level, whichever is the lesser; and*
  - *Maximum aggregate length of 4.5 metres or 20 per cent of the length of the dwelling, whichever is the lesser.”*

The diagram in Figure 17 is not considered contrary to the above requirements. A dormer window is viewed as a window with its own roof and side walls projecting from a larger sloping roof and Figure 17 does not demonstrate any such dormer windows.

*3. My amendment to 7.4.5 – third dot point should read “...requirements in the Assessment Table” and please add after “consistent with” but no greater than “the heights of the ...”*

Draft Policy amended accordingly.

*4. Please remove notes 1 and 2 from my amendment to BDAC 5 and BDR 5 and retain note 3.*

Draft Policy amended accordingly.

*5. Please highlight or bolden sentence “If there is inconsistencies between the provisions of the RD Codes and the RDE’s...” so that it is more apparent.*

Draft Policy amended accordingly.

*6. R Codes are now referred to as RD Codes, aren't they? Please correct through document.*

Clause 3 of the RDE's states “All residential development is required to comply with the Residential Design Elements Policy, in addition to the Town of Vincent Town Planning Scheme No.1 (Scheme) and the Residential Design Codes (R Codes)...”. The Residential Design Codes are therefore referred to as the R Codes throughout the remaining RDE's Policy.

Furthermore, the Residential Design Codes, are still widely referred to as the “R Codes”, and the document itself states ‘R Codes’ on the front cover. In light of the above, the Residential Design Codes referred to as the “R Codes” should remain throughout the RDE's.

*7. Paragraph 3.0 regarding developments on land over 350 square metres. Can we make it clearer? Onus appears to be on proponent to assess need to DA. Should they refer to another document or contact officers?*

Draft Policy amended accordingly.

8. *Last paragraph of 5.1 should be separated under its own heading of **Development Assessment** or similar, it is a most important paragraph. How does the amenity impact statement 6.4.2 (vii) relate to the written justification required for variations? Requirements for justifications and statements should be boldly listed in one place of the RDE's and not dispersed through the text of the RDE's so its obvious to applicants what is required.*

Draft Policy amended accordingly.

9. *How are the RDE's going to guard against the streetscape impacts of the attached infill configuration proposals with continuous roof space between gables at each end of the development?*

The attached infill configuration submitted by Councillor Chester has been provided as attachment 002 to this report.

The loft gables would be limited by BDR 6 Lofts (c) which states as follows:

- “(c) *Dormer windows and gables to lofts are to comply with the following requirements:*
- *Not project beyond the roof pitch or exceed 2.4 metres above the loft finished floor level, whichever is the lesser; and*
  - *Maximum aggregate length of 4.5 metres or 20 per cent of the length of the dwelling, whichever is the lesser.”*

The ‘flush’ gable wall on the elevation facing the street would not be permitted as proposed amended SDR 1 Streetscape Character states as follows:

- “(a) *Any development which is located in an area that is characterised by single storey buildings or with a recognised streetscape is to be mindful of the streetscape character and maintain a single storey presentation to the street.*
- (b) *Elevations to the street are to be enhanced through horizontal and vertical articulation and elements such as balconies, verandahs, terraces, windows and visually permeable fencing.”*

The ‘flush’ two storey walls adjacent to the side property boundaries would also not be permitted as SDR 7 Side Setbacks states as follows:

- “(a) *The minimum setback distance to a side boundary will be consistent with the setback requirements outlined in Tables 2a and 2b and figure 2d and design element 6.3 of the Residential Design Codes.*
- (b) *Notwithstanding the above, any portion of wall greater than 9 metres in length is required to incorporate horizontal or vertical articulation...”*

10. *Can we have all the diagrams flagged for revision revised and included in the RDE's when it comes back to the next Council Meeting please?*

Draft Policy amended accordingly.

11. *In regards to the successful appeals on Byron Street with multiple driveways, can we strengthen 6.4.5 (ii) and SAC 15 and SDR 15 so that grouped and multiple dwellings should utilise one vehicular accessway. Perhaps 6.4.5 (ii) could state as an addition to the introductory paragraph – Grouped and multiple dwellings should utilise one vehicular accessway followed by the dot points that are already listed.*

Clause SDR 15 of the Policy amended accordingly. Amendments to clause 6.4.5 (ii) and SAC 15 are not considered necessary.

*12. Last paragraph of 6.4.2 (iii) talks of seamless extensions. SDR 2 talks of clearly distinguishable contemporary alterations and additions. What guidance is offered – what do we prefer? A guidance note should be provided that states if we accept both approaches or have a preference of one approach over the other.*

A 'seamless' extension to a dwelling with heritage value may still comply with the Burra Charter principles (distinguishable) and therefore, the wording should remain the same.

*13. 7.4.2 would benefit from the inclusion of the previously utilized guidance note: - "New dwellings and developments are to be compatible in bulk and scale with adjoining properties and established streetscapes. Any departure from an established streetscape pattern can significantly alter the character and significance of the streetscape and its community value and will not be supported".*

Draft Policy amended accordingly.

*14. BDR 1 (a) dot point 2 talks of compliance with heights in R Codes. Reference should be made to the heights outlined in this document (RDE's) as there may be some departure from the R Codes document.*

Draft Policy amended accordingly.

## **Summary**

The major changes to the draft Residential Design Elements Policy since being referred to the Ordinary Meeting of Council on 12 June 2007 are as follows:

- The changes proposed as part of the tabled 'Corrected Recommendation' to the Policy have been incorporated into the Policy;
- The changes proposed by Councillor Chester, which are considered acceptable by the Town's Officers, have been incorporated into the Policy or addressed above;
- The figures have been added, updated and revised; and
- Provisions for incorporating meter boxes into front fencing has been added into clause 6.4.4 Street Walls and Fences.

In light of the figures being added, updated and revised the Further Officer Recommendation does not include clause (iv) of the previous Officer Recommendation which stated as follows:

*"(iv) NOTES that prior to advertising the further amended version of the draft Policy relating to Residential Design Elements, the figures/diagrams/drawings will be added and/or revised as indicated in the draft Policy."*

This clause was deleted as the figures/diagrams/drawings no longer require adding or revising.

The following is a verbatim copy of the Minutes of the Item placed before the Council at its Ordinary Meeting held on 12 June 2007:

*“OFFICER RECOMMENDATION:*

*That the Council;*

- (i) RECEIVES the further amended version of the draft Policy relating to Residential Design Elements, as shown in Attachment 10.1.6;*
- (ii) ADVERTISES the further amended version of the draft Policy relating to Residential Design Elements for public comment, in accordance with Clause 47 of the Town of Vincent Town Planning Scheme No. 1, including:*
  - (a) advertising a summary of the subject draft Policy once a week for four (4) 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 draft Policy; and*
  - (c) forwarding a copy of the draft Policy to the Western Australian Planning Commission (WAPC);*
- (iii) after the expiry of the period for submissions:*
  - (a) REVIEWS the further amended version of the draft Policy relating to Residential Design Elements, having regard to any written submissions; and*
  - (b) DETERMINES the further amended version of the draft Policy relating to Residential Design Elements, with or without amendments, to or not to proceed with them; and*
- (iv) NOTES that prior to advertising the further amended version of the draft Policy relating to Residential Design Elements, the figures/diagrams/drawings will be added and/or revised as indicated in the draft Policy.*

*Moved Cr Torre, Seconded Cr Chester*

*That this item be DEFERRED to the next meeting as there were numerous changes indicated by Elected Members for this item.*

*CARRIED (8-0)*

*(Cr Ker was an apology for the meeting)*

*Mayor Catania requested Councillors to ensure that their comments are submitted to the Town’s Administration prior to the closing date of the next Agenda.*

*Cr Chester requested it be recorded in the Minutes that the Officers be congratulated on this matter.*

*PURPOSE OF REPORT:*

*The purpose of this report is to present the further amended version of the draft Policy relating to Residential Design Elements and to seek the Council’s approval to advertise the Draft Policy.*

**BACKGROUND:**

*The preparation and development of the draft Residential Design Elements Policy commenced prior to the gazettal of the new Residential Design Codes (R Codes) in October 2002. Its development was initially gradual, however, in 2004 the policy development received more attention, and by May 2005, a draft Policy was advertised for public comment.*

*For the purpose of outlining the comprehensive and involved development of the draft Residential Design Elements Policy, it is considered appropriate in this instance to provide an overview of the progression of the draft Policy since its initiation in July 2004. Provided below is a synopsis of the Elected Member Forums and Council Meetings and decisions that have occurred since its initiation.*

- *On 19 October 2004, the draft Residential Design Elements Policy was presented to an Elected Members Forum;*
- *On 30 November 2004, the draft Policy was again considered and further discussed at an Elected Members Forum;*
- *On 14 December 2004, the draft Policy was considered and debated at an Elected Members Forum;*
- *On 22 February 2005 at an Ordinary Meeting of Council, the Item was deferred to the following Ordinary Meeting of Council for further discussion and determination;*
- *On 15 March 2005 at a Special Meeting of Council, the Council resolved to advertise the draft Policy relating to Residential Design Elements;*
- *On 22 March 2005 at an Ordinary Meeting of Council, resulting from a motion initiated by Councillor Chester, the Council resolved to reconsider the Council decision of the Special Meeting of Council held 15 March 2005, and to amend the Assessment Table and Guidance Notes of Element 9 – Subdivision, as part of the Draft Policy;*
- *On 12 April 2005 at an Ordinary Meeting of Council, the Council resolved to defer consideration of the item relating to the draft Residential Design Elements Policy, to the following Ordinary Meeting of Council;*
- *On 26 April 2005 at an Ordinary Meeting of Council, resulting from a motion initiated by Councillor Lake, the Council resolved to reconsider the Council decision of the Ordinary Meeting of Council held 22 March 2005, and to amend the Assessment Table and Guidance Notes of Element 9 – Subdivision, as part of the Draft Policy and to advertise the draft Policy for public comment;*
- *On 23 August 2005 at an Ordinary Meeting of Council, an Interim Report outlining the submissions received during the public comment period and the development and progression of the draft Policy was presented to the Council. The Council resolved to seek further comments from the Western Australian Planning Commission and the State Administrative Tribunal in regard to the legal weighting of the draft Policy, and to include reference to the outcomes of the Community Visioning Project, Vincent Vision 2024, as part of the further development of the draft Policy. It was also resolved that the item be referred to an Elected Members Forum in September/October for consideration and discussion;*
- *On 18 October 2005, the draft Residential Design Elements Policy was referred to an Elected Members Forum, consistent with the Council resolution of the Ordinary Meeting of Council held on 23 August 2005. It was concluded at this Elected Members Forum to hold an Elected Members Workshop with the Town's Officers, to assist in the development of the Policy and promote open discussion and directives for the Town's Officers to further progress the draft Policy;*
- *On 4 May 2006, the draft Residential Design Elements Policy was presented to and considered at an Elected Members Workshop;*

- *On 14 November 2006, the draft Residential Design Elements Policy was presented to an Elected Members Forum;*
- *On 12 December 2006, the draft Residential Design Elements Policy was presented to an Elected Members Forum; and*
- *On 23 January 2007 at an Ordinary Meeting of Council, a report was presented to the Council providing an update with respect to the preparation of the draft Residential Design Elements Policy, and to refine the approach in which the draft Policy will be completed, following an Elected Members Forum and the outcomes.*

**DETAILS:**

*The Council at its Ordinary Meeting held on 23 January 2007 was presented with a report that provided an update with respect to the preparation of the draft Residential Design Elements Policy, and to refine the approach in which the draft Policy will be completed, following an Elected Members Forum and the outcomes. The Council resolved the following in relation to the Residential Design Elements Policy:*

*“That the Council;*

- (i) RECEIVES the Interim Report relating to the draft Residential Design Elements Policy, following a recent Elected Members Forum held on 12 December 2006, and associated Attachments;*
- (ii) ADOPTS the following actions in relation to the future development and progression of the draft Residential Design Elements Policy;*
  - (a) the draft Residential Design Elements Policy be further reviewed, and its structure and content be reflective of ‘Option C: Option C: Recommence, Reduce and Refocus’, consistent with the general consensus reached at the Elected Members Forum held on 12 December 2006;*
  - (b) the ‘Guidance Notes’ and ‘Assessment Tables’ be re-collated into one composite document of the draft Residential Design Elements Policy;*
  - (c) a new Policy relating to Streetscapes, independent but inherently linked to the draft Residential Design Elements Policy and future Town Planning Scheme, be prepared, and that a report and draft Policy be referred to the Council no later than February 2007;*
  - (d) the timeframes depicted in the Attachment, be regarded as the agreed timeframes in which the Policies relating to the Residential Design Elements and Streetscapes will progress;*
  - (e) the outcomes of Vincent Vision 2024 be incorporated into the draft Residential Design Elements Policy as a dedicated section and throughout the draft Policy, in the objectives for every Design Element;*
  - (f) the wording relating to ‘Lofts’ be revised and made clearer and more stringent;*
  - (g) a maximum building height of 9 metres to top of pitched roof be imposed for all residential buildings within the Town, with exceptions to this maximum height being restricted to topographical and other environmental considerations; and*

- (h) *further criteria relating to the preservation and consideration of streetscape character be developed in relation to the exceptional circumstances where carports and garages are acceptable within the front setback;*
- (ii) (i) *new policies relating to:*
- (1) *Subdivisions; and*
- (2) *Single Bedroom Dwellings;*
- independent but inherently linked to the draft Residential Design Elements be prepared and that a report and draft policy be referred to Council no later than April 2007;*
- (iii) *ACKNOWLEDGES that the final adoption of the draft Policies relating to the Residential Design Elements and Streetscapes, will be no later than June 2007; and*
- (iv) *APPROVES the procedure whereby the draft Residential Design Elements Policy is not to be applied in the assessments of development applications until the Policy is formally adopted, and that only formally adopted Policies are to be used in the assessment of development applications.”*

*In light of the above, the following is a summary of the major amendments made to the draft Residential Design Elements Policy:*

- *Option C: ‘Recommence, Reduce and Refocus’ has been implemented;*
- *The ‘Guidance Notes’ and ‘Assessment Tables’ have been re-collated into one composite document;*
- *The outcomes of Vincent Vision 2024 have been incorporated into the draft Residential Design Elements Policy as a dedicated section, and throughout the draft Policy, mainly in the objectives for every Design Element;*
- *The wording relating to ‘Lofts’ has been revised and made clearer and more stringent;*
- *A maximum building height of 9 metres to top of pitched roof has been imposed for all dwellings within the Town, with exceptions to this maximum height being restricted to topographical and other environmental considerations;*
- *Further criteria relating to the preservation and consideration of streetscape character has been developed in relation to the exceptional circumstances where carports and garages are acceptable within the front setback; and*
- *Deletion of the building envelope requirements.*

*A further review of the building envelope concept has concluded that this concept should be deleted from the Building Design Element for the following reasons:*

- *The building envelope may be interpreted that the dwelling should have a ‘box’ design, therefore, not engendering articulation and a good design outcome;*
- *The building envelope is not considered necessary to further control the bulk and scale of residential development, as the development parameters in relation to building height, street setbacks and side setbacks have been made more stringent; and*

- *The detailed building height, street setback and side setback requirements will prevent 'bad' and 'box' designs by requiring articulation and staggered setbacks without being overly restrictive in terms of the 'foot print', which is more suitable to the relatively small, varied lots in the Town.*

*A separate Progress Report relating to the proposed Policies relating to Residential Streetscapes, Residential Subdivisions and Single Bedroom Dwellings, is included in this Agenda.*

**CONSULTATION/ADVERTISING:**

*Any new, 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, associated Policies and the Residential Design Codes.*

**STRATEGIC IMPLICATIONS:**

*Strategic Plan 2006-2011 states:*

*"Strategic Objective 1 : Natural and Built Environment*

- 1.1 Improve and maintain environment and infrastructure*
  - 1.1.2 Develop and implement a Town Planning Scheme and associated policies, guidelines and initiatives that deliver the community vision.*
  - 1.1.3 Enhance and maintain the character and heritage of the Town.*
  - 1.1.4 Minimise negative impacts on the community and environment."*

**FINANCIAL/BUDGET IMPLICATIONS:**

*The current 2006/2007 Budget allocates \$88,760 for Town Planning Scheme Amendments and Policies.*

**COMMENTS:**

*In light of the above, it is recommended that the Council receives this report and advertises the Draft Residential Design Elements Policy in accordance with the Officer Recommendation."*

**10.1.6 90 (Lots 107 & 196 D/P: 30271) Redfern Street, North Perth - Proposed Partial Demolition of and Additional Two (2) Two-Storey Grouped Dwellings to Existing Single House**

<b>Ward:</b>	North	<b>Date:</b>	19 June 2007
<b>Precinct:</b>	North Perth P8	<b>File Ref:</b>	PRO3601; 5.2006.626.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	D Pirone		
<b>Checked/Endorsed by:</b>	D Abel, J Maclean	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES BY AN ABSOLUTE MAJORITY the application submitted by I D Robson on behalf of the owner I D Robson & T Verbeek for proposed Partial Demolition of and Additional Two (2) Two-Storey Grouped Dwellings to Existing Single House, at No. 90 (Lot: 107 & 196 D/P: 30271) Redfern Street, North Perth, and as shown on plans stamp-dated 19 April 2007, subject to the following conditions:*

- (i) all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, solar panels, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating any new street/front wall, fence and gate between the Redfern 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;*

- (iii) *first obtaining the consent of the owners of No. 430 Charles Street and No. 75 Paddington 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. 430 Charles Street and No. 75 Paddington Street in a good and clean condition;*
- (iv) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Redfern Street verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (v) *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);*
- (vi) *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 proposed Lot 1. All costs associated with this condition shall be borne by the applicant/owner(s);*
- (vii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the windows to bedroom 2 and 3 on the northern elevation of Unit 2 and the windows to bedroom 2 and 3 on the northern elevation of Unit 3, being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be major openings as defined in the Residential Design Codes 2002. 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. 88 Redfern Street and No. 73 and No. 75 Paddington 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.*

**COUNCIL DECISION ITEM 10.1.6**

**Moved Cr Farrell, Seconded Cr Torre**

*That the corrected recommendation be adopted:*

Debate ensued

**MOTION PUT AND CARRIED  
BY AN ABSOLUTE MAJORITY (7-2)**

**For**  
Mayor Catania  
Cr Doran-Wu  
Cr Farrell  
Cr Ker  
Cr Lake  
Cr Messina  
Cr Torre

**Against**  
Cr Chester  
Cr Maier

**ADDITIONAL INFORMATION**

The minimum site area was calculated incorrectly in the initial assessment. The corrected calculation and variations are outlined in the table below. The site area variation is considered acceptable under the circumstances due to the location of the front dwelling, which is being conserved and results in the streetscape being retained.

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Density	2.78 dwellings at R30 3.79 dwellings at R40	3 dwellings at R35.93 (R40 applied as existing dwelling is to be retained)	Supported – no variation at R40
Plot Ratio	N/A	N/A	Noted
Minimum Site Area: Unit 2	200 square metres	196.73 square metres (1.64 per cent variation is proposed)	Supported – clause 3.1.3 of the R Codes allows a 5 per cent variation to the minimum site area and the development complies with the R40 density requirements of the R Codes.
Unit 2	200 square metres	145.62 square metres	Supported – the retention of the existing dwellings maintains the amenity of the streetscape as most dwellings along the street

<p><u>Unit 3</u></p>	<p><u>200 square metres</u></p>	<p><u>169.10 square metres</u></p>	<p>are all generally setback 10-15 metres from the primary street. The above front setback of the existing dwelling creates less room at the rear of the lot for further development.</p> <p>Supported – the retention of the existing dwellings maintains the amenity of the streetscape as most dwellings along the street are all generally setback 10-15 metres from the primary street. The above front setback of the existing dwelling creates less room at the rear of the lot for further development.</p>
<p><u>Average Site Area:</u> <u>Unit 2</u></p>	<p><u>220 square metres</u></p>	<p><u>196.73 square metres</u></p>	<p>Supported – the retention of the existing dwellings maintains the amenity of the streetscape as most dwellings along the street are all generally setback 10-15 metres from the primary street. The above front setback of the existing dwelling creates less room at the rear of the lot for further development.</p>
<p>Setbacks: Unit 2- Ground Floor North Store Room</p>	<p>1 metre</p>	<p>Nil</p>	<p>Supported – complies with the height and length requirements of the buildings on boundary provisions of the R Codes, and no objections were received from adjoining neighbours.</p>

West Garage/ Store Room	1 metre	Nil	Supported – complies with the height and length requirements of the buildings on boundary provisions of the R Codes, and no objections were received from adjoining neighbours.
Unit 3- Ground Floor East	1.5 metres	1.355 metres	Supported – not considered to have an undue impact on neighbouring property and no objections were received.
Upper Floor East	1.5 metres	1.352 metres	Supported – not considered to have an undue impact on neighbouring property and no objections were received.
Buildings on Boundary:	Walls not higher than 3.5 metres with average of 3 metres for 2/3 the length of the balance of the boundary behind the front setback, to one side boundary.	Two boundary walls proposed.  The height and length of the northern and western boundary wall comply with the requirements.	Supported – complies with the height and length requirements of the buildings on boundary provisions of the R Codes, and no objections were received from adjoining neighbours.
Outdoor Living Area: Unit 1-	The outdoor living area shall be provided behind the street setback area.	The outdoor living area is proposed in the front setback.	Supported – not considered to have an undue impact on the streetscape and the amenity of the area.
Essential Facilities: Unit 1-	An enclosed, lockable storage area, constructed in a design and material matching the dwelling, accessible from outside the dwelling, with a minimum dimension of 1.5 metres with an internal area of at least 4 square metre, for each grouped dwelling.	Proposed dimensions of 1.2 metres by 4.6 metres.  Total area of store = 5.52 square metres	Supported – the store was previously approved in the application for alterations and additions to existing single house on 8 August 2006 and is considered to be a functional store area.

<b>Landowner:</b>	I D Robson & T Verbeek
<b>Applicant:</b>	I D Robson
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R30/R40
<b>Existing Land Use:</b>	Single House
<b>Use Class:</b>	Grouped Dwelling
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	835 square metres
<b>Access to Right of Way</b>	Not applicable.

**BACKGROUND:**

8 August 2006: An application for alterations and additions to an existing house was conditionally approved under delegated authority by the Town.

**DETAILS:**

This proposal involves a partial demolition of the existing single house and the addition of two, two-storey grouped dwellings.

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Density	2.78 dwellings at R30 3.79 dwellings at R40	3 dwellings at R35.93 (R40 applied as existing dwelling is to be retained)	Supported – no variation at R40
Plot Ratio	N/A	N/A	Noted
Minimum Site Area:  Unit 2	200 square metres	196.73 square metres (1.64 per cent variation is proposed)	Supported – clause 3.1.3 of the R Codes allows a 5 per cent variation to the minimum site area and the development complies with the R40 density requirements of the R Codes.
Setbacks: Unit 2- Ground Floor North			

Store Room	1 metre	Nil	Supported – complies with the height and length requirements of the buildings on boundary provisions of the R Codes, and no objections were received from adjoining neighbours.
West Garage/ Store Room	1 metre	Nil	Supported – complies with the height and length requirements of the buildings on boundary provisions of the R Codes, and no objections were received from adjoining neighbours.
Unit 3- Ground Floor East	1.5 metres	1.355 metres	Supported – not considered to have an undue impact on neighbouring property and no objections were received.
Upper Floor East	1.5 metres	1.352 metres	Supported – not considered to have an undue impact on neighbouring property and no objections were received.
Buildings on Boundary:	Walls not higher than 3.5 metres with average of 3 metres for 2/3 the length of the balance of the boundary behind the front setback, to one side boundary.	Two boundary walls proposed.  The height and length of the northern and western boundary wall comply with the requirements.	Supported – complies with the height and length requirements of the buildings on boundary provisions of the R Codes, and no objections were received from adjoining neighbours.
Outdoor Living Area:  Unit 1-	The outdoor living area shall be provided behind the street setback area.	The outdoor living area is proposed in the front setback.	Supported – not considered to have an undue impact on the streetscape and the amenity of the area.

Essential Facilities: Unit 1-		Proposed dimensions of 1.2 metres by 4.6 metres.  Total area of store = 5.52 square metres	Supported – the store was previously approved in the application for alterations and additions to existing single house on 8 August 2006 and is considered to be a functional store area.
	An enclosed, lockable storage area, constructed in a design and material matching the dwelling, accessible from outside the dwelling, with a minimum dimension of 1.5 metres with an internal area of at least 4 square metre, for each grouped dwelling.		
<b>Consultation Submissions</b>			
Support	Nil		Noted
Objection	Nil		Noted
<b>Other Implications</b>			
Legal/Policy		TPS 1 and associated Policies, and Residential Design Codes (R Codes).	
Strategic 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:**

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

**10.1.14 No. 24 Alma Road, Mount Lawley – Use of Front Yard for the Deposit of Disused Materials**

Ward:	North	Date:	19 June 2007
Precinct:	Mount Lawley	File Ref:	PRO0105
Attachments:	<a href="#">001</a>		
Reporting Officer(s):	S Teymant		
Checked/Endorsed by:	A. Giles, J Maclean	Amended by:	-

**OFFICER RECOMMENDATION:**

*That the Council:*

- (i) **RECEIVES** the report in relation to the property located at No. 24 Alma Road, Mount Lawley;
- (ii) **FORMS THE OPINION** that the disused materials (including bricks, planks of wood, metal poles, buckets, chopped wood, wheel barrows, metal drums, cement mixer, tiles, door frames) at No. 24 Alma Road, Mount Lawley;
  - (a) is likely to adversely affect the value of any adjoining properties;
  - (b) is likely to adversely affect the health, comfort or convenience of the inhabitants of any adjoining properties; or
  - (c) results in that property having an appearance which does not conform with the general appearance of other properties in the locality;
- (iii) **AUTHORISES**;
  - (a) pursuant to section 3.25 of the Local Government Act 1995, a Notice to be served on the landowners, Antonio and Maria Parella of No. 24 (Lot 43) Alma Road, Mount Lawley, requiring the property to be cleared of bricks, planks of wood, metal poles, buckets, chopped wood, wheel barrows, metal drums, cement mixer, tiles, door frames within thirty (30) days of the service of the Notice; and
  - (b) pursuant to section 3.26 of the Local Government Act 1995 the Chief Executive Officer to take legal action in the case of default and including the removal of the material and recovering any costs incurred by the Town or its Contractors in a court.

---

**COUNCIL DECISION ITEM 10.1.14**

**Moved Cr Farrell, Seconded Cr Ker**

*That the recommendation be adopted*

Debate ensued

**Moved Cr Maier, Seconded Cr.....**

*That clause (b) be deleted*

Amendment lapsed for want of a seconder

**MOTION PUT & CARRIED (8-1)**

**For**  
**Mayor Catania**  
**Cr Doran-Wu**  
**Cr Chester**  
**Cr Farrell**  
**Cr Ker**  
**Cr Lake**  
**Cr Messina**  
**Cr Torre**

**Against**  
**Cr Maier**

---

### **PURPOSE:**

The purpose of the report is to obtain Council approval to serve notice on the owners of 24 Alma Road, Mount Lawley, in accordance with provisions of the *Local Government Act 1995* to remove disused material, as a result of the front yard of the property being unsightly and affecting the amenity of the surrounding area.

### **BACKGROUND**

The Town has received a number of complaints about the appearance of the front yard at 24 Alma Road, Mount Lawley since 2003. Investigation of the complaints resulted in correspondence being sent to the owner of the property, requesting removal of unsightly items on 5 February 2003 and again on 23 January 2007. In both letters the removal of disused materials was requested. In relation to the most recent correspondence, a follow up inspection revealed that the disused items have not been removed.

### **DETAILS**

A letter was sent to the owners of the property, Antonio and Maria Parella on the 23 January 2007 requesting that they remove the disused materials by 23 February 2007.

The most recent follow-up inspection undertaken on Tuesday, 22 May 2007, revealed that approximately seven (7) cubic metres of disused items remain in the front yard of the property (refer to photographs in Appendix 10.1.14).

#### **Location of Property – General appearance of other properties in the locality**

The subject property is located in Alma Road, Mount Lawley. The unsightly appearance of the property portrays an unacceptable image to persons passing through the Town. Furthermore, the property does not conform with the general appearance of other properties in the locality, which are well kept and maintained.

#### **Adversely affecting the value of any adjoining property**

As stated above, the adjoining properties are well kept and maintained. It is advised that the unsightly nature of the subject properties would adversely affect the value of any adjoining property.

Adversely affecting the health, comfort or convenience of adjoining property owners

Complaints from nearby persons has revealed that a number of adjoining property owners have expressed their dissatisfaction at the unsightly appearance of the subject properties.

Due to the nature of the complaints and lack of co-operation from the owners, it is recommended that a Notice is served on the property owners.

**CONSULTATION/ADVERTISING:**

Nil.

**STRATEGIC IMPLICATIONS:**

Town of Vincent Strategic Plan 2006 – 2011 'Natural and Built Environment':

1.1.3 Enhance and maintain the character and heritage of the Town.

1.1.4 Minimise negative impacts on the community and environment.

**LEGAL/POLICY:**

The *Local Government Act 1995*, provides the following statutory basis for dealing with complaints in relation to unsightly properties:

***"3.25. Notices requiring certain things to be done by owner or occupier of land***

*(1) A local government may give a person who is the owner or, unless Schedule 3.1 indicates otherwise, the occupier of land a notice in writing relating to the land requiring the person to do anything specified in the notice that —*

*(a) is prescribed in Schedule 3.1, Division 1; or*

*(b) is for the purpose of remedying or mitigating the effects of any offence against a provision prescribed in Schedule 3.1, Division 2.*

*(2) Schedule 3.1 may be amended by regulations.*

*(3) If the notice is given to an occupier who is not the owner of the land, the owner is to be informed in writing that the notice was given.*

*(4) A person who is given a notice under subsection (1) is not prevented from complying with it because of the terms on which the land is held.*

*(5) A person who is given a notice under subsection (1) may apply to the State Administrative Tribunal for a review of the decision to give the notice.*

*(6) A person who fails to comply with a notice under subsection (1) commits an offence.*

***Schedule 3.1 Division 1 - Powers under notices to owners or occupiers of land [Section 3.25(1)]***

*(2) In this item - 'unsightly' in relation to land, means having an appearance that, because of the way in which the land is used, does not conform with the general appearance of other land in the locality.*

*(3) The notice cannot be given to an occupier who is not an owner.*

5A. *(1) Ensure that overgrown vegetation, rubbish, or disused material, as specified, is removed from land that the local government considers to be untidy.*

***3.26. Additional powers when notices given***

*(1) This section applies when a notice is given under section 3.25(1).*

*(2) If the person who is given the notice ("**notice recipient**") fails to comply with it, the local government may do anything that it considers necessary to achieve, so far as is practicable, the purpose for which the notice was given.*

*(3) The local government may recover the cost of anything it does under subsection (2) as a debt due from the person who failed to comply with the notice."*

**FINANCIAL/BUDGET IMPLICATIONS:**

Should the owner of the property not undertake the specified works within the time specified in the notice (30 days), the Town may act in default and recover costs from the owners who were served with the Notice.

An estimate to clear the property is approximately \$2,500. The cost will be as follows:

Labour costs and machinery*	=	\$1,500
Truck costs	=	\$500
Tipping fees (based on 3 truckloads)	=	<u>\$500</u>
		<u>\$2,500</u>

(\* 2 men, 7.5 hours)

Three quotations will be obtained should it be necessary to carry out the works. Any costs will be recovered from the owner of the property.

**COMMENTS:**

It is recommended that the Chief Executive Officer be authorised to serve a Local Government Act Notice on the owner of the property to remove the disused material in accordance with the Local Government Act, and in case of default, the Town's Contractors will complete the necessary works and recoup the costs from the owners.

As the complaints have been ongoing, it is recommended the Chief Executive Officer also be authorised to act if the owners fail to comply with the Notice.

**10.1.15 Introduction of Ticket Machine Paid Parking in Vincent Street (between Oxford and Loftus Streets), Leederville.**

<b>Ward:</b>	South	<b>Date:</b>	20 June 2007
<b>Precinct:</b>	P4	<b>File Ref:</b>	
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	J MacLean		
<b>Checked/Endorsed by:</b>	J Giorgi	<b>Amended by:</b>	

**OFFICER RECOMMENDATION:**

*That the Council:*

- (i) *RECEIVES the report on the introduction of paid parking in Vincent Street; between Oxford Street and Loftus Street and, Leederville;*
- (ii) *APPROVES the introduction of paid parking on the north and south sides of Vincent Street, between Loftus Street and Oxford Street, Leederville as shown on plan No 2524-PP-1; and*
- (iii) *AUTHORISES the Chief Executive Officer to;*
  - (a) *undertake public consultation with residents, businesses and other potentially affected organisations, in the area around Vincent Street, Leederville; and*
  - (b) *report back to Council with any submissions at the conclusion of the public consultation period.*

---

**COUNCIL DECISION ITEM 10.1.15**

**Moved Cr Ker, Seconded Cr Torre**

*That the recommendation be adopted*

**Debate ensued**

**MOTION PUT AND CARRIED (9-0)**

---

**PURPOSE OF REPORT:**

To obtain Council approval to introduce ticket machines in Vincent Street, Leederville (between Loftus and Oxford Streets). Refer also to Item 10.4.2 - Draft Parking Local Law.

**BACKGROUND:**

Vincent Street, Leederville, is a District Distributor road, which provides a main east-west thoroughfare for vehicles travelling to and from the Vincent Street off-ramp for the Mitchell Freeway. The street is used as a parking facility for drivers who make use of the Oxford Street "café strip", attendees at functions in Leederville Oval and for the staff and visitors of local businesses, including the Department of Sport and Recreation (DSR), at Leederville Oval, Leederville. It is also occasionally used, by residents on the south side of Vincent Street, Leederville

**DETAILS:**

Over the past few years, Vincent Street, Leederville has become more regularly used as a parking facility, for people visiting the Leederville area and this has resulted in parking time restrictions being introduced on the north side of the street. Rangers patrol the area regularly and chalk the tyres of the parked vehicles. However, vehicles are often moved from bay to bay to avoid the current two hour (2P) Restriction and Rangers issue very few infringement notices. The installation of ticket issuing machines creates a more efficient enforcement function, because a Ranger only needs to check an area once, to establish if a vehicle displays a valid parking ticket. If the vehicle displays a valid ticket, the Ranger will move on and, if a vehicle does not display a valid ticket, he/she will issue an infringement notice.

Currently, during the day, there is a limited number of vacant parking bays, in Vincent Street. It is noticed that many drivers continually shift their vehicles, in order to avoid the time restriction. However, as the popularity of the Leederville area increases, it is anticipated that the need for day-time parking facilities will also increase. In the evening and at night, the parking bays on both sides of Vincent Street, are fully utilised, especially those bays closest to Oxford Street.

It is considered that the introduction of paid parking would discourage drivers from using Vincent Street as an alternative to the available car parks. It is also considered appropriate for the Town to consider the introduction of paid parking and the installation of parking ticket issuing machines, to enable drivers to park for long periods, without the need to constantly shift their vehicles, to avoid the time restriction.

**CONSULTATION/ADVERTISING:**

For a period of six weeks, the Town will need to advertise the proposed amendment to the Town of Vincent Parking Facilities Local Law, on a Statewide basis, seeking public comment. At the end of this period, any comments, complaints or suggestions will be reported back to the Council

**LEGAL/POLICY:**

The Town is currently reviewing its Parking Facilities Local Law and the proposed Local Law will be considered at the same meeting as this report. This is shown at Item 10.4.2. In the event that this item is approved, this proposed "Ticket Machine Zone" will be added to the schedule, in the proposed new Local Law, so it will not be necessary to amend the existing Legislation.

At the completion of a statutory 6-week period, for the proposed new Parking and Parking Facilities Local Law, a further report must be provided to the Council, outlining any public objections, comments and suggestions and seeking a final approval for the proposed amendment. When the Council gives this approval, the amendment must be advertised in the Government Gazette and it then takes 14 days before becoming enforceable.

**STRATEGIC IMPLICATIONS:**

The above report is in keeping with the Town's Strategic Plan 2006-2011 at Objective 2.1.4 - *"Identify the needs and expectations of the business community and facilitate outcomes in the Town"* at, Part 2.1.4(b) - *"Implement parking management strategies that provide assistance to businesses, while maintaining the Town's commitment to the whole community"*.

**FINANCIAL/BUDGET IMPLICATIONS:**

There will be a small cost associated with advertising the proposal, and there will be costs associated with the installation of the machines and the erection of appropriate signage. Funds for this proposal have been allocated in the draft 2007/2008 budget.

**COMMENTS:**

The installation of Ticket Issuing Machines would make enforcement duties less time-consuming and would improve the efficiency of the Rangers' patrols.

It is therefore recommended that the officers recommendation be approved by the Council

**10.2.1 Hyde Park 10.2.1 Hyde Park Lakes – Progress Report No 3**

<b>Ward:</b>	South	<b>Date:</b>	19 June 2007
<b>Precinct:</b>	Hyde Park Precinct (P12)	<b>File Ref:</b>	RES0042
<b>Attachments:</b>	<a href="#">001</a> ; <a href="#">002</a> ; <a href="#">003</a> ; <a href="#">004</a> ; <a href="#">005</a>		
<b>Reporting Officer(s):</b>	R Lotznicker, J van den Bok		
<b>Checked/Endorsed by:</b>		<b>Amended by:</b>	

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the progress report No 3 in relation to the Hyde Park Lakes;*
- (ii) *NOTES;*
  - (a) *the information contained in the report in relation to the proposed Application of a licence for an exploratory bore into Leederville Aquifer and the recent actions/ investigations by the Town's Officers and Members of the Hyde Park Lakes Restoration Working Group; and*
  - (b) *the response, as summarised in the report, received from by the Minister for Water Resources regarding the Hyde Park Lakes; and*
- (iii) *APPROVES the Draft Consultants brief for the preparation of a Masterplan for the restoration of the Hyde Park Lakes and surrounds as shown in appendix 10.2.1;*
- (iv) *REQUESTS the Chief Executive Officer to investigate the setting up of a public appeal to raise funds for the Restoration of the Hyde Park Lakes once a Restoration Masterplan has been developed and signed off and approved by all Stake Holders;*
- (iv) *AUTHORISES the Chief Executive Officer to advertise for the calling of tenders or quotations for appropriate consultants to prepare the Masterplan; and*
- (iii) *RECEIVES a further report on the matter prior to appointing a consultant.*

---

**COUNCIL DECISION ITEM 10.2.1**

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted*

**Debate ensued**

**MOTION PUT AND CARRIED (9-0)**

---

**PURPOSE OF REPORT:**

The purpose of this report is to provide further information of the progress made by the Hyde Park Lakes Restoration Working Group (HPLRWG), and to request that the Council endorse the proposal of the group to advertise a consultant's brief for the preparation of a Masterplan for the Restoration and long term management of the Hyde Park Lakes.

**BACKGROUND:**

At its Ordinary Meeting held on the 13 February 2007, the Council considered a report on Hyde Park Lakes Restoration Group (HPLRG) – Progress Report No 2 where the following decision was made:

*That the Council;*

- (i) *RECEIVES the progress report No 2 in relation to the Hyde Park Lakes;*
- (ii) *NOTES that;*
  - (a) *the current water level in both lakes is at its lowest level for many years;*
  - (b) *complaints have been received from the local community in regard to the low water levels, odour emanating from the mud and that no apparent action to restore the lakes has been undertaken to date;*
  - (c) *the condition of the lakes has been the subject of media articles in the print media as shown in Appendix 10.2.3;*
  - (d) *in an effort to maintain some water in the lakes, only the Western (deeper) lake is being recharged with bore water and the Eastern lake be left to dry out naturally throughout the remainder of the summer period; and*
  - (e) *it is proposed to hold an on site meeting of the Hyde Park Lakes Working Group (HPLWG) in the near future to further discuss the options previously identified for the restoration of the lakes; and*
- (iii) *RECEIVES further progress reports as the Hyde Park Lakes Restoration Group further investigate options for the restoration of the lakes at Hyde Park.*

**DETAILS:**

At the Hyde Park Lakes Restoration Group (HPLRG) meeting of 7 June 2007, the following matters were discussed:

An important “way forward” for the Lake is the development of a Draft consultant's brief for the preparation of a Masterplan for the restoration of the Hyde Park Lakes and surrounds with information regarding this matter outlined below.

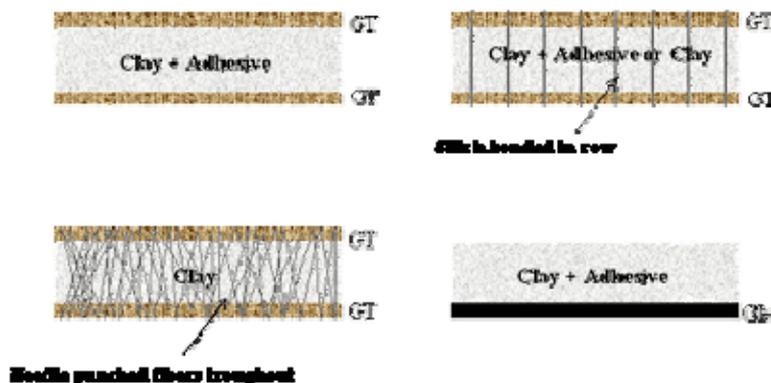
**Ozone Reserve - City of Perth “lined” Lakes**

Several members of the HPLRWG met with representatives from the City of Perth and the Contractor responsible for the design/construction of the Ozone Lakes on 14 June 2007.

The Ozone Lakes comprise an artificial lined water body some 20,000m<sup>2</sup> in area located on the north side of Riverside Drive at the southern end of Langley Park. They are topped up from an artesian bore 300m deep into the Leederville aquifer. The water is treated (to remove iron) and pumped out of the lake/s to irrigate a large surrounding area of park land along the river foreshore.

The lakes are lined with a Bentofix Geosynthetic clay liner (GCL) liner' with 250mm of sand placed over the liner. This liner has a life of 20 to 30 years and retains 90 to 98% of water. Three years ago the cost to construct the artificial lakes was over \$2.0m dollars including the construction of the Lake walls.

### Typical GCL Cross-Sections



### Investigate options and costs for lining of lakes

Very preliminary costings have been developed in relation to forming/deepening the lake beds (where required), lining with a Geosynthetic clay liner, disposal of waste material due to heavy metals.

The estimated cost of close to \$2m dollars needs to be further developed as other options are explored eg: excavating from one lake to the other, spreading some of the material on site, partial lining, increasing the size of the islands etc. This cost excludes the cost to repair/replace the existing walls around the perimeter of the Lakes.

### Feasibility of using existing Main Drainage infrastructure

The Water Corporation have given their in principle approval for the Town to utilise the existing main drain to transport water into the Hyde Park Lakes in the advent that a production bore needs to be located in another location such as in Woodville Reserve. This would involve:

- An assessment of the main drain to ensure water is not lost through leaky joints
- Construction of infrastructure to connect the bore pipe work to the drain
- Formal approval from Water Corporation, with conditions

### Recent remedial works to lake walls

The Town's workforce have undertaken remedial works on the lake walls which are now significantly safer now that the degraded capping sections have been replaced and stabilised.

### Letters of support from the Department of Environment and HCWA for approval to draw water form Leederville Aquifer

The Manager Parks Services contacted the Department of Environment's Acting Coordinator of Wetlands and a letter was forwarded to the Heritage Council of WA (HCWA) requesting their support for the proposal.

Some background information was provided to both the Department of Environment (DOE) and the HCWA and it was suggested that a site meeting be convened to outline in more detail the Town's proposal/s.

**Letter from the Minister for Water Resources:**

On 7 March 2007, the Town wrote to the Minister for Water Resources requesting that consideration given, by the State Government, to providing financial assistance to restore the lakes and surrounds given the parks Heritage and Regional status. On 8 June 2007, a response was received. An extract of the response is outlined below:

*Thank you for your letter dated 7 March 2007 to Hon David Templeman, Minister for the Environment; Climate Change; Peel regarding declining water levels in the ornamental lakes at Hyde Park. As this issue relates to my portfolio, your letter was forwarded to me for direct response.*

*Many waterways and wetlands in the south of the State are drying as a result of the drought the South West Land Division is currently experiencing. The reduced rainfall and subsequent reduction in groundwater recharge is affecting many groundwater dependent systems.*

*It is therefore unrealistic to expect the Hyde Park lakes to retain the desired European style park in our current climate. The Department of Water (DoW) does not consider the supplementation or ornamental lakes with groundwater, either from the shallow or deeper (Leederville aquifer) groundwater systems, to be a beneficial use of our precious water resources. As such the DoW is unlikely to approve the access to additional groundwater resources from the Leederville aquifer and the State Government would not consider providing financial assistance to restore the lakes.*

*Whilst I appreciate Hyde Park is a popular regional park enjoyed by many patrons, it is important that Local Governments lead by example to conserve water and encourage their residents to do the same. Therefore, if a water body is needed then I would recommend that the Town consider redirection of other water resources, eg drainage or storm water, to a lake lined with an impermeable membrane or clay. The Town could also consider reconstructing the lake area to represent a functioning natural wetland that will dry out in seasons when groundwater levels fall. I note these were among the options under consideration with your local group.*

**Application for licence (exploratory bore into Leederville Aquifer):**

Hydrologists, “Global Groundwater” who previously provided an indicative cost for construction of an exploratory bore and production bore into the Leederville Aquifer are progressing the application for a licence on the Town’s behalf. They have all the specific information required and will submit a licence application upon receipt of the letters of support from the DOE and HCWA.

The principle Hydrologist from Global Groundwater, Officers from the Department of Water (DOW) and the Town's Officers met on 15 June 2007, to discuss the Town's licence application.

At the meeting the DOW advised that, given the Minister's response, there was a very small chance that a licence to draw potable water from the Leederville Aquifer would be favourably considered. However, they advised that the Town should still submit an application for an exploratory bore. The Hydrologist and Officers from the DOW advised that a licence may possibly be considered to draw only “brackish” water from the aquifer however this would be subject to:

- Assessing the existing draw from the aquifer (currently 6 existing 'high use' bores near by)
- The impact of the additional draw on the pressure and hydraulics of the aquifer
- No further adverse impact on the aquifer's integrity via long term modelling
- Quantity of water required

The meeting was beneficial in outlining the Town's and the DOW's position and confirmed that an application should still be progressed. It was however requested that should an approval to construct an exploration bore be granted a strong indication would need to be given that an approval would be granted to proceed to a production bore given the considerable cost of constructing one or more exploration bores.

**Draft Consultants Brief for the preparation of a “Masterplan for the Restoration of the Hyde Park Lakes and Surrounds”.**

At a previous meeting of the HPLRWG it was agreed that a Masterplan was required for the Lakes (and immediate surrounds) to map out a “blueprint” for the restoration. The Restoration Masterplan would take into account “all” the information that was currently available regarding the Lakes including the objectives etc.

It was considered that once the Masterplan process had been completed and the plan signed off by “all” stakeholders the physical works required would be able to be quantified and the costs involved to implement the Masterplan determined.

Appropriate funding would then be allocated and a staged implementation program developed. It would also assist the Town in seeking external funding for the project as there would be something tangible to show government agencies and the community.

The draft brief (please refer to attached document) is to seek consultant services to prepare at least two (2) options for a Masterplan for the Restoration of the Hyde Park Lakes which encapsulates all the issues contained in the document in compliance with appropriate statutory requirements governing the Hyde Park Reserve. The Masterplan shall outline the redevelopment proposals and identify and define ongoing Management Strategies for the Hyde Park Lakes and their immediate surrounds.

Aim

The main aim of the redevelopment of the Hyde Park Lakes is to maintain a level of water within the lakes that will sustain flora/fauna and the aesthetic value of the park and incorporate into the Masterplan environmental strategies that will reduce the incidences of algal blooms, botulism outbreaks and other problems resulting from poor water quality.

Project Brief

The consultant will be required to prepare a Masterplan for the Restoration and management of the Hyde Park Lakes and will be required to address the following objectives:

- Maintain water in the lakes all year round as desired by the community
- Maintain and enhance the Heritage values of the place
- Maintain and enhance the lakes as a habitat for wild life
- Maintain the volume of the lakes to ensure they continue to adequately function as a water compensating basin (as per the Western Australian Water Corporation's requirements)

- Improve poor water quality
- Repair/rectify degrading lake walls
- Eradication and control of weeds on the islands
- Maintain the amenity of the lakes and their relationship with the Park.

In preparing the Masterplan the consultant will need to:

- Identify and take into account values, significance, critical processes and threats
- Identify and take into account current and likely future activities highlighting those that may pose a risk to the Lakes
- Explore/develop restoration options for all issues raised
- Make appropriate recommendations as to preferred restoration options as agreed with the HPLRWG for the Lakes and detail methods of implementation
- Determine the total estimated cost of the each restoration option for the restoration of the Hyde Park Lakes
- Prepare a staged five (5) year implementation timetable and determine the cost of each stage.
- Develop a water quality monitoring program for the lakes.
- Identify and outline ongoing management strategies for the Hyde Park lakes and their immediate surrounds to achieve the desired outcomes.

In developing the Restoration options the consultant shall consider opportunities for:

- Increasing area of wetland vegetation to improve water quality
- Redesigning lake beds and edges to accommodate seasonal water fluctuations with the “possibility” of one dry lake bed during summer or reduced permanent water body to the satisfaction of ALL Stakeholders

The consultant will also be required provide the following:

The Masterplan will comprise an overall “blueprint” for the restoration and management of the Lakes to ensure the long-term health and condition of the lakes and surrounds and incorporate the relevant information contained in all the previous studies, recommendations, information and statutory requirements/constraints. It shall include detailed staged implementation program indicating how the Masterplan can be implemented over a set period of time based on a reasonable/sustainable level of annual expenditure based on the overall estimated cost of the proposal.

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

In accordance with the brief the consultant will be required conduct at least one (1) workshop and one (1) site meeting with all of the following Stakeholders:

- HPLRWG
- Heritage Council of Western Australia
- Key Stakeholders (Water Corporation, Heritage Council, Aboriginal Groups)
- Elected Representatives
- Precinct Group Representatives
- Community Representatives
- Others (as identified by the Town)

The Town will to arrange the appropriate liaison/meeting with the Department of Indigenous Affairs and relevant Aboriginal Group/s.

The consultant will be required to attend four (4) HPLRWG meetings at 20%, 40%, 80% and 100% completion of the draft Masterplan options for a maximum of 3 hour duration per meeting.

**LEGAL/POLICY:**

Nil

**STRATEGIC IMPLICATIONS:**

In accordance with the objective of Strategic Plan 2006-2011 – 1.1.4 Minimise negative impacts on the community and environment. “(b) *Restore Hyde Park Lakes and Banks Reserve Foreshore.*”

**FINANCIAL/BUDGET IMPLICATIONS:**

As previously advised, a total amount of \$105,000 is listed in the 2006/2007 budget for the restoration of Hyde Park lakes and this amount is to be transferred to a reserve fund. In addition, the North Perth Community Bank has advised that they will donate \$50,000 over five (5) years towards this project. In addition, the 2007/2008 draft budget has \$300,000 allocated to the Hyde Park Lakes Reserve bringing the Total Funds allocated for the project to \$455,000.

**COMMENTS:**

The main aim of the redevelopment of the Hyde Park Lakes is to maintain a level of water within the lakes that will sustain flora/fauna and the aesthetic value of the park and incorporate into the Masterplan environmental strategies that will reduce the incidences of algal blooms, botulism outbreaks and other problems resulting from poor water quality.

The Hyde Park Lakes Restoration Working Group (HPLRWG) has developed a Draft Consultants brief for the preparation of a Masterplan for the restoration of the Hyde Park Lakes and surrounds. It is intended that the Masterplan will:

- Comprise an overall “blueprint” for the restoration and management of the Lakes to ensure the long-term health and condition of the lakes and surrounds
- Incorporate the relevant information contained in all the previous studies, recommendations, information and statutory requirements/constraints
- It shall include detailed staged implementation program indicating how the Masterplan can be implemented over a set period of time based on a reasonable/sustainable level of annual expenditure based on the overall estimated cost of the proposal

It is requested that the Council endorse the proposal as presented in the report.

**10.2.3 Proposal to construct a DN600 Sewer pressure main to replace parts of the existing sewer between the Claisebrook Pumping Station and the Subiaco Waste Treatment Plant**

<b>Ward:</b>	South	<b>Date:</b>	20 June 2006
<b>Precinct:</b>	Beaufort St precinct (P13)	<b>File Ref:</b>	TES0553
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	R. Lotznicker		
<b>Checked/Endorsed by:</b>		<b>Amended by:</b>	

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the report on the proposal submitted by the Water Corporation to construct a DN600 Sewer Pressure Main to replace parts of the existing sewer between the Claisebrook Pumping Station and the Subiaco Waste Treatment Plant;*
- (ii) *NOTES the proposed route for the Sewer Pressure Main as shown in appendix 10.2.3A;*
- (iii) *DEFERS the implementation of any Capital Improvements in streets affected by the proposed Main Sewer Upgrading Works until all works associated with the Sewer Upgrading have been completed ;*
- (iv) *REQUESTS that the Water Corporation;*
  - (a) *submits accredited “traffic management for road works” proposals to the Town for the various components of the project;*
  - (b) *ensures that all “traffic management for road works” proposals associated with the works are designed to minimise any adverse impact on the amenity of residents in the area and to ensure that the affected higher order roads are not blocked off to through traffic;*
  - (c) *prepares a detailed design, in liaison with the Town’s Executive Manager Technical Services, for the proposed works within Loton Park and affected areas within the road reserve, to ensure all mature trees and any significant areas of landscaping are retained and protected during the course of the works;*
  - (d) *refers the proposal through Loton Park to the Heritage Council of Western Australia (HCWA) as part of the proposed consultation process;*
  - (e) *complies with the statutory heritage conditions as required by the Department of Indigenous Affairs and the Heritage Council of Western Australia regarding the proposed works through Loton Park including all associated cost;*
  - (f) *gives consideration to the recommendations of Aboriginal Stakeholders contained in the Ethnographic Survey of Loton Park (a copy of which is available from the Town's Heritage Services Officers);*

- (g) *provides the Town's Executive Manager Technical Services with a detailed program which details the full scope of works and timing for each aspect of the project prior to the commencement of the project;*
- (h) *ensures that all affected residents are provided with due notice of the works in their respective streets via information bulletins including after hours contact details and that copies of the information bulletins be forwarded to the Town;*
- (i) *ensure that all reinstatements are carried out in accordance with the Town's standards to the satisfaction of the Town's Chief Executive Officer;*
- (j) *complies with the Department of Environmental protection Noise regulation requirements and advises the Town of any approvals obtained to work outside of normal working hours; and*
- (k) *advertise the proposed works in the affected suburbs;*
- (l) *completes the works on Loton Park as soon as practicable to minimise any inconvenience to patrons or Members Equity Stadium, particularly during the 2007-08 A-League Season; and*
- (v) *RECIEVES a further report on the proposal should any major variation to the scope of works be required or any major unforeseen matters arise which require a Council decision during the progression of this major project.*

---

**Moved Cr Ker, Seconded Cr Farrell**

*That the recommendation be adopted with new clause (vi);*

*"(vi) ADVISES the Water Corporation that from 1 July 2007, the area affected by the proposed works bounded by Lord Street, Summer Street, the Swan River and the Graham Farmer Freeway, will be under the control of the Town of Vincent."*

Debate ensued

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

Journalist Chris Thomson departed at 9.52pm

**COUNCIL DECISION ITEM 10.2.3**

*That the Council;*

- (i) *RECEIVES the report on the proposal submitted by the Water Corporation to construct a DN600 Sewer Pressure Main to replace parts of the existing sewer between the Claisebrook Pumping Station and the Subiaco Waste Treatment Plant;*
- (ii) *NOTES the proposed route for the Sewer Pressure Main as shown in appendix 10.2.3A;*

- (iii) *DEFERS the implementation of any Capital Improvements in streets affected by the proposed Main Sewer Upgrading Works until all works associated with the Sewer Upgrading have been completed ;*
- (iv) *REQUESTS that the Water Corporation;*
- (a) *submits accredited “traffic management for road works” proposals to the Town for the various components of the project;*
  - (b) *ensures that all “traffic management for road works” proposals associated with the works are designed to minimise any adverse impact on the amenity of residents in the area and to ensure that the affected higher order roads are not blocked off to through traffic;*
  - (c) *prepares a detailed design, in liaison with the Town’s Executive Manager Technical Services, for the proposed works within Loton Park and affected areas within the road reserve, to ensure all mature trees and any significant areas of landscaping are retained and protected during the course of the works;*
  - (d) *refers the proposal through Loton Park to the Heritage Council of Western Australia (HCWA) as part of the proposed consultation process;*
  - (e) *complies with the statutory heritage conditions as required by the Department of Indigenous Affairs and the Heritage Council of Western Australia regarding the proposed works through Loton Park including all associated cost;*
  - (f) *gives consideration to the recommendations of Aboriginal Stakeholders contained in the Ethnographic Survey of Loton Park (a copy of which is available from the Town's Heritage Services Officers);*
  - (g) *provides the Town’s Executive Manager Technical Services with a detailed program which details the full scope of works and timing for each aspect of the project prior to the commencement of the project;*
  - (h) *ensures that all affected residents are provided with due notice of the works in their respective streets via information bulletins including after hours contact details and that copies of the information bulletins be forwarded to the Town;*
  - (i) *ensure that all reinstatements are carried out in accordance with the Town’s standards to the satisfaction of the Town’s Chief Executive Officer;*
  - (j) *complies with the Department of Environmental protection Noise regulation requirements and advises the Town of any approvals obtained to work outside of normal working hours; and*
  - (k) *advertise the proposed works in the affected suburbs;*
  - (l) *completes the works on Loton Park as soon as practicable to minimise any inconvenience to patrons or Members Equity Stadium, particularly during the 2007-08 A-League Season;*

- (v) *RECIEVES a further report on the proposal should any major variation to the scope of works be required or any major unforeseen matters arise which require a Council decision during the progression of this major project; and*
- (vi) *ADVISES the Water Corporation that from 1 July 2007, the area affected by the proposed works bounded by Lord Street, Summer Street, the Swan River and the Graham Farmer Freeway, will be under the control of the Town of Vincent.*
- 

#### **PURPOSE OF REPORT:**

The purpose of this report is to advise the Council of the Water Corporation's proposal to construct a DN600 Sewer Pressure Main to replace parts of the existing sewer between the Claisebrook Pumping Station and the Subiaco Waste Treatment Plant.

#### **BACKGROUND:**

As the Council is aware during the works to redevelop Perth Oval (Members Equity Stadium) a section of the Water Corporation's DN600 Sewer Pressure Main which ran through the Oval was redirected between Bulwer Street at Smith Street to the east side of the temporary grand stand in what is now Loton Park.

Sections of the existing Sewer Pressure Main east of this location now need to be replaced, as a matter of priority.

#### **DETAILS:**

On 17 April 2007, the Town received a "formal notice" of the proposal from the Water Corporation as follows:

*The Water Corporation proposes to replace a section of DN600 sewer pressure main as shown on the attached drawings.*

*The proposed works will generally be by open excavation which will be backfilled and restored. The proposed works are schedule to commence in August 2007, and will continue for duration of six months.*

#### **Proposed Sewer Route**

The attached plan as shown in Appendix 10.2.3, outlines the proposed sewer route. A description of the route is as follows:

To improve wastewater conveyancing between Claisebrook Pumping Station and Subiaco Wastewater Treatment Plant, the Water Corporation proposes to replace existing pressure main sections as follows:

- Section 4: Install a new 600mm diameter pressure main along Kensington Street, approximately 370m in length and associated valves and fittings.
- Section 5: Install new 600mm diameter pressure main between Claisebrook Road and Perth Oval, approximately 380m in length and associated valves and fittings

The location of the proposed works is shown on the plan at appendix 10.2.3.

**Proposed Construction Method/s**

The proposed works will generally be by open excavation which will be backfilled and restored. Construction in sensitive areas will need to be undertaken via micro tunnelling.

Once the proposed sewer works have been completed, the various connections (to the existing sewers) will be carried out, all associated excavations reinstated, the new sewer will be commissioned and the existing sewer will be decommissioned and filled with a sand /cement slurry where required.

**Implications for Towns Works 2007/2008 works program / Infrastructure**

There will be no implications on the Towns works program

**CONSULTATION/ADVERTISING:**

Water Corporation will be required to inform residents/businesses of the proposal.

**LEGAL/POLICY:**

N/A

**STRATEGIC IMPLICATIONS:**

N/A

**FINANCIAL/BUDGET IMPLICATIONS:**

N/A

**COMMENTS:**

The urgent sewer works are required as the existing sewer is in a deteriorated state. The majority of the works will to be constructed via the open cut method however micro tunnelling in sensitive areas as required.

The proposed works are scheduled to commence in August 2007, and will continue for duration of approximately 6 months.

**10.4.1 Members Equity Stadium Committee - Appointment of Committee Members**

<b>Ward:</b>	South	<b>Date:</b>	20 June 2007
<b>Precinct:</b>	Beaufort, P13	<b>File Ref:</b>	RES0082
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	John Giorgi		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council APPROVES BY AN ABSOLUTE MAJORITY, pursuant to Section 5.10 of the Local Government Act 1995, to appoint the following persons as Committee Members to the Members Equity Stadium Committee;*

- **Perth Glory Football Club (PGFC):**  

<i>Member:</i> <i>Mr Scott Gooch</i>	<i>Deputy Member:</i> <i>Mr Stuart Gilsean</i>
---	---
  
- **Rugby WA:**  

<i>Member:</i> <i>Mr Terry Bradbury</i>	<i>Deputy Member:</i> <i>Board Member to be advised</i>
--	--
  
- **Western Australian Rugby League (WARL):**  

<i>Member:</i> <i>Mr Bill Nosworthy</i>	<i>Deputy Member:</i> <i>Board Member to be advised</i>
--	--

---

**COUNCIL DECISION ITEM 10.4.1**

**Moved Cr Chester, Seconded Cr Ker**

*That the recommendation be adopted*

Debate ensued

**MOTION PUT & CARRIED BY AN ABSOLUTE MAJORITY (9-0)**

---

**PURPOSE OF REPORT:**

The purpose of the report is for the Council to appoint external Committee Members to the Members Equity Stadium Committee, as required by the Heads of Agreement.

**BACKGROUND:**

At the Ordinary Meeting of Council held on 14 September 2004, the Council considered the establishment of a Committee for the management of the Stadium (known as "Members Equity Stadium") and resolved inter alia as follows;

*"That the Council APPROVES BY AN ABSOLUTE MAJORITY; ...*

- (iii) *to delegate the following functions to the Committee;*
- (a) *to establish and review the Heads of Agreement (HOA) Key Performance Indicators (KPIs) in conjunction with Allia;*
  - (b) *to assess whether each proposed Licensing Agreement is consistent with the KPIs and the provisions of the HOA and to approve the proposed Licensing Agreement if it is consistent;*
  - (c) *to supervise the performance of the Services by Allia and to ensure that Allia performs the Services in accordance with the KPIs and the HOA;*
  - (d) *to receive and consider Performance Reports;*
  - (e) *to advise the Council on Capital Improvements required for the Stadium and to make recommendations to the Council about the use of the Reserve Fund;*
  - (f) *to review Naming Signage; and*
  - (g) *to review the Risk Management Plan;*

*(For the purpose of avoidance of doubt, it is acknowledged that the Committee's functions do not include carrying out any of the Operational Management Services which are to be provided by Allia)."*

At the Ordinary Meeting of Council held on 12 June 2007, the Council considered the matter of the Members Equity Stadium Committee Meeting Minutes and appointed Deputy Mayor, Cr Steed Farrell as Member and Cr Helen Doran-Wu as Deputy Member to the Members Equity Stadium Committee, resolving as follows;

*"That the Council;*

- (i) *RECEIVES the Confirmed Minutes of the Members Equity Stadium Committee Meeting held on 20 February 2007 and the Unconfirmed Minutes of the Stadium Committee meeting held on 17 April 2007, as shown in Appendix 10.4.2;*
- (ii) *ACCEPTS the recommendations of the Stadium Committee; and*
- (iii) *APPROVES BY AN ABSOLUTE MAJORITY, pursuant to Section 5.10 of the Local Government Act 1995, to appoint Cr Farrell and Cr Doran-Wu as Deputy Member to the Members Equity Stadium Committee."*

**CONSULTATION/ADVERTISING:**

Not applicable.

**LEGAL/POLICY:**

The Local Government Act (LGA) 1995 requires an absolute majority decision to appoint persons to a Committee.

The Heads of Agreement at Clause 5.1, state;

*"5.1 Establishment of Committee:*

- (a) The Town shall establish a committee under section 5.9(2)(c) of the LGA to supervise the ongoing use of the Land, including the Stadium.*
- (b) The Committee shall comprise the following persons:*
  - The Mayor of the Town.*
  - The Town's Chief Executive Officer.*
  - A representative of PGSC. [Now known as "Perth Glory Football Club"]*
  - A representative of a Stadium User other than PGSC.*
  - Other persons (if any) deemed appropriate by Council.*
- (c) A representative of the Department shall be entitled to attend Committee meetings in the capacity of an observer only.*
- (d) It is acknowledged by the Parties that the Mayor shall have the casting vote in the instance of a tied vote by the Committee."*

Meetings are normally held quarterly.

**STRATEGIC IMPLICATIONS:**

This is in keeping with the Town's Strategic Plan 2006-2011 - *"Leadership, Governance and Management"*, in particular, Objective 4.1.2 - *"Manage the Organisation in a responsible, efficient and accountable manner."*

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

The main sporting codes using the Stadium are; Soccer (Football), Rugby League and Rugby Union. Perth Glory Football Club recently was purchased and a new Chief Executive Officer was appointed. A search of the Town's records reveals that the nominated persons from each of the sporting codes were provided to the Town, however it appears that these were not formally approved by the Council, as required by the Heads of Agreement.

The appointment of three Council/Town members to the Committee will ensure that the Council retains control, as the Chairman (Mayor) has the casting vote, in the event of a tied vote.

The appointment of Committee Members is in keeping with the Heads of Agreement.

**10.4.2 Statutory Review of Local Law - Proposed Parking and Parking Facilities Local Law and Amendment to Existing Parking Policies**

<b>Ward:</b>	-	<b>Date:</b>	20 June 2007
<b>Precinct:</b>	-	<b>File Ref:</b>	LEG0047
<b>Attachments:</b>	<a href="#">001</a> ; <a href="#">002</a>		
<b>Reporting Officer(s):</b>	J MacLean, J Giorgi		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *pursuant to Section 3.16 of the Local Government Act 1995 has advised of its intention to review its local laws and NOTES that no submissions were received at the close of the statutory six (6) week public consultation period of the proposed review of the Town's Local Laws; and*
- (ii) *pursuant to Section 3.12 of the Local Government Act 1995 advertises on a Statewide basis:*
  - (a) *its intention to repeal the following Local Law Relating to:*
    - *Parking Facilities, published in the Government Gazette on 23 May 2000 and amended from time to time;*
  - (b) *its intention to ADOPT a new Local Government Parking and Parking Facilities Local Law as shown in Appendix 10.4.2 to provide for the regulation, control and management of activities on local government property and public property within the district;*
  - (c) *advising that a copy of the proposed local law may be inspected or obtained from the Town's Administration & Civic Centre, 244 Vincent Street, Leederville and Town Library, 99 Loftus Street, Leederville; and*
  - (d) *seeking submissions on the proposed local law for a period of not less than six (6) weeks; and*
- (iii) *AMENDS the following Policies as shown in Appendix 10.4.2;*
  - (a) *No. 3.9.2 - Parking Enforcement and Review/Appeal of Infringement Notices;*
  - (b) *No. 3.9.8 - Residential and Visitor Parking Permits;*
- (iv) *AUTHORISES the Chief Executive Officer to:*
  - (a) *advertise the amended Policies for a period of twenty-one (21) days, seeking public comment;*
  - (b) *report back to Council with any submissions received; and*
  - (c) *include the proposed Policies in the Town's Policy Manual, if no public submissions are received; and*

- (v) *NOTES that a further report will be submitted to the Council at the conclusion of the statutory consultation period;*

**Moved Cr Torre, Seconded Cr Ker**

*That the recommendation be adopted*

**Amendment Moved Cr Maier, Seconded Cr Ker**

That Policy 3.9.8 clause 2 (i) be amended by deleting the word “no” in line two and inserting the word “insufficient”, in its place.

Cr Farrell departed the Chamber at 9.55pm

**AMENDMENT PUT AND CARRIED (7-1)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Doran-Wu
Cr Maier	
Cr Chester	
Cr Ker	
Cr Lake	
Cr Messina	
Cr Torre	

(Cr Farrell was out of the Chamber and did not vote)

Debate ensued

Cr Farrell returned at 9.58pm

**MOTION AS AMENDED PUT AND CARRIED (6-3)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Chester
Cr Doran-Wu	Cr Farrell
Cr Ker	Cr Lake
Cr Maier	
Cr Messina	
Cr Torre	

---

**COUNCIL DECISION ITEM 10.4.2**

*That the Council;*

- (i) *pursuant to Section 3.16 of the Local Government Act 1995 has advised of its intention to review its local laws and NOTES that no submissions were received at the close of the statutory six (6) week public consultation period of the proposed review of the Town’s Local Laws; and*

- (ii) *pursuant to Section 3.12 of the Local Government Act 1995 advertises on a Statewide basis:*
- (a) *its intention to repeal the following Local Law Relating to:*
- *Parking Facilities, published in the Government Gazette on 23 May 2000 and amended from time to time;*
- (b) *its intention to ADOPT a new Local Government Parking and Parking Facilities Local Law as shown in Appendix 10.4.2 to provide for the regulation, control and management of activities on local government property and public property within the district;*
- (c) *advising that a copy of the proposed local law may be inspected or obtained from the Town's Administration & Civic Centre, 244 Vincent Street, Leederville and Town Library, 99 Loftus Street, Leederville; and*
- (d) *seeking submissions on the proposed local law for a period of not less than six (6) weeks; and*
- (iii) *AMENDS the following Policies as shown in Appendix 10.4.2;*
- (a) *No. 3.9.2 - Parking Enforcement and Review/Appeal of Infringement Notices;*
- (b) *No. 3.9.8 - Residential and Visitor Parking Permits subject to;*
- Clause 2(i) be amended by deleting the word "no" in line two and inserting the word "insufficient" in its place;*
- (iv) *AUTHORISES the Chief Executive Officer to:*
- (a) *advertise the amended Policies for a period of twenty-one (21) days, seeking public comment;*
- (b) *report back to Council with any submissions received; and*
- (c) *include the proposed Policies in the Town's Policy Manual, if no public submissions are received; and*
- (v) *NOTES that a further report will be submitted to the Council at the conclusion of the statutory consultation period;*
- 

**PURPOSE OF REPORT:**

The purpose of the report is to advise the Council that no submissions were received at the conclusion of the six (6) week statutory public consultation period of the proposed review of the Town's Local Laws and for the Council to approve of the advertising on a Statewide basis its intention to adopt the revised Local Government Parking and Parking Facilities Local Law and to amend existing Parking Policies.

**BACKGROUND:**

At the Ordinary Meeting of the Council held on 26 July 2005 the Council considered the matter and resolved as follows:

*“That the Council;*

- (i) *RECEIVES the report relating the Statutory Review of Local Laws;*
- (ii) *pursuant to Sections 3.16 of the Local Government Act 1995 the Council AUTHORISES the Chief Executive Officer to advertise, for a period of six (6) weeks, its intention to review the following Local Laws;*

• <i>Air conditioning Units</i>	• <i>Alfresco Dining</i>
• <i>Beatty Park Leisure Centre</i>	• <i>Display of Items on a Footpath</i>
• <i>Dogs</i>	• <i>Fences, Floodlights and Other External Lights</i>
• <i>Halls and Centres</i>	• <i>Parking Facilities</i>
• <i>Parks and Public Reserves</i>	• <i>Property Numbers</i>
• <i>Removal and Disposal of Obstructing Animals or Shopping Trolleys</i>	• <i>Removal of Refuse, Rubbish and Disused Materials</i>
• <i>Street Lawns and Gardens</i>	• <i>Street Trading</i>
• <i>Streets and Footpaths</i>	• <i>Verandahs and Awnings Over Streets</i>

- (iii) *GIVES Statewide public notice that:*
  - (a) *the local government proposes to review the local laws;*
  - (b) *a copy of the local laws may be inspected or obtained at any place specified in the notice; and*
  - (c) *submissions about the local laws may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given; and*
- (iv) *RECEIVES a further report at the conclusion of the advertising period.”*

**DETAILS:**

A review of all the local laws has been carried out by the Town’s officers. The Town has used the Western Australian Local Government Association’s (WALGA’s) Model Local Laws and modified them to suit the Town’s requirements. The Model Local Laws have been approved by the Parliamentary Joint Standing Committee on Delegated Legislation and therefore have been previously checked for legal compliance. The Town has also reviewed a number of other local government’s local laws.

The process has taken longer than anticipated due to the review being carried out “*in-house*” by the Town’s officers.

All local laws have now been reviewed and it is proposed to progressively submit these to Council for approval over the period April to June 2007 (to allow for an acceptable workload).

### **New Parking and Parking Facilities Local Law**

#### **Part 1 - Preliminary**

This part includes all the statutory requirements of citation, objective, commencement, repeal and application of the local law. The interpretation clause is expanded to include a more comprehensive list of definitions. The fees and charges clause prescribes the current process.

#### **Part 2 - Signs**

This is a new part which clarifies the use of existing and new signs and their general provisions.

#### **Part 3 - Parking Stalls and Parking Stations**

This part replaces part 5 of the previous local law. It prescribes conditions relating to parking stalls and parking stations, which were various clauses in the previous local law. This new part clearly specifies requirements and in a number of cases also is similar to the previous local law clauses.

#### **Part 4 - Parking Generally**

This part which replaces part 2 in the previous local law, includes new conditions and removes ambiguity which existed in the previous local law.

#### **Part 5 - Parking and Stopping**

This is a new part which replaces part 2 in the previous local law, clarifies clauses relating to parking and stopping.

#### **Part 6 - Ticket Issuing, Machines and Zones**

This part replaces part 4 in the previous local law. The clauses are similar to the previous local law.

#### **Part 7 - Residential Parking Permits**

This part replaces part 6 in the previous local law. The clauses are similar to the previous local law.

#### **Part 8 - Miscellaneous**

This part replaces part 7 in the former local law. The clauses are similar to the previous local law.

#### **Part 9 - Penalties**

This part refers to issue modified penalties for non-compliance and the form of notices. It should be noted that penalties have been reviewed and increased.

### **Review of Policies Relating to Parking and Parking Facilities**

#### **Policy Number 3.9.2 - Parking Enforcement and Review/Appeal of Infringement Notices**

At the Ordinary Meeting of Council held on 23 January 2007, the Council adopted a Policy relating to Parking Enforcement and Review/Appeal of Infringement Notices. The purpose of this new Policy was to clearly prescribe the Council's requirements for parking and to define procedures and processes for the Town's administration when reviewing requests to cancel or modify infringement notices.

A review of this new Policy has been carried out which reveals that it is working reasonably well and now provides for clear documentation and an audit paper trail when infringement notices are reviewed/cancelled/modified. However, the Town's Manager, Ranger Services and Community Safety has reported that the existing Policy is too restrictive and a number of valid reasons for review or cancellation of infringement notices (which were previously used by the Town's administration) need to be included into the Policy. These grounds include;

- (a) faulty Town of Vincent equipment (eg. Ticket machines) - where substantiated by a Town employee;
- (b) missing, obscured or inadequate signage - where substantiated by a Town employee; and
- (c) where a resident has been issued with or is entitled to be issued with a parking permit for the area in question - where the resident fails to display the relevant permit and provides evidence – leniency will be given for a first offence.

The Manager also recommends that "financial hardship" be deleted as a ground for appeal and "extenuating circumstances". Including but not limited to where a driver provides evidence of a circumstance, which would have identified his/her emotional state as a factor for non-compliance - in some cases this does include 'financial hardship'.

#### **Policy Number 3.9.8 - Residential and Visitor Parking Permits**

It is recommended this existing Policy be amended to clarify conditions for the issue and number of residential and visitor parking permits. The Policy introduces a Discretionary Clause for the Chief Executive Officer to vary the number of permits which may be issued, if circumstances are warranted. This discretionary provision was in the previous local law, but has been deleted - for inclusion into the Policy. These conditions have been deleted from the local law and are now included in this revised Policy.

### **CONSULTATION/ADVERTISING:**

The Town's intention to review its local laws was advertised on 10 August 2005 in The West Australian Newspaper and on 12 August 2005 in the Voice News and on the Town's website. Copies were also sent to Precinct Groups and a local public notice was displayed on the official Notice Board.

At the close of the six (6) week public consultation period on 5 October 2005, no submissions were received.

Statutory consultation for a six (6) week period will now be carried out. It is the practice for the Town's Policies to be advertised for twenty-one (21) days

**LEGAL/POLICY:**

Section 3.16 of the Local Government Act 1995 requires that all of the local laws of local governments must be reviewed within an eight (8) year period after their commencement to determine if they should remain unchanged, be repealed or amended. The Parking Local Law was gazetted in May 2000, however there have been numerous changes to legislation and codes since then. Also, the local law needs to be updated to reflect current practices.

The eight year period is taken to be from either when the local law commenced or when the last review of the local law was completed.

Procedure for Reviewing and Adopting a Local Law

- (1) The local government is to –
  - (a) give Statewide public notice that –
    - (i) the local government proposes to make a local law, the purpose and effect.
    - (ii) a copy of the proposed local law may be inspected or obtained;
    - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice (not less than 6 weeks).
  - (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister; and
  - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.
- (2) A notice is also to be published and exhibited as if it were a local public notice.
- (3) After the last day for submissions, the local government is to consider any submissions made and may make the local law \* as proposed or make a local law \* that is not significantly different from what was proposed.

*\* Absolute majority required.*
- (4) After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister.
- (5) After the local law has been published in the Gazette the local government is to give local public notice –
  - (a) stating the title of the local law;
  - (b) summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and
  - (c) advising that copies of the local law may be inspected or obtained from the local government's office.

### Policies

The Local Government Act 1995 does not allow local laws to make reference to local government policies. Any policies can only be used as a guide to applicants. They have no legal validity for the purposes of the local law. Policy Numbers 3.9.2 and 3.9.8 have been amended.

### NCP Public Benefit Test

The provisions relating to the administration of local government property are contained in the model local law produced by WALGA. This has been assessed for any public benefit test ramifications.

As this local law is widely used by the Town's administration and is the subject of considerable challenge in the Courts, the local law has also been reviewed and amended by the Town's Solicitors.

### **STRATEGIC IMPLICATIONS:**

The matter is in keeping with the Town's Strategic Plan 2006-2011 - Objective 4.12 "*Manage the organisation in a responsible, efficient and accountable manner*".

### **FINANCIAL/BUDGET IMPLICATIONS:**

The purchase of the WALGA Model Local Laws cost \$1,500.

The cost of advertisements to date was approximately \$2,000. Legal costs will be approximately \$2,000. Final advertising will be approximately \$500. An amount of \$5,000 has been included in the Budget for this project. The new local laws are required to be printed in the Government Gazette by the State Law Publisher which will cost approximately \$1,500. All other copying will be carried out in-house and will cost approximately \$500. (Employee costs have not been included.)

### **COMMENTS:**

Now that the statutory review has been completed, it is recommended that the Parking and Parking Facilities Local Law be advertised for public comment together with the amended Policies.

**10.4.3 Information Bulletin**

<b>Ward:</b>	-	<b>Date:</b>	20 June 2007
<b>Precinct:</b>	-	<b>File Ref:</b>	-
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	G van den Bok		
<b>Checked/Endorsed by:</b>	John Giorgi	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Information Bulletin dated 26 June 2007, as distributed with the Agenda, be received.*

**DETAILS:**

The items included in the Information Bulletin dated 26 June 2007 are as follows:

<b>ITEM</b>	<b>DESCRIPTION</b>
IB01	120 (Lot 1001) Claisebrook Road, East Perth – Proposed Removal of Operational Time Restrictions for Readymix Concrete Batching Plant – Letter from City of Perth.
IB02	Letter from State Administrative Tribunal regarding Matter No. DR378 of 2006 – Lommond Properties Pty Ltd v Town of Vincent (4 Hunter Street).
IB03	Letter from State Administrative Tribunal regarding 37-39 Money Street. Compilation error as page 12 was not attached in the original decision.
IB04	Letter from State Administrative Tribunal regarding Matter No. DR471 of 2006 – Hopkins & Anor v Town of Vincent (462 Beaufort Street).
IB05	Progress Report No. 4 – Review of Town of Vincent Town Planning Scheme No. 1 (All Precincts) PLA0140
IB06	Progress Report No. 1 - Heritage Assistance Fund (All Precincts) PLA0162
IB07	Letter from Department of Local Government and Regional Development regarding Local Government District Boundary Adjustment
IB08	Letter from Synergy regarding Streetlight Repairs Update
IB09	Letter from Hon John Kobelke regarding Hyde Park – Restoration of Ornamental Lakes and Surrounds
IB10	Minutes of the Hyde Park Lakes Restoration Working Group Meeting – 7 June 2007
IB11	Synergy Natural Power - Presentation to Forum held on 19 June 2007

**COUNCIL DECISION ITEM 10.4.3**

**Moved Cr Farrell, Seconded Cr Ker**

*That the recommendation be adopted*

**MOTION PUT & CARRIED (9-0)**

**11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil.

**12. REPRESENTATION ON STATUTORY AUTHORITIES AND PUBLIC BODIES**

**12.1 WALGA Nominations – WA Land Information System (WALIS) Council and Core Management Group; Control of Vehicles (Off-Road Areas) Act Advisory Committee; Caravan Parks & Camping Grounds Advisory Committee (2); Needle and Syringe Disposal Strategy Working Party; Municipal Waste Advisory Council (4)**

<b>Ward:</b>	-	<b>Date:</b>	18 June 2007
<b>Precinct:</b>	-	<b>File Ref:</b>	ORG0045
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	M McKahey		
<b>Checked/Endorsed by:</b>	John Giorgi	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That;*

- (i) \_\_\_\_\_ *be nominated as WALGA Metropolitan Member - WA Land Information System (WALIS) Council and Core Management Group;*
- (ii) \_\_\_\_\_ *be nominated as WALGA Deputy Member - Control of Vehicles (Off-Road Areas) Act Advisory Committee (Panel of 3 names) (Ministerial Approval) (Re-advertised);*
- (iii) \_\_\_\_\_ *and* \_\_\_\_\_ *be nominated as WALGA Deputy Members (2) - Caravan Parks & Camping Grounds Advisory Committee (Panel of 3 Names) (Ministerial Approval) (Re-advertised);*
- (iv) \_\_\_\_\_ *be nominated as WALGA Member - Needle and Syringe Disposal Strategy Working Party) (Serving Officer) (Re-Advertised);*
- (v) \_\_\_\_\_ *be nominated as Local Government Metropolitan Member - Municipal Waste Advisory Council (Serving Officers Total of (4));*
- (vi) \_\_\_\_\_ *be nominated as Local Government Metropolitan Member - Municipal Waste Advisory Council (Serving Officers Total of (4));*
- (vii) \_\_\_\_\_ *be nominated as Local Government Metropolitan Member - Municipal Waste Advisory Council (Serving Officers Total of (4));*
- (viii) \_\_\_\_\_ *be nominated as Local Government Metropolitan Member - Municipal Waste Advisory Council (Serving Officers Total of (4));*

**Moved Cr Farrell, Seconded Cr Ker**

*That no nominations be submitted.*

**MOTION PUT AND CARRIED (9-0)**

**DETAILS:**

Please see Appendix 12.1 for details.

**N.B.:**

**NOMINATIONS FOR (i) - (iv) CLOSE COB FRIDAY 13 JULY 2007**

**NOMINATIONS FOR (v) - (viii) CLOSE COB MONDAY 16 JULY 2007**

**13. URGENT BUSINESS**

Nil.

At 9.58pm Moved Cr Farrell, Seconded Cr Ker that the Council proceed behind closed doors to consider confidential items 14.1, 14.2 and 14.3

**CARRIED (9-0)**

There were no members of the public or journalists present.

**14. CONFIDENTIAL REPORTS (Behind Closed Doors)**

**14.1 CONFIDENTIAL REPORT - No. 46 (Lot 90 D/P: 2790) Edinboro Street, Mount Hawthorn – Partial Demolition of and Carport Additions to Existing Single House – State Administrative Tribunal Review Matter No. DR 194 of 2007**

<b>Ward:</b>	North	<b>Date:</b>	18 June 2007
<b>Precinct:</b>	Mount Hawthorn; P1	<b>File Ref:</b>	PRO3851; 5.2006.631.1
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	A Du, L Mach		
<b>Checked/Endorsed by:</b>	D Abel, J MacLean	<b>Amended by:</b>	-

***OFFICER RECOMMENDATION:***

*That the Council;*

- (i) *RECEIVES the report relating to No. 46 (Lot 90 D/P: 2970) Edinboro Street, Mount Hawthorn – Partial Demolition of and Carport Additions to Existing Single House - State Administrative Tribunal (SAT) Review Matter No. DR 194 of 2007;*
- (ii) *FILES and SERVES the following draft "without prejudice" conditions in response to the SAT Orders dated 13 June 2007:*
  - (a) *any new street/front wall, fence and gate between the Edinboro Street boundary and the main building, including along the side boundaries within this front setback area, shall comply with the following:*
    - (1) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
    - (2) *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;*

- (3) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*
  - (4) *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;*
  - (5) *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*
- (b) *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;*
  - (c) *the carport shall be one hundred (100) per cent open on all sides and at all times (open type gates/panels are permitted); and*
  - (d) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating:*
    - (1) *the provision of a minimum 1.5 metres by 1.5 metres truncation where the driveway meets the front boundary; and*
    - (2) *the provision of wheel stops setback 600 millimetres from the eastern end of the carport.*
- The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies; and*
- (iii) *ADVISES the Mount Hawthorn Precinct Group of the above review matter and that the full SAT hearing is to be held on 1 August 2007.*

---

**COUNCIL ITEM DECISION 14.1**

**Moved** Cr Farrell, **Seconded** Cr Ker

*That the recommendation be adopted*

**CARRIED (8-1)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Lake
Cr Chester	
Cr Doran-Wu	
Cr Farrell	
Cr Ker	
Cr Maier	
Cr Messina	
Cr Torre	

---

**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 advise the Council of the above review application.
- To comply with the requirements of the Town's Policy/Procedure for SAT.
- To file draft "without prejudice" conditions of approval in advance of the hearing concerning the Town's refusal of the above application.

<b>Landowner:</b>	J Riede
<b>Applicant:</b>	J Riede
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R30
<b>Existing Land Use:</b>	Single House
<b>Use Class:</b>	Single House
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	445 square metres
<b>Access to Right of Way</b>	East side, 5 metres wide, sealed, Town -owned

**BACKGROUND:**

26 April 2007                      The Town under delegated authority from the Council refused an application for proposed partial demolition of and carport additions to existing single house at the subject property 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; and*

*(ii) the non-compliance with the Town's Policies relating to Vehicular Access and Street Setbacks as the proposed carport is required to be accessible from the rear/eastern right of way, which is 5 metres wide, Town owned and sealed."*

24 May 2007                      Application lodged with the State Administrative Tribunal to review the Town's decision.

13 June 2007                      Directions Hearing held at the State Administrative Tribunal (SAT).

13 July 2007                      Final/Full Hearing to be held at SAT.

**DETAILS:**

The proposal involves partial demolition of and carport additions to existing single house.

**CONSULTATION/ADVERTISING:**

Not required.

**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.

**FINANCIAL/BUDGET IMPLICATIONS:**

Cost associated with the services of a consultant to represent the Town.

**COMMENTS:**

The SAT has advised that the draft conditions would be *"without prejudice"* and *"is not a concession by the decision-maker that approval of the application is appropriate"*. The SAT has introduced the above practice for the following two reasons:

- (1) Under Section 9 of the State Administrative Tribunal Act 2004 (WA), the objectives include *"to act as speedily and with as little formality and technicality as practicable, and minimise the costs to the parties"*.
- (2) The SAT needs to have a full appreciation of all conditions applicable prior to making a reliable decision.

In accordance with the Policy/Procedure for State Administrative Tribunal, the following is recommended:

- The Council receives the report;
- The Council "Files" and "Serves" the draft "without prejudice" conditions applicable to the above development if the above review is allowed by the SAT; and
- The Council advises the Mount Hawthorn Precinct Group of the above review matter and that the full SAT hearing is to be held on 13 July 2007.

**14.2 Confidential Report: Nos. 11 - 13 (Lots 37 & 36 D/P: 1210) Byron Street, Leederville - Proposed Construction of Four (4) Two (2) Storey Plus Loft Grouped Dwellings - State Administrative Tribunal - Review Matter No. DR 47 of 2007**

<b>Ward:</b>	North	<b>Date:</b>	19 June 2007
<b>Precinct:</b>	Leederville; P03	<b>File Ref:</b>	PRO1437; 5.2006.426.1
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	R Rasiah		
<b>Checked/Endorsed by:</b>	J MacLean	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That;*

(i) *RECEIVES the report relating to Nos. 11 - 13 (Lots 37 & 36 D/P: 1210) Byron Street, Leederville - Proposed Construction of Four (4) Two (2) Storey plus Loft Grouped Dwellings - State Administrative Tribunal - Review Matter No. DR 47 of 2007 -Final Hearing;*

(ii) *the Council, at its Ordinary Meeting held on 22 May 2007 (Confidential Item No.14.1), resolved that*

*"(ii) FILES and SERVES the following draft "without prejudice" conditions to the State Administrative Tribunal (SAT):*

(a) *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.*

(b) *any new street/front wall, fence and gate between the Byron Street boundary and the main building, including along the side boundaries within this front setback area, shall comply with the following:*

(1) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*

(2) *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;*

(3) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*

(4) *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*

(5) *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;*

- (c) *first obtaining the consent of the owners of Nos. 9 and 15 Byron 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. 9 and 15 Byron Street in a good and clean condition;*
- (d) *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); and*
- (e) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Byron Street verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (iii) *INVITES Councillor Maier to submit a written submission (witness statement) on behalf of the Town on the Review (appeal), which is to be determined by way of a "Final Hearing"; and*
- (iv) *INVITES the one (1) resident who objected to the proposal to submit a written submission (witness statement) on behalf of the Town on the Review (appeal), which is to be determined by way of a "Final Hearing"."*
- (iii) *Councillor .....MOVES a motion to REVOKE the decision as specified in Clause (ii) above;*
- (iv) *in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996 as referred to in Section 5.25(e) of the Local Government Act 1995, three Elected Members, namely Councillor ....., Councillor ..... and Councillor ....., being one third of the number of offices of members of the Council, SUPPORT this motion to revoke or change a Council decision;*
- (v) *in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996 as referred to Section 5.25(e) of the Local Government Act 1995, the Council RESOLVES BY AN ABSOLUTE MAJORITY to REVOKE the resolution adopted by the Council at its Ordinary Meeting held on held on 22 May 2007 (Confidential Item No.14.1), as shown below;*
- "(ii) *FILES and SERVES the following draft "without prejudice" conditions to the State Administrative Tribunal (SAT):*
- (a) *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.*

- (b) *any new street/front wall, fence and gate between the Byron Street boundary and the main building, including along the side boundaries within this front setback area, shall comply with the following:*
- (1) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
  - (2) *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;*
  - (3) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*
  - (4) *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*
  - (5) *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;*
- (c) *first obtaining the consent of the owners of Nos. 9 and 15 Byron 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. 9 and 15 Byron Street in a good and clean condition;*
- (d) *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); and*
- (e) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Byron Street verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (iii) *INVITES Councillor Maier to submit a written submission (witness statement) on behalf of the Town on the Review (appeal), which is to be determined by way of a "Final Hearing"; and*
- (iv) *INVITES the one (1) resident who objected to the proposal to submit a written submission (witness statement) on behalf of the Town on the Review (appeal), which is to be determined by way of a "Final Hearing".*

- (vi) *In accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council SUPPORTS as part of the State Administrative Tribunal Review Matter No. DR 47 of 2007 Proposed Construction of Four (4) Two (2) Storey plus Loft Grouped Dwellings at Nos. 11-13 (Lots 37 and 36) Byron Street, Leederville and as shown on plans stamp-dated 14 September 2006 (plans circulated separately), subject to the following conditions:*
- (a) *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.*
  - (b) *any new street/front wall, fence and gate between the Byron Street boundary and the main building, including along the side boundaries within this front setback area, shall comply with the following:*
    - (1) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
    - (2) *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;*
    - (3) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*
    - (4) *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*
    - (5) *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;*
  - (c) *first obtaining the consent of the owners of Nos. 9 and 15 Byron 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. 9 and 15 Byron Street in a good and clean condition;*
  - (d) *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); and*

- (e) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Byron Street verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s).*

---

**Moved Cr Farrell, Seconded Cr Torre**

*That the recommendation be adopted*

Debate ensued

Clause (iii) Cr Farrell moves a motion to revoke the decision as specified in clause (iii).

Clause (iv) Mayor Catania, Crs Farrell and Messina

The Presiding Member then put Clause (v)

Debate ensued

**CLAUSE (v) PUT AND CARRIED BY AN ABSOLUTE MAJORITY (6-3)**

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

**MOTION PUT & CARRIED BY AN ABSOLUTE MAJORITY (6-3)**

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

---

**COUNCIL ITEM DECISION 14.2**

*That;*

- (i) *RECEIVES the report relating to Nos. 11 - 13 (Lots 37 & 36 D/P: 1210) Byron Street, Leederville - Proposed Construction of Four (4) Two (2) Storey plus Loft Grouped Dwellings - State Administrative Tribunal - Review Matter No. DR 47 of 2007 -Final Hearing;*
- (ii) *the Council, at its Ordinary Meeting held on 22 May 2007 (Confidential Item No.14.1), resolved that*
- "(ii) *FILES and SERVES the following draft "without prejudice" conditions to the State Administrative Tribunal (SAT):*
- (a) *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.*

- (b) *any new street/front wall, fence and gate between the Byron Street boundary and the main building, including along the side boundaries within this front setback area, shall comply with the following:*
- (1) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
  - (2) *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;*
  - (3) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*
  - (4) *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*
  - (5) *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;*
- (c) *first obtaining the consent of the owners of Nos. 9 and 15 Byron 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. 9 and 15 Byron Street in a good and clean condition;*
- (d) *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); and*
- (e) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Byron Street verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (iii) *INVITES Councillor Maier to submit a written submission (witness statement) on behalf of the Town on the Review (appeal), which is to be determined by way of a "Final Hearing"; and*
- (iv) *INVITES the one (1) resident who objected to the proposal to submit a written submission (witness statement) on behalf of the Town on the Review (appeal), which is to be determined by way of a "Final Hearing".*

- (iii) *Councillor Farrell MOVES a motion to REVOKE the decision as specified in Clause (ii) above;*
- (iv) *in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996 as referred to in Section 5.25(e) of the Local Government Act 1995, three Elected Members, namely Mayor Catania, Councillor Farrell and Councillor Messian, being one third of the number of offices of members of the Council, SUPPORT this motion to revoke or change a Council decision;*
- (v) *in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996 as referred to Section 5.25(e) of the Local Government Act 1995, the Council RESOLVES BY AN ABSOLUTE MAJORITY to REVOKE the resolution adopted by the Council at its Ordinary Meeting held on held on 22 May 2007 (Confidential Item No.14.1), as shown below;*
- "(ii) *FILES and SERVES the following draft "without prejudice" conditions to the State Administrative Tribunal (SAT):*
- (a) *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.*
- (b) *any new street/front wall, fence and gate between the Byron Street boundary and the main building, including along the side boundaries within this front setback area, shall comply with the following:*
- (1) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
  - (2) *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;*
  - (3) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*
  - (4) *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*
  - (5) *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;*
- (c) *first obtaining the consent of the owners of Nos. 9 and 15 Byron 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. 9 and 15 Byron Street in a good and clean condition;*

- (d) *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); and*
- (e) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Byron Street verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (iii) *INVITES Councillor Maier to submit a written submission (witness statement) on behalf of the Town on the Review (appeal), which is to be determined by way of a "Final Hearing"; and*
- (iv) *INVITES the one (1) resident who objected to the proposal to submit a written submission (witness statement) on behalf of the Town on the Review (appeal), which is to be determined by way of a "Final Hearing".*
- (vi) *In accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council SUPPORTS as part of the State Administrative Tribunal Review Matter No. DR 47 of 2007 Proposed Construction of Four (4) Two (2) Storey plus Loft Grouped Dwellings at Nos. 11-13 (Lots 37 and 36) Byron Street, Leederville and as shown on plans stamp-dated 14 September 2006 (plans circulated separately), subject to the following conditions:*
- (a) *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.*
- (b) *any new street/front wall, fence and gate between the Byron Street boundary and the main building, including along the side boundaries within this front setback area, shall comply with the following:*
- (1) *the maximum height of posts and piers being 1.8 metres above the adjacent footpath level;*
- (2) *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;*
- (3) *the maximum width, depth and diameter of posts and piers being 350 millimetres;*
- (4) *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*

- (5) *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;*
- (c) *first obtaining the consent of the owners of Nos. 9 and 15 Byron 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. 9 and 15 Byron Street in a good and clean condition;*
- (d) *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); and*
- (e) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Byron Street verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s).*

---

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

**PURPOSE OF REPORT:**

The purpose of this report is for Council to reconsider its decision regarding the above subject development submitted as part of the application to the State administrative Tribunal (SAT) relating to Review Matter No. DR 47 of 2007.

<b>Landowner:</b>	V & H Evangel
<b>Applicant:</b>	Anthony Michael
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R30
<b>Existing Land Use:</b>	Two (2) Single Houses
<b>Use Class:</b>	Grouped Dwelling
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	1214 square metres
<b>Access to Right of Way</b>	N/A

**BACKGROUND:**

19 December 2006      The Council at its Ordinary Meeting conditionally approved the demolition of two (2) existing single houses, but refused the construction of the proposed four (4) two (2) storey plus loft grouped dwellings, plans stamp dated 14 September 2006 at Nos. 11-13 (Lots 37 and 36) Byron Street, Leederville for the following reasons:

- "(a) *the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*

- (b) *the non-compliance with the crossover requirements of the Town's Policy relating to 'Vehicular Access'; and*
- (c) *the non-compliance with the street setback requirements for established streetscapes as per the Town's Policy 3.2.4 relating to Street Setbacks."*
- 8 February 2007      The applicant lodged a review application with SAT in relation the above planning refusal.
- 7 March 2007      Direction Hearing at SAT.
- 3 April 2007      Further Directions Hearing at SAT.
- 22 May 2007      Council considered a confidential report regarding draft "without prejudice" conditions for SAT.
- 14 August 2007      Final Hearing schedule at SAT, should the above matter be unresolved.

**Nos. 8-10 Byron Street, Leederville-SAT decision.**

The Council at its Ordinary Meeting held on 22 August 2006 conditionally approved an application for demolition of existing single house and construction of four (4) two-storey grouped dwellings, at Nos. 8 - 10 (Lots 46 & 47) Byron Street, Leederville, which is opposite the above subject sites subject to one of the conditions of approval (viii) (b) which states as follows:

*"(viii) (b) the garages for Units 1 and 2 being located behind the main building, and vehicular access to all four (4) dwellings being from a single shared driveway; and".*

The above condition was subject to a Review (appeal) application lodged with the SAT, DR 312 of 2006, which was upheld (review allowed) and the above mentioned condition (viii) (b) being deleted by SAT on 22 May 2007. The plans approved by the Tribunal stamp dated 31 October 2006 are circulated separately. The reasons given by SAT in the above review matter are as follows (circulated separately):

*"Para 72-In respect of the proposed development, the Tribunal has formed the view that the respondent has placed too narrow an interpretation on the policies. This is not a street with an existing right of way servicing lots. It is also not a street where individual houses are of sufficient heritage value that redevelopment potential can be disregarded. Some developments utilising more than one lot might result in an internal common access; others, where a single existing lot is involved, will not. Investigation has revealed that redevelopment of lots that have vehicle access from the primary street, via a crossover and a driveway will not be out of character with the street. There is an argument that double garage doors have little aesthetics appeal, but for contemporary accommodation, the Codes set standards for garage doors and the proposed development is consistent with those standards.*

*Para 73. In weighing this matter, the Tribunal was conscious that the respondent would clearly prefer different access and parking arrangements for the development and was able to identify policy provisions to support this preference. The policies also allow, however, that regard be had to the particular location. In considering the issues, the Tribunal concluded that the development proposed would not have an impact on the existing streetscape and would warrant the imposition of condition viii (b) and thereby the refusal of the application.*

*Para 74. The Tribunal has therefore concluded that the application for review can be allowed and condition viii (b) deleted from the schedule of conditions imposed by the respondent."*

**DETAILS:**

The review application pertains to the development proposal for the four (4) two (2) storey plus loft grouped dwellings refused at the Ordinary Meeting of Council held on 19 December 2006, as the proposed demolition of two (2) singles houses has been conditionally approved by the Council at its Ordinary Meeting held on 19 December 2006. The applicant is being represented by one of the owners. The review process is to be determined by way of a "Final Hearing", should the matter be unresolved.

Details of the applicant's submission to SAT is circulated separately.

Below is a verbatim of the Assessment Table as considered at the Ordinary Meeting of Council held on 19 December 2006.

**"ASSESSMENT:**

*Note: The following Assessment Table was corrected and distributed prior to the meeting. Changes are indicated by strikethrough, italic font and underline*

<i>Non-Compliant Requirements</i>			
<i>Requirements</i>	<i>Required</i>	<i>Proposed *</i>	<i>Officer Comments Pursuant to Clause 38(5) of TPS 1</i>
<i>Density</i>	<i>4 dwellings R30</i>	<i>4 dwellings R30</i>	<i>Noted - no variation.</i>
<i>Plot Ratio</i>	<i>N/A</i>	<i>N/A</i>	<i>Noted.</i>
<i>Setbacks: Ground Floor- South Unit 3</i>	<i>1.5 metres</i>	<i>1.02 metres - 1.52 metres</i>	<i>Supported - not considered to have an undue impact on affected neighbouring property.</i>
<i>North Unit 4</i>	<i>1.5 metres</i>	<i>1.02 metres - 1.52 metres</i>	<i>Supported - as above.</i>
<i>Upper Floor- East (Street Setback) Unit 1 Balcony</i>	<i>6 metres</i>	<i>5.011 metres to Balcony</i>	<i>Supported - not considered to have an undue impact on the streetscape or surrounding amenity.</i>
<i>Unit 2 Balcony</i>	<i>6 metres</i>	<i>5.039 metres</i>	<i>Supported - not considered to have an undue impact on the streetscape or surrounding amenity.</i>

South Unit 1	3.9 metres	1.52 metres - 2.1 metres	Supported - not considered to have an undue impact on affected neighbouring property. Supported - as above.
Unit 3	4.2 metres	1.52 metres - 2.02 metres	
West Units 4 and 3	5.5 metres	4.686 metres - 4.724 metres - 6 metres	Supported - as above.
North Unit 4	3.9 metres	1.52 metres - 2.02 metres	Supported - as above.
Unit 2	4.2 metres	1.52 metres - 2.1 metres	Supported - as above.
Loft- South Unit 1	3.3 metres	3 metres – 4.5 metres	Supported - as above.
North Unit 2	3.5 metres	3 metres – 4.5 metres	Supported - as above.
Building on Boundary	Walls not higher than 3.5 metres with average of 3 metres for 2/3 the length of the balance of the boundary behind the front setback, to one side boundary.	Two boundary walls (north and south boundary walls are compliant in terms of height and length).	Supported - boundary walls are compliant with the R Codes in terms of height and length and are not considered to have an undue impact on affected neighbouring properties.
Building Height: <u>Wall Height-</u> West -Rear Elevation	6 metres	5.9 metres - 6.3 metres	Supported - the gable wall is setback 6 metres from the western property boundary and is therefore not considered to have an undue impact on affected neighbouring property.
<u>Roof Pitch</u> <u>Height-</u> West <u>Unit 3</u>	<u>9 metres</u>	<u>9.179 metres</u>	<u>Supported - variation is considered minor, is the result of a sloping site, is setback 6 metres from the western property boundary and is therefore not considered to have an undue impact on affected neighbouring property.</u>

<u>South Unit 3</u>	<u>9 metres</u>	<u>9.179 metres</u>	<u>Supported - variation is considered minor, is the result of a sloping site and is not considered to have an undue impact on affected neighbouring property.</u>
<i>Essential Facilities: Stores Unit 3</i>	<i>Minimum dimension of 1.5 metres</i>	<i>1 metre by 6.35 metres</i>	<i>Supported - the proposed store size is considered adequate for the needs of the occupant/owner and would not detract from the amenity of the locality.</i>
<i>Unit 4</i>	<i>As above.</i>	<i>As above.</i>	<i>Supported - as above.</i>
<i>Vehicular Access</i>	<i>Not more than one crossover to any one property with a frontage less than 25 metres.</i>	<i>Three crossovers</i>	<i>Not supported - refer to 'Comments'.</i>
<i>Consultation Submissions</i>			
<i>Support</i>	<i>Nil</i>	<i>Noted</i>	
<i>Objection (1)</i>	<ul style="list-style-type: none"> <li>• <i>Objects to the proposal.</i></li> </ul>		<i>Supported in part - the above variations are generally supported except for vehicle access. Please refer to 'Comments'.</i>
<i>Other Implications</i>			
<i>Legal/Policy</i>		<i>TPS 1 and associated Policies, and Residential Design Codes (R Codes).</i>	
<i>Strategic Implications</i>		<i>Nil</i>	
<i>Financial/Budget Implications</i>		<i>Nil</i>	

\* 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."

**CONSULTATION/ADVERTISING:**

Not required.

**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.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil, as all current representations at the SAT have been attended by the Town's Officers.

**COMMENTS:**

**Cost**

It is also to be noted that under Clause 87 of State Administrative Tribunal Act 2004 (WA) - (separately circulated), that the Tribunal has powers of awarding cost to a party to the review, should the party /representative have acted in, or delayed, the proceedings in a way that resulted in unnecessary cost being incurred. In most cases, individual cost is borne by each respective party.

The above proposal at Nos. 11-13 Byron Street, Leederville is similar in terms of the number of crossovers proposed and street setbacks of the dwellings, where the Tribunal had recently upheld a review DR 312 of 2006 for Nos. 8-10 Byron Street, Leederville.

Mr Simon Bain who represented the Town in review DR 312 of 2006 for Nos. 8-10 Byron Street, Leederville has also advised the Town's Officers that the Town will find it difficult to defend the above review DR 47 of 2007 successfully, in light of the Tribunal's decision for Nos. 8-10 Byron Street, Leederville, which is similar in context.

Based on the Tribunal's decision of approving the 3 crossovers and the street setback for Nos. 8-10 Byron Street, Leederville, it is the Town's Officers view that the Town is unlikely to succeed in defending this review matter pertaining to Nos. 11-13 Byron Street, Leederville.

On the above basis, the following is recommended:

- In light of the above considerations, the development proposal for Nos.11-13 Byron Street, Leederville is considered supportable, subject to standard and appropriate conditions similar to the draft "without prejudice" conditions imposed by Council at its Ordinary Meeting held on 22 May 2007 (Confidential Item 14.1)

**14.3 CONFIDENTIAL REPORT: Proposed "Taking" of Portion of, No. 3 (Lot 16) Moir Street, Perth**

<b>Ward:</b>	South	<b>Date:</b>	13 June 2007
<b>Precinct:</b>	Hyde Park Precinct (P12)	<b>File Ref:</b>	PRO0788
<b>Attachments:</b>			
<b>Reporting Officer(s):</b>	R Lotznicker; A Munyard		
<b>Checked/Endorsed by:</b>		<b>Amended by:</b>	

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVE the report on the proposed "taking" of portion of No. 3 (Lot 16) Moir Street;*
- (ii) *APPROVES the initiation of the taking of portion of Lot 16 Moir Street Perth and incorporating the land into the road reserve;*
- (iii) *APPROVES BY AN ABSOLUTE MAJORITY payment of the sum of up to \$5,000 compensation to the owner of Lot 16 to be reallocated from the 2007/2008 Footpath Maintenance Budget allocation; and*
- (iv) *ADVISES the owner's consultant of the it's decision.*

---

**COUNCIL ITEM DECISION 14.3**

**Moved Cr Farrell, Seconded Cr Ker**

*That the recommendation be adopted*

Debate ensued

**MOTION PUT AND CARRIED BY AN ABSOLUTE MAJORITY (8-1)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Messina
Cr Chester	
Cr Doran-Wu	
Cr Lake	
Cr Farrell	
Cr Maier	
Cr Ker	
Cr Torre	

At 10.05pm it was **Moved Cr Ker, Seconded Cr Torre** that the Council resume and open meeting.

**MOTION PUT AND CARRIED (9-0)**

**PURPOSE OF REPORT:**

The purpose of this report is to inform the Council of the request received from the owner of No. 3 (Lot 16) Moir Street, that portion of his lot currently extending into the carriageway and footpath in Moir Street be formally acquired by the Town and to seek the Council's approval of the commencement of the "taking" of the land and the payment of compensation to the owner.

**BACKGROUND:**

Lot 16 (No. 3) Moir Street was originally a corner shop, with the entrance opening out to the intersection of Forbes and Moir Streets. There was a large (30 square metres) triangular portion of Lot 16 in front of the doorway which has been informally incorporated into the road reserve, the majority of it used as footpath.

The former corner shop is now used as a residence, and the owner would like to reclaim this triangular piece of his lot, so that he can fence it and develop it into a courtyard.

**DETAILS:**

The owner's consultant has written to the Town, asking that a formal "taking" process be initiated for only that portion of the lot necessary to maintain safe pedestrian access, and that compensation be paid to the owner. The owner has provided a plan indicating what portion of the land he wishes to retain and this is attached to this report.

"Taking" is a process formerly known as resumption. Section 161 of the Land Administration Act empowers a number of government entities to "take" land for a public work (in this case, road reserve)

*161. Interest in land may be taken for a public work*

*(1) Whenever the Crown, the Governor, the Government, any Minister of the Crown, any State instrumentality or any local government is authorised, by this Act, the Public Works Act 1902 or any other Act, to undertake, construct or provide any public work, and the use of any land or any interest in land is required for the purposes of the work, then, unless otherwise specially provided-*

*(a) any interest in land held by a person other than the Crown may be taken;*

Once "taken" the land would revert to the ownership of the Crown, would be incorporated into the road reserve, and its care and control vested in the Town.

The Town's Officers are satisfied with the owner's proposal, and have sought a valuation for the purpose of compensation. The Town has been provided with a comprehensive valuation which includes a valuation certificate for the sum of \$5,000 for the five (5) square metres that would be required to maintain an adequate footpath. It is therefore recommended that the Town write to the owner's consultant advising him that it will proceed with the "taking" of the five (5) square metres and is prepared to pay compensation of the sum of up to \$5,000.

The Town has also been requested to remove the concrete within the portion of land to be reclaimed by the owner and will carry out this work once the taking is completed.

Note: The taking process could take up to 6 (six) months to be completed.

### **CONSULTATION/ADVERTISING:**

The proposed taking is in response to the request of the property owner and therefore no further consultation is necessary prior to Council considering the proposal. There is a statutory requirement to consult with the suppliers of public utilities as part of the process.

### **LEGAL/POLICY:**

The Town's Officers previously received legal advice on an identical matter on whether the Town could acquire the land without compensation of payment and the advice was that an adverse possession claim would be very likely to fail. If the owner of the land was not co-operative the Town could run up a legal bill larger than the compensation offer. Further more it was considered more diplomatic for the Town to acquire the land in a way where the owner is compensated.

The Town's Officers have chosen the "taking" option rather than the "purchasing" option as the land must revert to "Crown" ownership rather than Town ownership to enable it to be amalgamated into the adjoining road reserve. A sworn valuation has been obtained and will form the basis of either the purchase price or the compensation amount.

The property owner and his agent understand that this is the way the Town is proposing to progress this matter however the valuation amount has not been revealed the owner/agent. Action to resolve the situation is required as the owner has requested that the ownership be formalised to enable area not required by the Town to be developed.

The process is enabled pursuant to Sections 52 and 161 of the Land Administration Act.

### **STRATEGIC IMPLICATIONS:**

In accordance with Key Result Area One of Strategic Plan 2005-2010 – 1.4 Maintain and enhance the Town's Infrastructure to provide a Safe, Healthy, Sustainable and Functional Environment. *"a) Continue to develop and implement annual road and footpath upgrade programs."*

### **FINANCIAL/BUDGET IMPLICATIONS:**

Costs are estimated to be approximately \$6,500. This includes \$5,000 for compensation to the owner, approximately \$500 for the removal of the encroaching footpath and fees for the lodgement of documents at Landgate.

It is suggested that the funds for the taking be sourced from the footpath maintenance budget allocation and the Public Works Overheads Consultants budget.

### **COMMENTS:**

The owner of the land would like this matter resolved and wishes to develop his property to its full potential. The Town's Technical Services Section can see no reason that the Town requires the entire area currently given over to the provision of a footpath. It is considered fair come to agreement with the owner and compensate him for that portion that is necessary to retain.

**15. CLOSURE**

**The Presiding Member, Mayor Nick Catania JP, declared the meeting closed at 10.05pm with the following persons present:**

Cr Simon Chester	North Ward
Cr Helen Doran-Wu	North Ward
Cr Steed Farrell ( <i>Deputy Mayor</i> )	North Ward
Cr Ian Ker	South Ward
Cr Sally Lake	South Ward
Cr Dudley Maier	North Ward
Cr Maddalena Torre	South Ward
Cr Izzi Messina	South Ward
John Giorgi, JP	Chief Executive Officer
Jim MacLean	Acting Executive Manager, Environmental and Development Services
Mike Rootsey	Executive Manager, Corporate Services
Rick Lotznicker	Executive Manager, Technical Services
Rasaratnam Rasiah	Acting Manager, Planning, Building and Heritage Services

These Minutes were confirmed by the Council as a true and accurate record of the Ordinary Meeting of the Council held on 26 June 2007.

Signed: .....Presiding Member  
Mayor Nick Catania, JP

Dated this ..... day of ..... 2007