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**(27 April 2004)**

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  - (iii) WALGA Metropolitan Member - Control of Vehicles (Off Road Areas) Act Advisory Committee (Panel of 4 Names), (Approval by Minister)
  - (iv) WALGA Metropolitan Deputy Member - Control of Vehicles (Off Road Areas) Act Advisory Committee (Panel of 4 Names), (Approval by Minister)
  - (v) WALGA Member - Air Quality Coordinating Committee (2 Members)
  - (vi) WALGA Metropolitan Member - Library Board of WA (Panel of 3 Names), (Ministerial Approval)
  - (vii) WALGA Member - High and Wide Loads (HWL) Steering Committee (1 Member)
  - (viii) WALGA Member - HAZMAT Coordinating Committee (Hazardous Materials), (1 Member)
  - (ix) WALGA Member - WA Local Government Superannuation Board (Officer Position)

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Minutes of the Ordinary Meeting of Council of the Town of Vincent held at the Administration and Civic Centre, 244 Vincent Street, Leederville, on Tuesday 27 April 2004, commencing at 6.00pm.

**1. DECLARATION OF OPENING**

The Presiding Member, Mayor Nick Catania JP, declared the meeting open at 6.01pm.

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

**(a) Apologies:**

Nil.

**(b) Present:**

Mayor Nick Catania, JP	Presiding Member
Cr Simon Chester	North Ward
Cr Caroline Cohen	South Ward
Cr Helen Doran-Wu	North Ward
Cr Steed Farrell	North Ward
Cr Basil Franchina	North Ward (until 8.55pm)
Cr Ian Ker (Deputy Mayor)	South Ward
Cr Sally Lake	South Ward
Cr Maddalena Torre	South Ward
John Giorgi, JP	Chief Executive Officer
Rob Boardman	Executive Manager, Environmental & Development Services
Mike Rootsey	Executive Manager, Corporate Services
Rick Lotznicher	Executive Manager, Technical Services
Nadine Wellington	Executive Secretary (Acting Minutes Secretary)
Matt Zis	Journalist – Guardian (until 8.55pm)
Mark Fletcher	Journalist – Voice News (until 8.55pm)

Approximately 34 Members of the Public

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

Nil.

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

**Mayor Nick Catania advised that Item 10.1.22 had been withdrawn by the CEO for further information and that Item 10.4.5 would be considered behind closed doors.**

1. Mr Colin Ashton-Graham of 30 Woodville Street, North Perth – Item 10.1.9. Advised that the local residents had made a joint submission on the matter and they supported the proposal as it respects the precinct policies and the design is fundamentally approved on the previous applications. Believes Council should accept the minor non-compliances. Advised that the right of way will need to be gazetted. Thanked the Councillors for giving so much time to the site over the past two years and commended TRG Properties for having an open and honest approach. Expressed his disappointment at the Officers for supporting previous proposals.

2. M/s Tanya Trevison of 4 Tripfield Court, Mosman Park – Item 10.1.9. Advised that TRG Properties are not affiliated with Cape Bouvard and they are owners of the aforementioned site. TRG Properties have worked hard to incorporate the local and statutory requirements and to try and address the concerns of the local residents. Requested Council to support the Officer Recommendation.
3. M/s Jenny Martin, Proprietor of Jenny Martin Real Estate, 314 Vincent Street, Leederville – Item 10.1.4. It has been her intention for a number of years to move her business into Leederville. Stated the sign company lead her to believe the current illuminated wall sign had Council approval however she discovered it did not when making application for the second sign. Asked Elected Members to support the Officer application as both signs complied with Council policy.
4. Mr Barry Tonkin of 5/115 Peninsula Road, Maylands – Item 10.1.3. Referred to his tabled submission as circulated separately to Elected Members in support of his application for the proposed two-storey dwelling and retaining walls at No. 36 Joel Terrace, East Perth. Advised the lot is constrained by its location and is accessed by a 3 metre driveway with a 1.5 metre truncation.
5. Mr Gary Stilwell of 30 Joel Terrace, East Perth – Item 10.1.3. Objected to the application due to the bulk, scale, height and privacy concerns of the development and believes it will have a detrimental impact on his amenity. Believes the development does not fit into the character of the established area. Requested Council refuse the application due to the level of non-compliance issues. Welcomed Councillors to meet him on-site to discuss the application.
6. Mr Glen Bersan of 39 Farmer Street, North Perth – Item 10.1.4 considered at the Ordinary Meeting of Council held on 13 April 2004. Stated he believes Council failed to read the report and the advice of the Town's Officers. Advised the building had been there for over 12 years not 12 months. Referred to photographs of similar parapet walls within 300 metres of his premises. Believes that action by Council to demolish will serve no benefit to any party.
7. Mr Ian Higgins of 38 Bondi Street, Mount Hawthorn – Item 10.1.7. Advised he does not support the proposed carport at a reduced setback of 0.5 metres as it will affect the amenity of his property.
8. Mr Terry Baker of 302 West Coast Highway, Scarborough – Item 10.1.15. Advised that they have owned the hotel since August 1987 and have spent a considerable amount of money to upgrade in 1990 and 1999. Despite the refurbishment and the creation of a new restaurant, the hotel was never viable. Requested support to demolish the Hotel due to anti-social behaviour at the premises and it being used by squatters. Security Officers have been employed to make regular patrols but graffiti and vandalism continue. Advised that they are unable to insure the premises or obtain a public risk policy. The building also contains asbestos and is not suitable for alternate use.

9. Mr Don Morrison of 60 Raglan Road, Mt Lawley – Item 10.1.17. Advised this is the third time the application had been submitted. Council gave conditional approval on 4 November 2003. The application has been re-submitted due to confusion by the Planning Department as to what constituted the rear easement of the property and an adjacent freehold title. Access by this carriageway is vital in order for the parking requirements to be met. All necessary statutory requirements have been met. Advised this has been an extremely protracted and costly process. Thanked Officers, Rasa Rasiah, Verity Lee and Des Abel for their help and assistance. Believes the endorsement of the application will further enhance and complement the amenity of this area.
10. Mr Mark Dowling of 61 Buxton Street, Mount Hawthorn – Item 10.1.1. Advised that he is willing to comply with the requirements of the Building Code of Australia and will amend his plans to show a 0.5 metre setback.
11. Mr Bruno Fazio of 28A Burt Street, Mount Lawley – Item 10.1.6. Asked Councillors to support the Officer Recommendation. Advised that they want to maximize the usable space and build to 0.5 metre on both boundaries. Despite a few minor objections the Officer has recommended approval.

There being no further questions from the public, the Presiding Member closed Public Question Time at 6.27 pm.

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

Nil.

**4. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil.

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

Nil.

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

**6.1 Ordinary Meeting of Council held on 13 April 2004.**

**Moved Cr Lake, Seconded Cr Ker**

*That the Minutes of the Ordinary Meeting of Council held on 13 April 2004 be confirmed as a true and correct record subject to Cr Lake being shown as voting against clause (ii) in Item 10.1.18.*

**CARRIED (9-0)**

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

- 7.1 As members of the public will know, the Council recognises its employees by giving a monthly award for outstanding service to the Ratepayers and Residents of the Town. The recipients receive a \$75 voucher and a Certificate. Also their photograph is displayed in the Administration Centre Foyer, in the Library and at Beatty Park Leisure Centre.

For APRIL 2004, the award is presented to DES ABEL, Manager Planning and Building Services.

Des was nominated by the Chief Executive Officer, John Giorgi, who states as follows.

Des has been employed with the Town since November 1997 and is an integral part of the organisation. His position is hectic and very busy and necessitates Des working long hours, which he has willingly done. Des has received a number of commendations for his work from members of the public and his Planning Institute peers, for his conscientious work and dedication.

Des has acted in the position of Executive Manager Environmental & Development Services on several occasions and has consistently performed his duties to a high standard.

Over the years, Des has made a significant contribution to the Town, both operationally and strategically. Des is an asset to the Town and a highly valued employee.

Well done Des - Keep up the good work!!

- 7.2 The Town's Anzac Day Ceremony held on Sunday 25 April 2004 was a wonderful event attended by many residents.

**8. DECLARATION OF INTERESTS**

- 8.1 Mayor Catania declared a Proximity Interest in Item 10.1.9 – Nos. 485-495 Fitzgerald Street, Leederville. The nature of his interest being that a Family Trust owns property adjacent to the development.
- 8.2 Cr Franchina declared a Proximity Interest in Item 10.4.5 – Members Equity Stadium. The nature of his interest being that his daughter owns property in close proximity.
- 8.3 Cr Lake declared an Impartiality Interest in Item 10.1.17 – No. 484 Beaufort Street, Highgate. The nature of her interest being that her partner had made a submission about this matter on a previous occasion.

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

Nil.

## 10. REPORTS

The Agenda Items were categorised as follows:

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

Items 10.1.9, 10.1.4, 10.1.3, 10.1.7, 10.1.15, 10.1.17, 10.1.1 and 10.1.6.

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

Items 10.1.2, 10.3.3, 10.4.2.

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

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

Cr Ker	Items 10.1.2, 10.1.19.
Cr Lake	Items 10.1.13, 10.1.16, 10.1.20, 10.4.3, 10.4.6.
Cr Chester	Items 10.1.5, 10.1.8, 10.2.2, 10.3.3, 10.4.2, 10.4.5.
Cr Torre	Nil.
Cr Doran-Wu	Nil.
Cr Farrell	Nil.
Cr Cohen	Nil.
Cr Franchina	Nil.
Mayor Catania	Nil.

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

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

Items 10.1.9 and 10.4.5.

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

Items 10.1.10, 10.1.11, 10.1.12, 10.1.14, 10.1.18, 10.1.21, 10.2.1, 10.2.3, 10.2.4, 10.2.5, 10.3.1, 10.3.2, 10.4.4.

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

Item 10.4.5.

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 10.1.10, 10.1.11, 10.1.12, 10.1.14, 10.1.18, 10.1.21, 10.2.1, 10.2.3, 10.2.4, 10.2.5, 10.3.1, 10.3.2, 10.4.4.

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

Items 10.1.9, 10.1.4, 10.1.3, 10.1.7, 10.1.15, 10.1.17, 10.1.1 and 10.1.6.

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

**Moved Cr Ker, Seconded Cr Torre**

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

*Items 10.1.10, 10.1.11, 10.1.12, 10.1.14, 10.1.18, 10.1.21, 10.2.1, 10.2.3, 10.2.4, 10.2.5, 10.3.1, 10.3.2, 10.4.4.*

**CARRIED (9-0)**

**10.1.10 No. 56 (Lot 2) Britannia Road, Mount Hawthorn- Partial Demolition of and Alterations and Two-Storey Additions to Existing Single House**

Ward:	North	Date:	14 April 2004
Precinct:	Mount Hawthorn, P1	File Ref:	PRO2740; 00/33/2128
Attachments:	<a href="#">001</a>		
Reporting Officer(s):	J Barton		
Checked/Endorsed by:	D Abel	Amended by:	-

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by J Vincent on behalf of the landowner A M Morrison for the proposed partial demolition of and alterations and two-storey additions to existing single house at No. 56 (Lot 2) Britannia Road, Mount Hawthorn, and as shown on the plans stamp-dated 8 March 2004, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to Britannia Road shall be a maximum height of 1.2 metres above the adjacent footpath level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (iii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iv) a road and verge security bond or bank guarantee of \$550 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*
- (v) the study windows on the first floor on the northern and western elevations shall be screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be a major opening as defined in the Residential Design Codes 2002; and*

*to the satisfaction of the Chief Executive Officer;*

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**COUNCIL DECISION ITEM 10.1.10**

**Moved Cr Ker, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED (9-0)**

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**LANDOWNER:** A M Morrison  
**APPLICANT:** J Vincent  
**ZONING:** Metropolitan Region Scheme: Urban  
Town Planning Scheme No.1: Residential R30  
**EXISTING LAND USE:** Single House

**COMPLIANCE:**

<b>Requirements</b>	<b>Required</b>	<b>Proposed</b>
Cone of Vision Encroachment: Study-Northern Side	6 metres	4.5 metres
Setbacks Front- Southern Side	6 metres	2.7 metres to 3.2 metres
Plot Ratio	N/A	N/A
Density	N/A	N/A

Use Class	Single House
Use Classification	"P"
Lot Area	279 square metres

**DETAILS:**

The proposal is for partial demolition, alterations and a two-storey addition to the existing single house.

The applicant has submitted the attached letter of justification in support of the proposed front setback variation.

**CONSULTATION/ADVERTISING:**

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

No submissions were received during the advertising period.

**LEGAL/POLICY:**

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

**STRATEGIC IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

**Setbacks**

The Town's Anzac Residential Locality Statement requires a 6 metre setback to the upper floor, from the primary street, in order to avoid 'boxy' style developments, which do not provide any interest when viewed from the street.

Notwithstanding the above, the subject land has resulted from the subdivision of an original corner lot, and as such the Town can consider variations to the 6 metre setback requirement to the upper floor. Although the applicants are proposing a significant setback variation to 2.7 metres and 3.2 metres, and there are no other examples in the immediate street of reduced setbacks to the upper floor, the subject land is not a vacant site, so there is little scope for the applicant to comply with the Town's requirements on a block with a width of only 16.3 metres, and there is no scope to extend on the ground floor due to the R-Codes open space requirements.

Furthermore, the addition is considered minor, and it includes architectural features (i.e. gable and three windows) and the building is slightly staggered, all of which provide interest and reduce the visual impact, when viewed from the street. Also, the gable roof and the top of the roof on the adjoining dwelling to the east almost sits in-line with the proposed two-storey addition.

Given the above, the proposal is not considered to create an undue impact on the amenity of area.

**Privacy**

The study window along the northern elevation on the upper floor overlooks the property at the rear. In order to protect the privacy of the landowners at the rear, a standard screening condition has been recommended.

Additionally, the window to the study on the western elevation appears to be less than 1.6 metres from the finished floor level of the second storey. In order to ensure that this window is a highlight window to 1.6 metres from the finished floor level, a standard privacy condition has also been applied to this window.

**Conclusion**

Given the above, and in light of recent Council decisions to approve variations to the front setbacks to the upper floor for corner sites (for example No. 48 Monmouth Street), and given the absence of objections to the proposal, the proposed development is not considered to create an undue impact on the amenity of the area, or the street, and conditional approval is recommended.

**10.1.11 No. 485 (Lot 50) Charles Street, North Perth – Proposed Demolition of Existing Single House and Outbuilding and Construction of Two (2) - 2 Storey Single Houses**

<b>Ward:</b>	North	<b>Date:</b>	26 April 2004
<b>Precinct:</b>	North Perth, P8	<b>File Ref:</b>	PRO 2665; 00/33/2028
<b>Attachments:</b>	<a href="#">001 002</a>		
<b>Reporting Officer(s):</b>	M Bonini, N Edgecombe		
<b>Checked/Endorsed by:</b>	D Abel	<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 RECOMMENDS APPROVAL to the Western Australian Planning Commission for the application submitted by A Markovic on behalf of the owners Markovic Developments Pty Ltd for proposed demolition of existing single house and outbuilding and construction of two (2)-2 storey single houses on No. 485 (Lot 50) Charles Street, North Perth, and as shown plans stamp-dated 25 March 2004, subject to:*

- (i) compliance with all Building, Environmental Health and Engineering requirements;*
- (ii) a road and verge security bond or bank guarantee of \$550 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*
- (iii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iv) the construction of crossovers shall be in accordance with the Town's specifications and are to be perpendicular to Charles Street and referred to Main Roads Western Australia;*
- (v) prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (vi) 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 with all cost associated the removal and replacement shall be borne by the applicant/owner(s);*

- (vii) *to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development the windows to the master suite and retreat on the northern elevation of unit 2 and southern elevation of unit 1 on the first floor, shall be screened with a permanent obscure material and be non openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. 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;*
- (viii) *a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Charles 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);*
- (ix) *subject to first obtaining the consent of the owners of No. 483 Charles Street and No.487 Charles Street for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing No. 483 Charles Street and No.487 Charles Street in a good and clean condition;*
- (x) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (xi) *an archival documented record of the place (including photographs, floor plans and elevations) for the Town's Historical Archive Collection shall be submitted and approved prior to the issue of a Demolition Licence;*
- (xii) *the carport shall be one hundred (100) per cent open on all sides and at all times (open type gates/panels are permitted), except where it abuts the front elevation of the main dwelling and the side boundary wall;*
- (xiii) *standard visual truncations, in accordance with the Town's Policies and to the satisfaction to the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*
- (xiv) *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 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; and*
- (xv) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the east front facing walls of the stores for unit 1 and unit 2 incorporating design features within the walls to increase interaction with and reduce the visual impact on the streetscape. The revised plans shall not result in any greater variations of the Town's Policies and the Residential Design Codes;*

*to the satisfaction of the Chief Executive Officer.*

**COUNCIL DECISION ITEM 10.1.11**

**Moved Cr Ker, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED (9-0)**

**LANDOWNER:** Markovic Developments Pty Ltd  
**APPLICANT:** A Markovic  
**ZONING:** Metropolitan Region Scheme - Urban  
 Town Planning Scheme No. 1 - Residential R60  
**EXISTING LAND USE:** Single House

**COMPLIANCE:**

Use Class	Single House
Use Classification	"P"
Lot Area	584 square metres

<b>Requirements</b>	<b>Required</b>	<b>Proposed</b>
Setbacks: Unit 1 South Ground Floor (Carport) South First Floor (Void, Bed 3)	1 metre  1.5 metres	0 metre  1.298 metres
Unit 2 North Ground Floor (Carport) North First Floor (Bed 3, Void)	1 metre  1.5 metres	0 metre  1.298 metres
Privacy Assessment: Unit 1 Bed 3 - East Facing Window	4.5 metres to boundary or privacy screening to Town's requirements	3.1 metres to south boundary
Unit 2 Bed 3 - East Facing Window	4.5 metres to boundary or privacy screening to Town's requirements	3.1 metres to north boundary
Density	3 Single Houses	2 Single Houses
Plot Ratio	N/A	N/A

**SITE HISTORY:**

The subject site is occupied by a single storey single house. Plans were initially submitted proposing 3 dwellings on the site however, due to the road widening requirements and other variations, the plans were subsequently changed and now propose 2 dwellings.

**DETAILS:**

The applicant seeks approval for two (2)-2 storey single houses with access and orientation towards Charles Street. The proposal generally complies with the Residential Design Codes (R Codes) and the Town's Town Planning Scheme No. 1 and Policies, with the exception of the above non-compliances. The proposal which is the subject of this application lies within the Planning Control Area of Charles Street. The Planning Control Area is an area along Charles Street that has been designated by the Western Australian Planning Commission (WAPC) for future road widening. The amount of land designated for this purpose is 3.86 metres from the front boundary. The application therefore requires final determination to be administered by the WAPC. The purpose of this report is to make a recommendation to the WAPC.

The designer submitted a justification letter for the development. The following comments were made.

*"As requested, we have made major variations to our development going from a three two storey unit development to a two two storey unit development, removing the store rooms which were on the boundary at the rear, removing the two storey parapet walls on the side boundaries, changing the garages to carports and lowering the floor level."*

**CONSULTATION/ADVERTISING:**

The proposal has been advertised and one written submission has been received by the Town. The main points raised in the letter are as follows;

*"I object on the following grounds*

- 1) The existing house is the last of the pre 20's houses in the area and should be saved for these reasons.*
- 2) The setbacks to my property are too close for the height envisaged. I will be bricked in on my south side allowing no light in my dining and kitchen. Also, the only view I will have is of a brick wall.*
- 3) The bottom unit will act as a heat repository and reflecting the unwanted heat into my backyard thereby turning it into an oven.*
- 4) The windows and or balcony of the bottom units will overlook mine and my neighbours backyards. Thereby remove our privacy in these areas.*
- 5) The noise of cars coming and going especially at night will disturb myself and my elderly neighbours...*
- 6) The units are out of context to surrounding houses both in terms of height and density"*

**LEGAL/POLICY:**

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

**STRATEGIC IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

## COMMENTS:

### **Demolition**

A detailed heritage assessment is contained as an attachment to this report.

The subject place is a modest sized timber and asbestos clad dwelling with a hipped corrugated iron roof. Weatherboards are extant to the height of eight horizontal planks from ground level with exception of the north elevation, which is entirely clad in asbestos sheeting. The pitch and form of the original hipped roof has been raised to cover the two rear rooms and the original roof fabric has also been replaced with corrugated iron, which extends over the entire dwelling, including the full width front verandah and rear skillion.

The place has some representative value representative in demonstrating the characteristics of a class of cultural places or environments of the Town, which are no longer present and as a dwelling built during the early Gold Rush period. However, the dwelling has been altered such that the representative value embodied in the physical fabric of the place is limited to the general form, scale and presentation to the street due to additions and alterations. The place is not listed on the Town's Municipal Heritage Inventory or the Interim Heritage Database. As such, it is considered reasonable that the application for the demolition of the subject dwelling be approved subject to a quality archival record and other standard conditions.

### **Overshadowing**

An overshadowing assessment was conducted to establish the extent of overshadowing the development would impose onto the adjoining affected property being No. 49 Charles Street. The outcome of this assessment established that a total of 133 square metres of the adjoining property will be overshadowed. This equates to 23 percent. This is considered to be within the requirements as per the Residential Design Codes (R Codes). The R Codes stipulate that the shadow cast onto the adjoining property must not exceed 50 percent. The overshadowing is therefore in full compliance with the requirements of the R Codes and considered acceptable.

### **North and South Setback**

The proposed setback variation corresponds with the south elevation of unit 1 and the north of unit 2, and is applicable to bed 3 and the void to both units. The setback requirement is 1.5 metres. The total length of the wall that does not comply is 11.5 metres and is non-compliant by 0.2 metre. This variation is not considered to be excessive and not deemed to cause undue impact to the amenity of the north and south neighbours. The setback variation is therefore considered acceptable.

### **Privacy Setback**

The proposed bedroom 3 windows for unit 1 and 2 on the front elevation do not comply with the setback requirement of 4.5 metres as stipulated in the Residential Design Codes. However, in this instance the applicant achieves compliance, as provided in the justification, which is as follows;

*"The upper floor window in Bedroom 3 on the front elevation does not comply with cone of vision as per the section 3.8 in the R Codes. If the window is repositioned 1.0m towards the centre of the property, it would then comply. By doing this, the front elevation would not be balanced and it would not look very good either. By leaving the window where it is now, all you would see is the driveways on the neighbouring properties. There are no habitable rooms or courtyards which you could look into. "*

Given that there is not the opportunity to overlook into habitable space to both adjoining properties, the windows as proposed are considered acceptable and therefore supported.

### **Boundary Wall Development**

The R Codes permit boundary wall development on one side boundary with restrictions placed on the height of the boundary wall. In this instance, the proposed development involves boundary walls for the carport on the south and north side boundaries with both being of single storey nature. Whilst it is a deviation from the requirements of the R Codes, such a provision can be varied. The boundary walls are not considered to be over imposing, and help to make effective use of space for the development proposed on the site. The boundary walls are considered acceptable and therefore supported in this instance.

### **Response to Objections Received**

The building height of the development was raised as a concern. The Town's requirements stipulate a required height of 6 metres for wall height and 9 metres for overall roof pitch height. The development proposes 5.6 metres in wall height and 7.2 metres of overall height. This is considered to be well within the requirements and therefore supported.

The property is zoned R 60 and the size of the lot is 584 square metres. On the basis of this zoning, the site can accommodate 2 dwellings. The density is therefore compliant with the relevant requirements and therefore supported.

The setback variations proposed are considered to be minimal and therefore not considered to unduly affect the amenity of the adjoining neighbours.

The generation of heat from a development is not considered to be a valid planning concern and in this instance is not assessed against the Town's requirements.

There are no balconies currently proposed for the development and the windows, which do not comply, overlook front yard area, not affecting any outdoor living space of the adjoining properties.

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

**10.1.12 No. 6 (Lot 68) Haynes Street, North Perth - Proposed Demolition of Existing Single House and Construction of Two (2) Two-Storey Single Houses**

<b>Ward:</b>	North	<b>Date:</b>	19 April 2004
<b>Precinct:</b>	North Perth, P8	<b>File Ref:</b>	PRO2472; 00/33/2109
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	J Barton, N Edgecombe		
<b>Checked/Endorsed by:</b>	D Abel	<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 L Morcos on behalf of the owners J B Morcos for proposed demolition of existing single house and construction of two two-storey single houses at No. 6 (Lot 68) Haynes Street, North Perth, and as shown on plans stamp- dated 26 February 2004 and 15 March 2004, subject to:*

- (i) no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to Haynes Street 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;*
- (ii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iii) the construction of crossovers shall be in accordance with the Town's specifications;*
- (iv) a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*
- (v) prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (vi) 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 with all cost associated the removal and replacement shall be borne by the applicant/owner(s);*
- (vii) compliance with all relevant Building, Engineering and Environmental Health requirements;*

- (viii) *standard visual truncations, in accordance with the Town's Policies and/or to the satisfaction to the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular access ways to ensure that the safety of pedestrians and other road users is not compromised;*
  - (ix) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
  - (x) *an archival documented record of the place (including photographs, floor plans and elevations) for the Town's Historical Archive Collection shall be submitted and approved prior to the issue of a Demolition Licence;*
  - (xi) *a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Haynes Street 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);*
  - (xii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following;*
    - (a) *crossovers to be perpendicular to the street;*
    - (b) *driveways to be no greater than 3.4 metres in width for each proposed lot;*
    - (c) *no retaining permitted over 500 millimetres from the natural ground level without prior approval from the Town;*
    - (d) *the subject land shall be adequately retained to ensure that the dividing fences and retaining walls are not undermined. In the event that the proposed excavation undermines the existing retaining walls, the landowner/ applicant is required to replace the retaining walls at their own cost; and*
    - (e) *architectural features, such as windows, to be provided on the walls on the front façade, on the southern elevation of both lounge rooms behind the carports, in order to reduce the impact of the blank walls on the streetscape.*
- The revised plans shall not result in any greater variations to the Residential Design Codes and the Town's Policies; and*
- (xiv) *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 the carports abut the front façade of the main dwellings;*

*to the satisfaction of the Chief Executive Officer.*

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**COUNCIL DECISION ITEM 10.1.12**

**Moved Cr Ker, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED (9-0)**

**FURTHER REPORT:**

The second paragraph under *Comments: Setbacks* of the agenda report should read as follows:

"The ~~Alma~~ Eton Locality Statement states that maintaining existing street, side and rear setbacks are strongly encouraged, and the proposal includes nil setbacks to the internal boundaries of the development."

**LANDOWNER:** J P Morcos  
**APPLICANT:** L Morcos  
**ZONING:** Metropolitan Region Scheme - Urban  
 Town Planning Scheme No. 1 - Residential R30/40  
**EXISTING LAND USE:** Single House

**COMPLIANCE:**

Requirements	Required	Proposed
Setbacks		
Eastern Side- (Ground Floor Only)	1.5 metres	1 metre to 1.25 metres
Western Side- (Ground Floor Only)	1.5 metres	1 metre to 1.25 metres
Vehicular Access	Driveways to be less than 40 per cent of frontage, and to be perpendicular to street.	Driveways occupy 53 per cent frontage of each proposed lot and not perpendicular to street (can be conditioned to comply).
Plot Ratio	N/A	N/A
Density (R30/40)	2 Single Houses	2 Single Houses

Use Class	Single House
Use Classification	"P"
Lot Area	680 square metres

**SITE HISTORY:**

- 8 April 2003                      The Western Australian Planning Commission conditionally approved the subdivision of the subject site into two lots subject to one of the conditions requiring that the applicant obtain development approval for the development of houses on the proposed lots.
- 14 August 2003                      Elected Members request received regarding a complaint from the adjoining neighbour at No. 4 Haynes Street, in relation to excavation works at No. 6 Haynes Street, which appear to be undermining the dividing fence.
- 21 August 2003                      The Town sent the owner of No. 6 Haynes Street a letter requesting the soil to be replaced, or a retaining wall erected, to support the fence.
- 11 March 2004                      The Town conducted a site inspection to follow up the above matter. A concrete panel retaining wall has been recently constructed, and the previous lean to fibre cement sheeting fence has been rectified and appears to be reasonably straight.

**DETAILS:**

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

The applicant is seeking the Council's support for minor setback variations.

**CONSULTATION/ADVERTISING:**

The proposal was advertised for a two week period. One submission was received during this period, being one letter of objection.

The main concerns raised in the letter of objection are summarised below:

- Objection to the setback relaxation on the eastern side boundary.
- Concerns about the proposed excavation undermining the existing fence and retaining wall, which was recently replaced and paid for by the landowners at No. 4 Haynes Street.
- The objector requests that the Town put a condition on the subdivision and development application to ensure that a retaining wall is built by a structural engineer and that a 1.8 metre high dividing fence is also constructed at the landowners expense, or the subject landowners reimburse the neighbours the costs of the recently erected retaining wall and fence.
- Concerns regarding the landowner ignoring the Town's request to replace the retaining wall which they removed, and ignoring requests to fix the fence.
- Dividing fence to be maintained during construction as the neighbours have two dogs.
- The subject landowners "*cannot be relied upon to fulfil their legal obligations, and that they only accept correspondence, which is favourable to them*".
- "*can you confirm that the WAPC placed a condition that any excavation by the developer are to be retained by the developer*".

**LEGAL/POLICY:**

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

**STRATEGIC IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

**Demolition**

The existing dwelling at No. 6 Haynes Street, North Perth is a two bedroom red brick and corrugated iron dwelling. Constructed in the early 1920s, the original form and structure of the place appears intact, including the corrugated iron roof and four chimneys with terracotta pots. Although the original rear verandah has been enclosed as a sleep-out, the floor plan appears relatively unaltered and much of the original building fabric of the dwelling (including air vents, architraves, doors, and wooden floor boards) remains in situ. While these features are of interest, it is not considered that these features alone justify the retention of the house or qualify the place for consideration for entrance into the Town's Municipal Heritage Inventory.

The place is not rare and is considered to be of little aesthetic, historic, scientific and social value. The subject dwelling contributes to the streetscape in terms of traditional setbacks and building style but it is not a unique, endangered or an outstanding example of its type, and no links of historical importance have been established. The place is not considered to meet the threshold for entry in the Municipal Heritage Inventory and it is recommended that the application to demolish the place be approved, subject to standard conditions.

#### **Density**

The Western Australian Planning Commission (WAPC) granted conditional approval for the subdivision of the lot into two lots on 8 April 2003 (WAPC reference: 121413). Accordingly, the application is based on the approved green title subdivision plan. However, it should be noted that the WAPC are not required to impose retaining wall conditions at the subdivision stage.

#### **Setbacks**

The side setback variations highlighted in the above compliance table are considered minor, and the variations will not result in any undue impacts on the amenity of the adjoining neighbours, in terms of overlooking or overshadowing.

The Eton Locality Statement states that maintaining existing street, side and rear setbacks are strongly encouraged, and the proposal includes nil setbacks to the internal boundaries of the development.

Given the conditionally approved subdivision, and therefore the impending subdivision of the property into two allotments with 8.46 metres wide frontages, the use of parapet walls enables sufficient utilisation of the property. Also, the R-Codes state that *"where walls abut an existing or simultaneously constructed wall of similar or greater dimension"* they are considered to be acceptable development under Clause 3.3.2 of the R-Codes.

In light of the above, the parapet walls are considered supportable in this instance, and the proposal is not considered to create an undue adverse impact on the adjoining neighbours, or the streetscape, and approval is recommended.

Further to the retaining wall issue, no retaining walls are proposed over 500 millimetres from the natural ground level, and under the R-Codes there are no restrictions on the amount of excavation within a site, behind the street setback line.

#### **Vehicular Access**

The driveways occupy approximately 53 per cent of the frontage of the proposed lots, which is considered to detract from the amenity of the streetscape.

In light of the above, and in order to protect the amenity of the street, a condition has been recommended to reduce the width of the crossovers to 40 per cent of the frontage of each lot.

#### **Carports**

Although the carports occupy more than 50 per cent of the width of the lots, the carports are only required to be less than 50 per cent of the frontage of the lot when they are located within the front setback area.

Given that the carports are located behind the 4 metre front setback line, they are considered to be acceptable development, and are therefore permitted.

Notwithstanding the above, in the event that Council considers the proposal unsuitable solely on the basis of the width of the carports, it is recommended that Council not refuse the application and instead impose a condition to reduce the carports to single carports, as there is enough space to have a single carport and one open car parking bay behind the carports, in a tandem situation.

It should also be noted that a condition has been recommended for the provision of architectural features, such as windows, to be provided on the façade of the lounge walls behind the carports. Such features are considered necessary to aid interest to the street, and reduce the visual impact of blank walls on the streetscape.

**Objection**

The adjoining eastern neighbours concerns regarding the retaining wall and dividing fence are noted, however, matters to do with dividing fences, removal of fences during construction, reimbursement of costs and legal issues associated with replacing the fence and retaining wall, are considered to be civil matters to be settled between neighbours, and such matters are not within the Town's jurisdiction.

Notwithstanding the above, it is the Town's responsibility to ensure that the subject land is adequately retained to prevent undermining of the adjoining property.

In light of the above, a condition has been recommended to ensure that the subject is adequately retained, and that the plans are certified by a structural engineer, to prevent undermining of the adjoining property, and the existing fence and retaining wall.

**Summary**

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

**10.1.14 No. 18 (Lot 424) Auckland Street, North Perth – Proposed Demolition of Existing Single House and Construction of Three (3) Two-Storey Grouped Dwellings**

<b>Ward:</b>	North	<b>Date:</b>	19 April 2004
<b>Precinct:</b>	North Perth, P8	<b>File Ref:</b>	PRO2693; 00/33/2170
<b>Attachments:</b>	<a href="#">001</a> <a href="#">002</a>		
<b>Reporting Officer(s):</b>	P Mastrodomenico		
<b>Checked/Endorsed by:</b>	D Abel	<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 Norfolk Homes on behalf of the owner J Cramer for proposed demolition of existing single house and construction of three (3) two-storey grouped dwellings No. 18 (Lot 424) Auckland Street, North Perth, and as shown on the plans stamp dated 14 April 2004, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence application;*
- (iii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iv) a road and verge security bond and /or bank guarantee of \$550 shall be lodge prior to the issue of a Building License and be held until all works have been completed and/or any damage to existing Towns assets have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (v) standard visual truncations, in accordance with the Town's Policies and to the satisfaction to the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*
- (vi) the construction of crossovers shall be in accordance with the Town's specifications;*
- (vii) prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (viii) 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 Auckland 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;*

- (ix) *prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the first floor of unit 1 being setback a minimum of 6 metres from Auckland Street. The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*
- (x) *subject to first obtaining the consent of the owners of No. 16 (Lot 203) Auckland Street and No. 20 (Lot 202) Auckland 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. 16 (Lot 203) Auckland Street and No. 20 (Lot 202) Auckland Street in a good and clean condition;*
- (xi) *to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development;*
- (a) *the window to the activity room on the first floor level on the eastern elevation to Unit 1;*
- (b) *the window to the activity room on the first floor level on the northern elevation to Unit 2;*
- (c) *the window to bedroom 4 on the first floor level on the western elevation to Unit 2;*
- (d) *the window to bedroom 3 and bedroom 4 on the first floor level on the western elevation to Unit 3;*
- shall be screened with a permanent obscure material and be non openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole 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 windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be a major opening as defined in the Residential Design Codes 2002; and*
- (xii) *detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Auckland 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);*

*to the satisfaction of the Chief Executive Officer.*

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**COUNCIL DECISION ITEM 10.1.14**

**Moved Cr Ker, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED (9-0)**

**LANDOWNER:** J Cramer  
**APPLICANT:** Norfolk Homes  
**ZONING:** Metropolitan Region Scheme - Urban  
 Town Planning Scheme No. 1 - Residential R20  
**EXISTING LAND USE:** Single house

**COMPLIANCE:**

Use Class	Single House
Use Classification	"P"
Lot Area - Strata Lot Pt 2	1012 square metres

Requirements	Required	Proposed
Setbacks: First Floor	6.0 metres	5.0 metres - 8.2 metres
Unit 1 North (ground)	1.0 metre	Nil
East (first floor)	2.5 metres	1.5 metres
Unit 2 West (ground)	1.5 metres	1.0 metre
West (first)	2.6 metres	1.5 metres
Unit 3 East (ground)	1.5 metres	1.128 metres
South (ground)	1.0 metre	Nil
Density	Two grouped dwellings	Three grouped dwellings
Plot ratio	n/a	n/a

**SITE HISTORY:**

The Council, at its Ordinary Meeting held on 23 March 2004 conditionally approved an application for the demolition of existing house and construction of three (3), two-storey single houses on the subject lot.

Condition (ix) of this approval stated as follows;

*"(ix) prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the first floor of unit 1 being setback 6 metres. The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies; "*

**DETAILS:**

The applicant seeks approval for the demolition of the existing single house and the construction of three (3), two-storey single houses on the subject lot.

This application is identical to the application previously conditionally approved at the Ordinary Meeting of Council held on 23 March 2004. Approval is mainly sought by the applicant for the reconsideration of condition (ix) (street setback to the upper floor) of the previous approval.

**CONSULTATION/ADVERTISING:**

The application was not advertised as it is similar to an application advertised in the past twelve months.

**LEGAL/POLICY:**

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

**STRATEGIC IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

The proposed variation to the front setback is not considered acceptable, based on the Town's requirements. The Town's Policies requires upper level front setbacks to be a minimum of 6.0 metres from the front boundary. The application incorporates a setback of between 5.0 and 8.2 metres. The Town has consistently required the front setback to the upper floor on mid-block properties to be a minimum of 6 metres from the street. The variation to the upper floor front setback is again being conditioned to comply with the Town's 6.0 metres setback requirement.

The other matters relating to the proposed development have been addressed in the report (Item 10.1.8) to the Ordinary Meeting of Council held on 23 March 2004.

In light of the above, it is recommended that the proposal be approved, subject to standard and appropriate conditions to address the above matter, including the first floor of unit 1 being setback 6 metres from Auckland Street.

**10.1.18 Unit 9/No.18 (Lot 11, Strata Lot 9) Robinson Avenue, Perth– Proposed Patio Additions to Existing Grouped Dwelling**

<b>Ward:</b>	South	<b>Date:</b>	19 April 2004
<b>Precinct:</b>	Beaufort, P13	<b>File Ref:</b>	PRO2632; 00/33/2047
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	S Bowman		
<b>Checked/Endorsed by:</b>	D Abel	<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 Country Leisure Centre on behalf of the owners Jenkins and Justice for proposed patio additions to existing grouped dwelling at No. 9/18 (Lot 11, Strata Lot 9) Robinson Avenue, Perth, and as shown on the plans stamp dated 28 January 2004; for the following reasons:*

- (i) the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality; and*
- (ii) the non-compliance with the outdoor living requirements of the Residential Design Codes 2002.*

**COUNCIL DECISION ITEM 10.1.18**

**Moved Cr Ker, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED (9-0)**

**LANDOWNERS:** Jenkins and Justice  
**APPLICANT:** Country Leisure Centre  
**ZONING:** Metropolitan Region Scheme - Urban  
 Town Planning Scheme No. 1 - Residential/Commercial R80  
**EXISTING LAND USE:** Grouped Dwelling

**COMPLIANCE:**

Requirements	Required	Proposed
Outdoor Living Space	Minimum 2/3 of required outdoor living to be without permanent roof cover with a minimum dimension of 4 metres (i.e. 10.7 square metres uncovered)	10.7 square metres with a dimension of 1.25 metres

Use Class	Grouped Dwelling
Use Classification	"P"
Lot Area	2030 square metres

**SITE HISTORY:**

The subject site is occupied by twelve (12) grouped dwellings.

**DETAILS:**

The applicant seeks approval for a patio addition to an existing grouped dwelling (unit 9). The proposed patio is located in the subject dwelling's courtyard and is setback 1.275 metres from the western boundary. The proposal is non-compliant with the Residential Design Codes (R-Codes) outdoor living requirements, which require at least 2/3 of the required outdoor living area of 16 square metres to be without permanent roof cover. The uncovered area must have a minimum dimension of 4 metres.

**CONSULTATION/ADVERTISING:**

No advertising was required as the Body Corporate and the neighbours potentially affected by the proposed patio have signed the plans stating they have no objections.

**LEGAL/POLICY:**

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

**STRATEGIC IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

The R-Codes require at least two thirds of the required outdoor living area to be without permanent roof cover. In this instance, the applicant is required to provide 10.7 square metres of uncovered outdoor living area with a minimum dimension of 4 metres.

The applicant has provided 10.7 square metres of open space, however this area has a minimum dimension of only 1.275 metres. This area is not able to be used for the purposes of calculating outdoor living area without permanent roof cover as it does not have a minimum dimension of 4 metres.

As this variation is considered to be substantial and conflicting with the preservation of the amenities, this variation from the R-Codes is not supported.

In light of the above, it is recommended that the proposal be refused.

**10.1.21 Revised Swan River Trust Policies**

<b>Ward:</b>	Both	<b>Date:</b>	20 April 2004
<b>Precinct:</b>	All Precincts	<b>File Ref:</b>	
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	S Turner		
<b>Checked/Endorsed by:</b>	D Abel	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the documents "Revised Swan River Trust Policies, including; Development Setbacks Requirements; Jetties Controlled by Commercial Operators or State and Local Government Authorities; Foreshore Restoration, Foreshore Walls and Retaining Walls and On-Site Wastewater Management Systems and Industrial Wastewater", received on 18 March 2004, as included in the Appendix 10.1.21; and*
- (ii) *ADVISES the Swan River Trust that the Town SUPPORTS, IN PRINCIPLE, the content and intent of the "Revised Swan River Trust Policies - Development Setbacks Requirements; Jetties Controlled by Commercial Operators or State and Local Government Authorities; Foreshore Restoration, Foreshore Walls and Retaining Walls and On-Site Wastewater Management Systems and Industrial Wastewater", received on 18 March 2004, as outlined in this Report.*

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**COUNCIL DECISION ITEM 10.1.21**

**Moved Cr Ker, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED (9-0)**

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**BACKGROUND:**

The Town of Vincent received a letter on 18 March 2004 and accompanying documentation from the Swan River Trust relating to the review of the above mentioned Policies and inviting the Town to comment on it by 10 May 2004. The Policies have also been referred to the Department for Planning and Infrastructure, Department for Indigenous Affairs, Department of Conservation and Land Management, Department of Environment,

A copy of the Policies are included in the Appendix of this report.

**DETAILS:**

The Policies that have been referred to the Town are part of the ongoing review process that the Swan River Trust regularly undertakes. The primary goal of the Policies is to ensure that development and land use on and adjacent to the river maintains or enhances the environmental quality and amenity of the riverine environment. The Policies are summarised as follows:

### **Policy SRT/D3 - Development Setback Requirements**

This draft Policy was adopted by the Swan River Trust on 2 February 2004.

#### *Policy Background*

The background section of this policy discusses the importance of maintaining the Swan and Canning River's sense of space and an open parkland character for Perth and its riverside suburbs. It states that the waters and the terrain of the foreshores together create the opportunity for views of scenery from the shore out to the river and from the river and its shores towards the urban backdrop and skyline.

The long term strategy of the Swan River Trust is to work in partnership with Local Government to implement the Swan and Canning Precinct Policy Plan. Precinct plans will be developed to provide a framework within which development should take place, incorporating such issues as development setbacks. This policy is therefore an interim Policy that may be superseded by the Precinct plans for particular sections of the river.

#### *Policy Objectives*

- ❑ Adequate demarcation between private property and public land (existing and planned);
- ❑ Reduce the visual impact of private developments on "Parks and Recreation" reservations, river foreshores and the river viewsapes (to and from the river);
- ❑ Minimise the potential impacts of development on the riverine ecosystem and landscape.

#### *Policy Content*

The intent of the development setback requirements is that the land within the setback area remains in private ownership and use, similar to the verge and building setback areas adjacent to roads.

The development setback requirements apply from the boundary of the Metropolitan Region Scheme "Parks and Recreation" reservation, regardless of whether the reservation has been acquired. This will ensure that landowners are not unduly affected by any future acquisition of foreshore reserve, as there will be no significant built structures within the setback area.

The Policy is divided into a number of sections which detail the setback requirements. The sections that relate to the Town of Vincent are as follows:

#### *SRT/D3.2 - Development Setbacks for Residential Zoned Land*

The minimum development setback of 10 metres or 20 per cent of the average depth of the lot, whichever is the lesser, from the landward boundary of the "Parks and Recreation" reservation. The setbacks apply to residential dwellings, enclosed sheds, garages, above ground swimming pools and solid walls with a total height exceeding 1.0 metre.

#### *SRT/D3.6 - Additional Setback Requirements*

Any development which is considered obstructive to major floods must be located outside of the floodway as defined by the Water and Rivers Commission 1 in 100 year flood study.

Where bulk, scale or style of a development is likely to create significant visual impacts within the context of the surrounding landscape, the Trust may require an increased development setback.

Where there is a road contained within the "Parks and Recreation" reservation on its landward boundary, the Trust may consider reduced setbacks for development abutting the reservations.

In the case of large subdivision or strata subdivisions, the Trust may recommend the inclusion of a public road or shared path located between the private land and the foreshore reserve to minimise the impact of the development on the riverine landscape, provide infrastructure for drainage, provide a clear demarcation between public and private land, and to encourage the use of, and access to the foreshore reserve by the public.

*SRT/D3.7 Boundary Fences and Retaining Walls*

Boundary fencing fronting the riverside boundary of the lot is required to be open view style fencing with a total height not exceeding 1.8 metres.

Retaining walls located within the development setback area should not exceed an individual height of 1.0 metre and a total combined height of 3.0 metres. Where possible, retaining walls should be located at least 5.0 metres from the boundary of the "Parks and Recreation" reservation.

Due to site constraints some lots may require fill and retaining walls closer to the reserve boundary than the 5.0 metres. This may be permitted if the entire fence height does not exceed 1.8 metres, including a small solid retaining wall component no higher than 1.0 metre.

*SRT/D3.9 - Outdoor Living Areas and Car Parking Areas*

The Trust may permit minor development which is not elevated and have minimal visual impacts on the foreshore and riverine viewscape within the development setback area provided it does not compromise the objectives of the Policy.

The following may be permitted within the development setback area:

- ❑ Landscape features including open-sided gazebos, paved areas, below ground swimming pools, access ways, and
- ❑ Car parking areas.

*Planting within Development Setback Area*

Planting of local native vegetation species within the development setback area is recommended due to their low maintenance and fertiliser requirements and increased habitat values for native riparian fauna.

**Policy SRT/D7 - Foreshore Restoration, Foreshore Walls and Retaining Walls**

This draft Policy was adopted by the Swan River Trust on 2 February 2004.

*Policy Background*

The background section of this policy outlines the importance of controlling development that may accelerate erosion and deposition of water-borne sediment. It emphasises the need to maintain and protect the natural riverine resource and favours the use of natural foreshore management practices. It encourages the protection of foreshores through a range of appropriate measures, often combining materials, methods and techniques that harmonise and enhance the landscape character of each setting.

*Policy Objectives*

- ❑ Promotion of appropriate methods of foreshore protection through restoration, development of foreshore walls and retaining walls avoiding any deleterious or long-term environmental impacts on the riverine environment, landscape amenity, natural habitats of the area and public access to and along the foreshore.

- ❑ Achievement of foreshore restoration and foreshore wall and retaining wall construction that are appropriate and compatible with the surrounding landscape environment, achieving riverbank stability, soil stabilisation and prevention of foreshore erosion;
- ❑ Preservation of the visual landscape qualities of the river system.
- ❑ Achievement of foreshore (river) walls and landward retaining walls that are suitably maintained and managed for the long term by private landowners, Government agencies and Local Government Authorities.

#### *Policy Content*

The Policy is divided into a number of sections which detail the setback requirements. The sections that relate to the Town of Vincent are summarised as follows:

#### *SRT/D7.1 - Foreshore Restoration*

Proposals for foreshore restoration are deemed to be development under the Swan River Trust Act 1988 and therefore require consideration by the Trust and determination by the Minister for the Environment.

#### *SRT/D7.4 - Location and Height of Retaining Walls*

Retaining walls should not exceed an individual height of 1 metre. Where the proposed wall retains earth over 1 metre, the Trust favours the use of terraces as a series of small retaining walls with a total height no greater than 3 metres.

This section of the Policy reiterates the acceptable retaining wall heights contained within the Development Setbacks Requirements Policy, which is outlined above. It does however detail a number of criteria that has to be achieved should an applicant propose a retaining wall in excess of the above requirements, these are:

- ❑ The justification and need for the additional height and;
- ❑ The proposal will not adversely affect the established amenity of the area, locality or riverine environment and;
- ❑ The retaining wall will not impede or preclude public access to or along the foreshore or interfere with the function of the foreshore as a wildlife corridor.

### **Policy SRT/D5 - On-Site Wastewater Management Systems and Industrial Wastewater**

#### *Policy Background*

The safe disposal of wastewater is necessary for the protection of public health and to reduce high nutrient loads in the Swan and Canning Rivers, which are a major cause of algal blooms. Algal blooms may become a significant pollution event, that cause odours and the loss of aquatic fauna and flora.

While it is the Trust's view that all development in the vicinity of the river system should be connected to the reticulated sewerage system, it is recognised that some areas are unlikely to be reticulated in the near future. Consequently, on-site wastewater management systems may be approved provided the site conditions are suitable.

Poor soil conditions and insufficient distance between the disposal area and the ground water or river, reduces the soil's potential to filter, attenuate and remove nutrients and contaminants. It is important that the selection of the on-site wastewater management system is the most effective and appropriate for the site conditions.

*Policy Objectives*

- ❑ Minimise the impact of on-site wastewater management systems on the river system.
- ❑ Protect the aesthetics and the amenity of the riverine environment.
- ❑ Protect fisheries and native aquatic flora and fauna.
- ❑ Improve the water quality of the Swan and Canning River systems.

*Policy Content*

*SRT/D5.1 - Connection to Reticulated Sewerage System*

It is a Swan River Trust priority that all riverside development is connected to the reticulated sewerage system. New development should be connected if reticulated sewerage is available. All development should be connected as soon as reticulated sewer becomes available.

*SRT/D5.2 - On-Site Wastewater Management Systems*

All on-site wastewater management systems which generate less than 540 L wastewater per day require local government approval. All systems which generate more than 540 L wastewater per day require approval by the Health Department of Western Australia. The Policy outlines circumstances where on-site wastewater management systems may be supported by the Trust.

**Policy SRT/D22 - Jetties Controlled by Commercial Operations or State and Local Government Authorities**

This draft Policy was adopted by the Swan River Trust on 2 February 2004.

*Policy Background*

The background of this Policy recognises that public and commercial jetties are an integral part of the river environment and are an important community resource.

Public and commercial jetties provide the general public with a different form of experience and access to the Swan and Canning Rivers. Jetties are also necessary to provide embarkation and disembarkation points for the various ferry services and commercial cruises operating on the rivers and as such are an important recreational resource.

Whilst the Trust recognises the importance of jetties for access to waterways, considers that an over proliferation of structures on the river will detract from the amenity of the river system and public access along the river.

All jetties whether they are private, public or commercial are required to be licensed by the Department for Planning and Infrastructure (Asset Management Branch). The licence requires that the licensee will maintain and keep the jetty in good working order and in a safe useable condition.

If a jetty or associated structure falls into disrepair, it may constitute a danger to the public or detract from the amenity of the river. In such cases the Department for Planning and Infrastructure may require the structure to be repaired or removed.

*Policy Objectives*

- ❑ Reflect their function and meet safety requirements to the satisfaction of the Department for Planning and Infrastructure;
- ❑ Have minimal impact on the natural environment and not detract from the visual amenity of the river landscape;

- ❑ Maintain clear views and prevent obstruction of the navigation channels and the river foreshore;
- ❑ Prevent alienation of waters and river foreshore from public use and enjoyment;
- ❑ Compliment the landscape, its setting and dominant character; and
- ❑ Provide for public access to the jetty where appropriate.

#### *Policy Content*

The Policy goes on to discuss the following, which is not necessarily relevant to the Town as there are no commercial or public jetties within the Town at this time:

- ❑ Factors that are considered by the Swan River Trust when determining an application for public and commercial jetties.
- ❑ The visual impact of jetties and associate structures.
- ❑ Engineering and other design standards.
- ❑ Temporary jetty structures.
- ❑ Applications to extend and make alterations to existing public and commercial jetties.
- ❑ The transfer of ownership of existing public and commercial jetties.
- ❑ Effect of reservation and acquisition of the foreshore adjacent.
- ❑ Public liability.

#### **Implications/ Relevance of these Policies to the Town of Vincent**

The Town's Officers will need to be mindful of the requirements of the Policies to ensure that applicants are aware of the Swan River Trust's Policies. It is also important that development applications continue to be referred to the Swan River Trust for comment and in some cases obtain separate approval.

The Town has limited foreshore area which is unlikely to have any new significant development. However there are a number of privately owned properties that back onto the river's Parks and Recreation Reserve, with Joel Terrace providing vehicular access to these properties. A number of new developments have been received by the Town within the last three months, however have not been presented to Council to date, due to discussions with applications about various non-compliances. The setback requirements and retaining wall and thus amount of fill considered to be acceptable development contained within these draft Policies will provide the Town's Officers with some further guidance in relation to discussions with applicants.

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

The draft revised Policies were referred to the Town's Health Services and Parks Services for comment. Health Services concurs with the revised draft Policies and offers no further comments. Parks Services had no comment.

#### **LEGAL/POLICY:**

The review of the Town's Policies and Locality Statements should include an update of the Banks Precinct Policy and the Riverside Locality Plan to include reference to the Swan River Trust development setback requirements for properties abutting the parks and recreation (river foreshore) reserve. This should be undertaken as part of the current review of the Town's existing Policies.

#### **STRATEGIC IMPLICATIONS:**

Strategic Plan 2003 - 2008: Key Results Area 1: Environment and Infrastructure "Protect and enhance the environment and biodiversity".

**FINANCIAL/BUDGET IMPLICATIONS:**

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

**COMMENTS:**

It is recommended that the Council receives the *"Revised Swan River Trust Policies - Development Setback Requirements; Jetties Controlled by Commercial Operators or State and Local Government Authorities; Foreshore Restoration, Foreshore Walls and Retaining Walls and On-Site Wastewater Management Systems and Industrial Wastewater"*, received by the Town on 18 March 2004, and that the Town supports, in principle, the content and intent of the above document.

**10.2.1 Roads to Recovery Program – Amended Schedule**

<b>Ward:</b>	Both	<b>Date:</b>	20 April 2004
<b>Precinct:</b>	All	<b>File Ref:</b>	TES0174
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	R Lotznicher		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the report on the amended Roads to Recovery Schedule for 2003/2004; and*
- (ii) *APPROVES the implementation of the amended road project as outlined in the report to be funded from the Roads to Recovery Program.*

**COUNCIL DECISION ITEM 10.2.1**

**Moved Cr Ker, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED (9-0)**

**BACKGROUND:**

At the Ordinary Meeting of Council held on 23 March 2004, a comprehensive report on the Roads to Recovery – Status Report/Additional Projects was considered by the Council, where the following resolution was adopted.

*That the Council;*

- (i) *RECEIVES the report of the Roads to Recovery Program - Status Report/Additional Projects;*
- (ii) *APPROVES the implementation of the additional projects in 2003/2004 as outlined in the report, to be funded from the Roads to Recovery Program; and*
- (iii) *RECEIVES a further report once the Town's new annual Roads to Recovery allocation beyond 2005 has been determined.*

**DETAILS:**

The report gave an overview of the current and future program and outlined several road projects to be included in the 2003/2004 Roads to Recovery Program for funding as follows:

<b>Road</b>	<b>Section</b>	<b>Proposal</b>	<b>Proposed Budget</b>
Kadina St	Tay Pl to Pennant St	Kerb/Sami seal/overlay	\$20,000
Barnet St	Pennant St to Bourke St	Kerb/Sami seal/overlay	\$59,443
Woodstock St	London St to Edinboro St	Asphalt Overlay / kerb repairs	\$30,000
Carr St	Loftus St to Cleaver St	Sami seal / overlay	\$45,000
		<b>TOTAL</b>	<b>\$154,443</b>

**Proposed Amendment to Schedule**

One of the projects listed on Roads to Recovery 2003/2004 was Carr Street, between Loftus and Cleaver Streets.

This section of Carr Street, as with many other streets in the Town, is in need of rehabilitation, however, it is considered that another project – Stuart Street, between Fitzgerald and Pakenham Streets – has a higher priority due to its very poor condition.

Funds for Stuart Street were allocated in the 2003/2004 budget, however, a recent detailed assessment of the road has revealed that substantial additional works are required to upgrade the road to the required standard.

Note: Roads to Recovery funding is provided in full by the Commonwealth Government.

It is therefore considered that the Carr Street project should be replaced with the Stuart Street project in the 2003/2004 Roads to Recovery Program and that Carr Street be included for funding in a future Roads to Recovery Program (possibly 2005/2006).

**CONSULTATION/ADVERTISING:**

N/A.

**LEGAL/POLICY:**

N/A.

**STRATEGIC IMPLICATIONS:**

In accordance with Key Result Area One of the Draft Plan 2002-2008 – 1.4 Maintain and enhance the Town’s infrastructure to provide a safe, healthy, sustainable and functional environment. *“b) Continue to develop and implement annual road rehabilitation and upgrade programs.”*

**FINANCIAL/BUDGET IMPLICATIONS:**

As previously reported to Council, the Town's total allocation under the current program is \$657,770 or \$164,443 per annum.

Since 2000 the Town has received \$428,324 and has completed 13 projects, with \$219,446 still to be expended.

Therefore, it is recommended that the following project be included in the 2003/2004 Road to Recovery Program for funding instead of Carr Street, for the reasons outlined in the report.

Road	Section	Proposal	Proposed Budget
Stuart Street	Fitzgerald Street to Palmerston Street	Asphalt Corrector Sami seal/overlay/re-kerbs	\$45,000

**COMMENTS:**

Works in Stuart Street have commenced, however, due to the very poor condition of the existing road infrastructure, it is highly recommended that the additional funds be allocated to this project from the Roads to Recovery funds, which is fully funded by the Commonwealth Government.

Carr Street will be listed in the next round of the Roads to Recovery Program, which will be commencing in 2005/2006.

**10.2.3 Traffic Safety Improvement Proposal for Eton Street, Mount Hawthorn - South of Gill Street**

<b>Ward:</b>	North	<b>Date:</b>	21 April 2004
<b>Precinct:</b>	North Perth P8	<b>File Ref:</b>	TES0156
<b>Attachments:</b>	<a href="#">001;</a>		
<b>Reporting Officer(s):</b>	R Lotznicher		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the report on the Traffic Safety Improvement proposed for Eton Street, North Perth, south of Gill Street;*
- (ii) *APPROVES in principle the proposal as shown on attached Plan No. 2269-CP-1 as endorsed by the Town's Local Area Traffic Management Advisory Group at its meeting held on 19 April 2004, estimated to cost \$15,000;*
- (iii) *CONSULTS with the residents of Eton Street with regard to the proposal, giving them 21 days in which to provide comments; and*
- (iv) *RECEIVES a further report on the proposal at the end of the community consultation period.*

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**COUNCIL DECISION ITEM 10.2.3**

**Moved Cr Ker, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED (9-0)**

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**BACKGROUND:**

At the Ordinary Meeting of Council held on 10 February 2004, the Council adopted the following resolution:

*“That the Council;*

- (i) *receives the report on Traffic Management matters at various locations;*
- (ii) *refers the seven (7) locations listed in the report to the Town's Local Area Traffic Management Advisory Group for their consideration; and*
- (iii) *receives a further report on each of the locations listed in the report once the Town's Local Area Traffic Management Advisory Group have considered the matters.”*

The seven locations outlined in the report included the following:

<i>Location 1</i>	<i>Forrest Street (In progress)</i>
<i>Location 2</i>	<i>Lincoln / Beaufort Streets (In progress)</i>
<b>Location 3</b>	<b>Eton Street</b>
Location 4	Monger Street
Location 5	Hobart Street
Location 6	Brookman Street, Moir Street and Forbes Road
Location 7	Woodstock / Edinboro Street

Location 3 is the subject of this report. (*Locations 1 and 2 were considered by the Council at its Ordinary Meeting held on 23 March 2003*)

**DETAILS:**

The Local Area Traffic Management (LATM) Advisory Group at its meeting held on 19 April 2004, discussed Eton Street following requests received from nearby residents for safety improvements.

A community representative from Hobart Street and the Chair of the North Perth Precinct Group Inc. were also invited to attend the meeting.

The group was provided with the following statistics with regard to Eton Street.

Section: Gill / Hobart

Traffic Data

Section	Volume (vpd)	85% Speed (kph)
• Gill – Hobart	562	62

Classification: Access Road

Budget: \$15,000

Request: Residents are concerned about the speed at which vehicles approach the existing curve in Eton Street, located at the crest of the hill. There are site distance issues for residents, accessing their properties.

Comments: While there have been no reported accidents at this location, the combination of factors, i.e. speed, the curve and the crest, warrants further investigation.

**Discussion**

The discussion centred on finding a solution to the problem given the immediate constraints such as location of crossovers, vertical and horizontal road alignment, sight distance, gradients etc.

Various measures were suggested in the course of the discussions and discounted including changing the stop control at Gill Street, lowering the crest of the road, installing a central median island to 'channelise' traffic.

**Proposal**

The group finally considered that two (2) strategically placed low profile speed humps should be installed at either sides of the crest as shown on Plan No 2269-CP-1.

**LATM Advisory Group Recommendation:**

It is recommended that the following procedures be implemented:

- 21 day community consultation, on recommended traffic treatments as outlined on attached Plan No. 2269-CP-1
- Report to Council at conclusion of consultation
- Implement works

**CONSULTATION/ADVERTISING:**

It is recommended that the proposal be advertised to Hobart Street residents for a period of 21 days, inviting them to provide comments.

**LEGAL/POLICY:**

N/A

**STRATEGIC IMPLICATIONS:**

In accordance with Key Result Area One of the Draft Plan 2002-2008 – 1.4 Maintain and enhance the Town's infrastructure to provide a safe, healthy, sustainable and functional environment. *“(o) Investigate and implement traffic management improvements in liaison with the Local Area Traffic Management (LATM) Advisory Group.”*

**FINANCIAL/BUDGET IMPLICATIONS:**

The 2003/2004 budget includes an amount of \$15,000.

**COMMENTS:**

The Town receives many requests for Traffic Management from time to time. Most requests received are addressed by the officers as vehicle classifier results usually indicate that there is a perceived problem rather than an actual problem. Other matters are referred to the Police Services for enforcement of the legal speed limit.

With regard to Eton Street, the LATM Advisory Group considered that the main issue at this location is the speed of vehicles at the crest and the proximity of the crest to the intersection of Gill Street and the limited sight distance.

It is therefore recommended that the Council receives the report and adopts, in principle, the proposal as outlined on attached Plan No 2269-CP-1 as endorsed by the Town's LATM Advisory Group at its meeting held on 19 April 2004, estimated to cost \$15,000, consults with the residents of Eton Street with regard to the proposal giving them 21 days in which to provide comments and receives a further report on the proposal at the end of the community consultation period.

**10.2.4 Community Consultation for the Proposed Streetscape Upgrade Along Vincent Street Between William and Beaufort Streets, Mt Lawley**

<b>Ward:</b>	South	<b>Date:</b>	21 April 2004
<b>Precinct:</b>	Norfolk P10 & Mt Lawley Centre P11	<b>File Ref:</b>	TES0045
<b>Attachments:</b>	<a href="#">001;</a>		
<b>Reporting Officer(s):</b>	R Lotznicher		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the report on the Community Consultation for the proposed Streetscape Upgrade in Vincent Street between William and Beaufort Streets; Mt Lawley;*
- (ii) *APPROVES the implementation of the proposed works, as shown on attached Plan No. 2253-CP-1, estimated to cost \$35,000; and*
- (iii) *ADVISES the respondents of its resolution.*

**COUNCIL DECISION ITEM 10.2.4**

**Moved Cr Ker, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED (9-0)**

**BACKGROUND:**

At the Ordinary Meeting of Council held on 24 February 2004 a report on a proposal to upgrade the streetscape in Vincent Street between William and Beaufort Streets was considered, where the following resolution was adopted:

*“That the Council;*

- (i) *RECEIVES the report on the proposed Streetscape Upgrade in Vincent Street between William Street and Beaufort Street; Mt Lawley;*
- (ii) *APPROVES the implementation of the proposed works, as shown on attached Concept Plan No. 2253-CP-1, estimated to cost \$35,000; and*
- (iii) *Advises and consults the affected residents and businesses of Vincent Street giving 14 days to comment.”*

## **DETAILS:**

### **Community Consultation**

In accordance with clause (iii) of the Council's resolution on 24 March 2004, 72 letters were distributed to the residents/businesses in Vincent Street between William and Beaufort Streets.

At the conclusion of the consultation period on 14 April 2004, 21 responses were received as follows:

Nine (9) respondents *In Favour* of the proposal with No comments.

Eleven (11) respondents *In Favour* of the proposal with the following comments:

- Love the idea - start anytime soon
- 1 hour parking William - Beaufort
- No paperbarks please
- Wants right turn into Harold Street to stop 'U' turns at driveway
- Looks great - any chance of parking restrictions?
- Very pleasing result. Will access to driveways be maintained?
- Wants pedestrian Crossing at Beaufort / Vincent
- Great concept, small speed humps, left turn sign Corner William / Vincent
- Extend Island at Harold / Vincent to stop 'U' turns. 50 kph speed limit
- Happy with initiative, wants north kerb to be moved out to create a single lane
- Currently experiences access difficulties with no right turn at Beaufort Street

One (1) respondent *against* the proposal

### **Officers Comments**

As can be seen from the results, all respondents (bar one) are in favour of the proposal. It is considered *most* issues raised will be addressed by the proposal as it stands i.e:

- Chevron linemarking eastbound lane, east of William Street to channelise traffic into a single lane
- Carriageway will be narrowed by central plantings/islands and line marking which will result in lower vehicle speeds
- Tree species to be Jacaranda
- No impediment to property access
- MRWA has agreed to install *NO RIGHT TURN AT BEAUFORT STREET* signage on the northern verge of Vincent Street midway between William and Hyde Streets.

Note: Proposed changes to parking restrictions will be reported separately to the Council.

### **CONSULTATION/ADVERTISING:**

The respondents will be advised of the Council's resolution

### **LEGAL/POLICY**

N/A

**STRATEGIC IMPLICATIONS:**

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

**FINANCIAL/BUDGET IMPLICATIONS:**

The 2003/2004 budget includes an amount of \$35,000 for the proposed works.

**COMMENTS:**

The success of the previous improvement works of Vincent Street opposite Hyde Park prompted the Council to approve funds to extend the existing theme eastwards along Vincent Street to Beaufort Street.

It is therefore recommended that the Council approves the implementation of the proposed Streetscape Upgrade in Vincent Street between William and Beaufort Street as shown on attached Concept Plan No. 2253-CP-1, estimated to cost \$35,000 and advise the respondents of its resolution.

**10.2.5 Acquisition of Rights of Way bounded by Chatsworth Road and Cavendish Street, St Alban's Avenue and Beaufort Street, Highgate**

<b>Ward:</b>	South Ward	<b>Date:</b>	20 April 2004
<b>Precinct:</b>	Hyde Park Precinct P12	<b>File Ref:</b>	TES0208
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	Anne Munyard		
<b>Checked/Endorsed by:</b>	Rick Lotznicher	<b>Amended by:</b>	

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the report on the acquisition of rights of way bounded by Chatsworth Road and Cavendish Street, St Alban's Avenue and Beaufort Street, as shown on attached Plan No 2270-PP-1;*
- (ii) *APPROVES the transfer of the ROW from the Anglican Church of Australia to the Town of Vincent for the reasons outlined in the report;*
- (iii) *REQUESTS the Department for Planning and Infrastructure to apply to the Governor for the removal of the Crown Grant in Trust limitations on the freehold ROWs; and*
- (iv) *ADVISES the Anglican Church of Australia and the owner of No. 3 Chatsworth Road of its resolution.*

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**COUNCIL DECISION ITEM 10.2.5**

**Moved Cr Ker, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED (9-0)**

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**BACKGROUND:**

The Anglican Diocese of Perth has approached the Town to discuss the transfer of Church owned rights of way (ROWs) in Highgate. The Church has become aware of some complicated issues relating to the tenure of the ROWs and has received legal advice that the best course of action to resolve these issues is by transferring the ownership of the ROWs to the Town.

At the same time, the Town's officers are endeavouring to assist a resident, adjacent to the ROWs, to establish a legal right to use the ROWs, so that the resident may proceed with proposed building extensions which include the construction of a garage off the ROWs.

The ROWs, the subject of this report, are illustrated on attached Plan 2261-RP-1.

**DETAILS:**

At the Ordinary Meeting of Council held on 25 March 2004, the Council issued a conditional development approval to the owner of 3 Chatsworth Road, with one of these conditions being as follows:

- (ix) *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;*

In the endeavour to satisfy this condition, it became clear to the property owner that his and all other properties on the northern side of the ROW did not have an implied right of access.

In such circumstances, a legally binding expressed right of access can be negotiated with the owner of the ROW, at the owner's discretion.

Desirous of such an outcome, the applicant traced the owner of the ROWs to be The Perth Diocesan Trustees of the Anglican Church of Australia. Co-incidentally, the Church had also just been approached by the owner of another property adjacent to the ROWs, but fronting St Alban's Avenue, requesting to purchase the ROWs from the church, possibly with the expectation of acquiring the right to obstruct or close it.

The purchase and closure of the ROWs is not possible without the agreement of *all* who have an implied or expressed access right and the support of the Department for Planning and Infrastructure (DPI).

Therefore, as the ROWs are used by a number of residents to provide access to private off street parking in a precinct where the availability of parking is already a critical issue, the likelihood of achieving either closure or obstruction is negligible.

Notwithstanding, the Anglican Church resolved to sell the ROWs to the St Alban's Avenue property owner but were also keen to resolve the right of access problem faced by the Chatsworth Road property owner by conveying an "Expressed Access Right" prior to the transfer. In the process of actioning both matters, the Anglican Church was advised by their solicitors that their fee simple ownership of the ROWs was encumbered by limitations as a result of their having acquired the land under a *Crown Grant in Trust*. The ROWs were transferred to the Church to be used *for church purposes*.

A DPI adviser has confirmed that the effect of the *Crown Grant in Trust* is that the Anglican Church is unable to sell the ROWs and unable to convey a *right of access* to another party. The Church is, however, permitted to transfer the ROWs to the local authority.

The conditions of the *Crown Grant in Trust* would still be intact, following the transfer, and it would then be necessary for DPI to apply to the State Governor to have the trust removed. DPI has advised that although the success of the application is not in question, it is subject to a lengthy set of processes which would involve a time frame of between three and twelve months to complete.

In the meantime, even as the owner of the ROWs, the Town would be unable to provide the *Expressed Right* of access necessary for the owner of the Chatsworth Street property to comply with the conditions of development approval and have the building license issued.

The planning approval condition outlined previously in this report, is generally applied to development applications where there is a dependence on a ROW(s) to provide vehicle access to the property. It is legally possible for either the owner of a ROW(s), or those with a legal right of access, to prevent others without such a right from making use of such access. An *Expressed Right*, conferred by agreement between the owner and the applicant and endorsed on the titles of the affected properties, validates the applicant's right to use the ROW.

In this peculiar situation, however, the current owner and the Town as prospective owner both wish to confer an *Expressed Right*, but are unable to do so immediately. Therefore, it is recommended that the Council take the following action:

- Resolve to accept transfer of the ROWs from the Anglican Church of Australia, and effect that transfer as soon as possible.
- Seek written confirmation from DPI that they support the removal of the *Crown Grant in Trust* and will expedite the process to the degree that they are able.
- Following receipt of such written notice from DPI, issue the building license to the applicant subject to obtaining a written undertaking from him that he recognises that he will not have a legal right to the use of the ROWs until the removal of the *Grant in trust* is finalised and the *Expressed Right* has been effected and that all costs associated with the action are to be borne by the applicant.

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

The ROWs will remain *private* even once they have been transferred to the Town, and therefore there will be no affect on those with existing access rights. No consultation is necessary.

#### **LEGAL/POLICY:**

Once acquired, the two ROW legs will become the responsibility of the Town, and will be listed for upgrading along with other Town owned ROWs. The Town's "ROW Acquisition and Upgrade Program", adopted by the Council in February 1998, provides a schedule for the acquisition and subsequent upgrade of all privately owned ROWs. These ROW legs are currently listed for acquisition in 2011/2012. The Council has previously approved variations to the scheduled time of acquisition where there are legal issues or undue hardship on residents as a result of the existing status of a ROW.

#### **STRATEGIC IMPLICATIONS:**

In accordance with Key Result Area 1.4 of the Town's Strategic Plan 2003-2008 – Maintain and enhance the Town's infrastructure to provide a safe, healthy, sustainable and functioning environment. "c) *Review options for a Right of Way management and upgrade strategy*".

#### **FINANCIAL/BUDGET IMPLICATIONS:**

The costs of transferring the ROW are estimated to be approximately \$100. The applicant has agreed to accept the costs of preparation and execution of an 'Expressed Right' of access to be endorsed on both his title and the title for the ROW.

**COMMENTS:**

The complicated matters relating to this ROW are restricting the owner of the Chatsworth Road property from carrying out the enhancements to his home that have been approved by the Council. In addition, all the other Chatsworth properties adjoining the ROWs do not currently have a legal right of access. The mechanism for resolving this problem is understood and there is no impediment to its implementation. There will be, however, a significant time delay before all processes are completed. As the outcome has been assured by DPI, it is recommended that the Town proceed with the acquisition of the ROW and, following the completion of the acquisition, approve the issue of the building license with the proviso that the applicant acknowledges in writing that he does not have a right to use the ROW for access to his property until the Town is able to confer an *expressed Right*.

**10.3.1 Financial Statements as at 31 March 2004**

<b>Ward:</b>	Both	<b>Date:</b>	15 April 2004
<b>Precinct:</b>	All	<b>File Ref:</b>	FIN0026
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	N Russell		
<b>Checked/Endorsed by:</b>	M Rootsey	<b>Amended by:</b>	

**OFFICER RECOMMENDATION:**

*That the Council RECEIVE the Financial Reports for the month ended 31 March 2004 as shown in Appendix 10.3.1.*

**COUNCIL DECISION ITEM 10.3.1**

**Moved Cr Ker, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED (9-0)**

**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 March 2004.

**DETAILS:**

The Financial Statements comprise:

- Operating Statement
- Summary of Programmes/Activities
- Capital Works Schedule
- Statement of Financial Position and Changes in Equity
- Reserve Schedule
- Debtor Report
- Rate Report
- Beatty Park Report – Financial Position

**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 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 showing 90% of the Budget received to date.

**General Purpose Funding (Page 1)**

General Purpose Funding is showing 97% of the budget received to date, this is due to rates being levied.

**Health (Page 4)**

Health is showing 100% This is due to Health Licences being issued.

**Community Amenities (Page 6)**

Community Amenities is showing 72% of the budget received to date. This is due to bin charges being invoiced.

**Economic Services (Page 12)**

Economic Services is showing 71% of the budget received to date. Swimming Pool Inspection fees have been levied

**Operating Expenditure**

Operating expenditure for the month is slightly over budget (81%).

**General Purpose Funding (Page 1)**

The budget has been exceeded due to a payment for the Emergency Services Levy being posted to the operating statements and will be transferred to the balance sheet in April.

**Recreation & Culture (Page 7)**

Water rates have been paid on the properties in the Town. The budget result to date is 77%

**Capital Expenditure Summary (Pages 17 to 27)**

The Capital Expenditure summary details projects included in the 2003/04 budget and reports the original budget and compares actual expenditure to date against these. Capital works show total expenditure for the year to date of \$16,115,177 which is 57% of the budget.

**Statement of Financial Position and Changes in Equity (Pages 28 & 29)**

This statement is in essence the Balance Sheet of the Town as at 31 March 2004 and shows current assets of \$19,529,225 less current liabilities of \$3,169,306 for a current position of \$16,359,919. Total non-current assets amount to \$110,467,776 for total net assets of \$114,259,755.

**Restricted Cash Reserves (Page 30)**

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

Transfer of interest occurs as it is earned and investments mature. The amounts funded for the Municipal Fund are transferred on a monthly basis. Contributions received, which are transferred to Reserves occur at the end of month during which the cash contribution is received. To the 31st March 2004, interest of \$328,794 was transferred. Transfers to Reserves totalled \$940,461 and transfers from Reserves amounted to \$1,631,119. Restricted cash reserves total \$6,871,552 at the end of March 2004.

## **Debtors and Rates Financial Summary**

### **General Debtors (Page 31)**

Other Sundry Debtors are raised from time to time as services are provided or debts incurred. Late payment interest of 11% per annum will be charged on overdue accounts.

Sundry Debtors of \$5,607,021 are outstanding at the end of March. Of this \$5,114,735 (91%) relates to debts outstanding for over 60 days. The majority of the debt is \$4,735,152 for WA Treasury Corporation which is the remainder of the loan that is to be received by the Town. The Debtor Report identifies significant balances that are well overdue.

The balance of the significant Debtors are either current or 1- 30 Days.

The balance of the significant Debtors are either current or 1- 30 Days overdue due to the new system conversion.

### **Rate Debtors (Page 32)**

The notices for rates and charges levied for 2003/04 were issued on the 11 August 2003.

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

First Instalment	15 September 2003
Second Instalment	17 November 2003
Third Instalment	16 January 2004
Fourth Instalment	16 March 2004

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

Instalment Administration Charge	\$4.00
(to apply to second, third, and fourth instalment)	
Instalment Interest Rate	5.5% per annum
Late Payment Penalty Interest	11% per annum

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

### **Beatty Park – Financial Position Report (Page 33)**

As at 31 March 2004 the operating deficit for the Centre was \$698,261 in comparison to the annual budget deficit of \$262,839.

The cash position showed a current cash deficit of \$375,757 in comparison to the annual budget estimate of a cash surplus of \$216,008. The cash position is calculated by adding back depreciation to the operating position.

The explanation for the variances is as follows:

Administration: This figure represents the unallocated depreciation figure and is currently running lower than budgeted estimates due to the deferred purchase of some major items, namely two pool blankets and the ultra violet unit for water treatment.

**Swimming Pool Areas:** There is a significant increase in the utility charges over budget estimates. In the early months of the year significant costs overruns were incurred maintaining the required water temperature due to repeated boiler breakdowns. This finally resulted in the replacement of the boiler. Furthermore, the budget estimates were made on the assumption that the pool blankets would be installed to the outside pool earlier in the year than has eventuated which would have resulted in an anticipated reduction in utility costs.

**Salary costs, Superannuation and Workers Compensation Insurance Premiums:** Currently our budget estimates at 89% of the budget. The Workers Compensation charge for the year has seen a 100% increase from last years. The Acting Manager's salary all has been charged to this area, this will be reallocated to all areas of the centre. This together with increased use of casual lifeguards to maintain the ratio of patron members has contributed to the increase in labour costs. The revenue for the pool area is currently operating at 6% below budgeted expectations, the particular items below budget expectations are in-term admission fees and lane hire charges with both of these areas running 49% capacity. The lane hire charges is expected to increase when the invoicing for carnival events held in February and March is concluded, also the in-term admission fees will increase following the charging of schools for Term 3 activities.

**Swimming School:** Due to the late receipt of information the revenue for the Swim School for the month of March has not been input in to these reported figures, approximately \$20,000. In general the revenue for the School is approximately 12% under budget expectations, increased promotion of the Swim School to schools in the area is hoping to attract numbers to Term 2.

**Retail Shop:** Revenue for the retail shop is on track to meet budget estimates for the year at 75% to budget. The expenditure is running over budget due to exclusion of estimates for stock movement in the Retail Stock account A restriction has been placed on any further stock orders unless there are guaranteed sales from patrons or clubs.

**10.3.2 Capital Works Program 2003/2004  
Progress Report No 3 as at 31 March 2004**

<b>Ward:</b>	Both	<b>Date:</b>	19 April 2004
<b>Precinct:</b>	All	<b>File Ref:</b>	FIN0025
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	M Rootsey, R Lotznicher, R Boardman		
<b>Checked/Endorsed by:</b>	J Giorgi	<b>Amended by:</b>	

**OFFICER RECOMMENDATION:**

*That the Council RECEIVES the Progress Report No 3 for the Capital Works Program 2003/2004, as detailed in the attachment.*

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**COUNCIL DECISION ITEM 10.3.2**

**Moved Cr Ker, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED (9-0)**

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**BACKGROUND:**

The Council adopted the Capital Works Program at the Ordinary Meeting of Council held on 23 July 2003. Quarterly reports are presented to Council to advise of the schedule and progress of the Capital Works Program. This is the third Progress Report for this financial year covering the period ending 31 March 2004.

**DETAILS:**

The report focuses on the work that was due to be completed up to the end of the third quarter. Comments on the report relate only to works scheduled to be carried out in the period up to 31 March 2004.

**CONSULTATION/ADVERTISING:**

Not applicable.

**LEGAL/POLICY:**

Nil

**STRATEGIC IMPLICATIONS:**

Strategic Plan 2003-2008 – Key Result Area

*1.4 Maintain and enhance the Town's infrastructure to provide a safe, healthy, sustainable and functional environment.*

**FINANCIAL/BUDGET IMPLICATIONS:**

The progress is proceeding according to funding in the Annual Budget 2003/2004 and approved budget reviews.

**COMMENTS:**

The Capital Works Program is progressing according to schedule, however some projects have been identified that will not be undertaken in this financial year but will be carried forward to be completed next financial year.

- Business Precincts Upgrade – Mt Hawthorn – Project deferred pending outcome of study.
- Brisbane to Newcastle Street (Asia Town) – Commercial Precinct Upgrade – project deferred to obtain additional funding for underground power component of the job.

#### **10.4.4 Adoption of Code of Conduct 2004 - Public Consultation**

<b>Ward:</b>	-	<b>Date:</b>	16 April 2004
<b>Precinct:</b>	-	<b>File Ref:</b>	ADM0050
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	John Giorgi		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council NOTES that no submissions have been received concerning the adoption of the Council's new Code of Conduct 2004.*

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**COUNCIL DECISION ITEM 10.4.4**

**Moved Cr Ker, Seconded Cr Torre**

*That the recommendation be adopted.*

**CARRIED (9-0)**

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**BACKGROUND:**

At the Ordinary Meeting of Council held on 24 February 2004, Council considered this matter and resolved as follows;

*"That;*

- (i) the Council APPROVES BY AN ABSOLUTE MAJORITY the adoption of a Code of Conduct to be observed by Elected Members and Employees, as detailed in Appendix 10.4.5, in accordance with Section 5.103 of Division 9 of Part 4 of the Local Government Act 1995 subject to the following changes:*
  - clause 4.4(h) inserting the words "of a civic nature are received from a visiting dignitary" after the word "gift";*
  - clause 6.2(a)(vi) deleting the word "elicit" and inserting "illicit"; and*
  - clause 6.8(a) deleting the words "members of" in the second dot point; and*
- (ii) draft Code of Conduct be advertised for community consultation for a period of 21 days and any comments or submissions be reported to the Council."*

**CONSULTATION/ADVERTISING:**

The Council's new Code of Conduct was sent to all Precinct/Community Groups and advertised in the Community Newspaper with submissions closing on Monday 29 March 2004. At the closing date, no submissions were received.

**LEGAL/POLICY:**

Nil.

**STRATEGIC IMPLICATIONS:**

This is in keeping with the Town's Strategic Plan 2003-2008 Key Result Area 4 - *"Governance and Management"*.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

The Council's new Code of Conduct will be issued to Elected Members and staff and displayed in the Town's web site.

The Chief Executive Officer advised that Mayor Catania had declared a proximity interest in this Item. Mayor Catania departed the Chamber at 6.37pm and did not speak or vote on the matter. Deputy Mayor Ian Ker assumed the Chair.

**10.1.9 Nos. 485 - 495 (Lot 200) Fitzgerald Street, Dual Frontage with Menzies Street, North Perth - Proposed Additional Sixteen (16) Two-Storey Grouped Dwellings to Existing Four (4) Single Houses**

<b>Ward:</b>	North	<b>Date:</b>	20 April 2004
<b>Precinct:</b>	Smith's Lake, P6	<b>File Ref:</b>	PRO2047; 00/33/2131
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	P Mastrodomenico		
<b>Checked/Endorsed by:</b>	D Abel	<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 Oldfield Knott Architects Pty Ltd on behalf of the owner TRG Properties Pty Ltd for proposed additional sixteen (16) two-storey grouped dwellings to existing four (4) single houses on Nos. 489-495 (Lot 200) Fitzgerald Street, dual frontage with Menzies Street, North Perth ,and as shown on the plans stamp dated 6 April 2004, subject to;*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*
- (iii) prior to the first occupation of the development, three (3) visitors car parking bays, shall be clearly marked and signposted for such, visible from the point of entry and outside any security barrier;*
- (iv) no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of the front fences and gates adjacent to Fitzgerald Street and Menzies 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. The walls to the bin store and letterboxes adjacent to Menzies Street may be solid for its entire height provided these walls incorporate a combination of at least two of the following features; different materials, differing height, different textures, indentations, portions of visual permeability, landscaping or equivalent. Details of these design features shall be submitted to and approved prior to the issue of a Building Licence;*
- (v) a detailed landscaping plan, prepared in consultation with the Town's Parks Services, demonstrating the following:*
  - (a) a schedule of plant species;*
  - (b) the landscaping and reticulation of the Fitzgerald Street and Menzies Street verges adjacent to the subject property;*

- (c) *the provision of a minimum of four (4) mature Jacaranda trees (Jacaranda mimosaeifolia.) being a minimum of 500 litres, along the internal driveway;*
- (d) *a minimum of two (2) variegated Queensland Box trees (Lophostemon confertus) being provided along the Menzies Street verge adjacent to the subject site;*
- (e) *a minimum of eight (8) mature trees, with a minimum height of 3.0 metres at the time of planting, being provided on the subject property adjacent to the Fitzgerald Street boundary; and*
- (f) *the retention and ongoing protection of the relocated Jacaranda tree (Jacaranda mimosaeifolia);*

*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) *all car-parking bays shall be dimensioned on the Building Licence application working drawings and shall comply with the minimum specifications and dimensions specified in the Town's Policy relating to Parking and Access and Australian Standards AS2890.1 – "Off Street Parking";*
- (vii) *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;*
- (viii) *prior to the issue of a Building Licence, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title and Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town;*
- (ix) *a right of way security bond and/or bank guarantee for \$880 shall be lodged prior to the issue of a Building Licence and be held until all building works have been completed. The right of way shall remain open at all times and not be used to store building materials or obstructed in anyway. The right of way surface (sealed or unsealed) shall be maintained in a trafficable condition for the duration of the works. If at the completion of the development the right of way surface has deteriorated, or become impassable (for an standard 2 wheel drive vehicle) as a consequence of the works the applicant/developer/builder/owner is to make good the surface to the satisfaction of the Town's Technical Services Division;*
- (x) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (xi) *a road and verge security bond or bank guarantee of \$1100 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*

- (xii) *the construction of crossovers shall be in accordance with the Town's specifications;*
- (xiii) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (xiv) *prior to the first occupation of the development, the bin compound shall be constructed in accordance with the Town's Health Services Section's Specifications, divided into commercial and residential areas and sized to contain;*
  - (a) *Residential - 1 x mobile garbage bin per unit; and 1 x general recycle bin per 2 units; and*
  - (b) *Commercial- 1 x mobile garbage bin per unit; and 1 x paper recycle bin per unit, or per 200 square metres of floor space;*
- (xv) *standard visual truncations, in accordance with the Town's Policies and to the satisfaction of the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*
- (xvi) *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);*
- (xvii) *the car parking bays in a tandem arrangement shall service the respective same residential dwellings;*
- (xviii) *the existing right of way adjoining the development of Menzies Street to Sholl Lane shall be dedicated as a public road in accordance with Section 56 of the Land Administration Act 1997 by the Town, at the applicant's expense, in order to meet the requirements for the installation of public utility services for the dwellings in the proposed development facing the right of way and for the provision of standard street lighting in the right of way;*
- (xix) *prior to issue of a Building Licence the applicant/owner is to pay \$12,000 to the Town for the installation of standard street lighting in the right of way, from the Western Power decorative street lighting range, to the satisfaction of the Town, and to cover any other requirements that the Town sees fit, to meet the right of way dedication requirements. Once these requirements have been met, the applicant/owner can request, in writing, a refund of any remaining funds, (if the works cost less than \$12,000);*
- (xx) *prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the following to improve the interaction with and reduce the visual impact on the streetscape and right of way;*
  - (a) *the carports adjacent to Fitzgerald Street, Menzies Street and the right of way being 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 building wall(s);*
  - (b) *design features being incorporated into the eastern walls of the carports of units, 1, 2, 3, 4, 5, 6, 7 and 8, facing the right of way.*

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

- (xxi) *subject to first obtaining the consent of the owners of No. 485 (Lot 1) Fitzgerald Street and for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 485 (Lot 1) Fitzgerald Street in a good and clean condition.*

*to the satisfaction of the Chief Executive Officer.*

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**Moved Cr Cohen, Seconded Cr Lake**

*That the recommendation be adopted subject to clauses (v) and (xx) being amended as follows:*

- (v) *a detailed landscaping plan, prepared in consultation with the Town's Parks Services, demonstrating the following:*
- (a) *a schedule of plant species;*
  - (b) *the landscaping and reticulation of the Fitzgerald Street and Menzies Street verges adjacent to the subject property;*
  - (c) *the provision of a minimum of four (4) mature Jacaranda trees (Jacaranda mimosaeifolia.) being a minimum of 500 litres, along the internal driveway;*
  - (d) *a minimum of two (2) variegated Queensland Box trees (Lophostemon confertus) being provided along the Menzies Street verge adjacent to the subject site;*
  - (e) *a minimum of eight (8) mature trees, with a minimum height of 3.0 metres at the time of planting, being provided on the subject property adjacent to the Fitzgerald Street boundary; and*
  - (f) *the retention and ongoing protection of the relocated Jacaranda tree (Jacaranda mimosaeifolia), and the eucalyptus tree at the north-western corner of the property generally where the unit 8 carport is proposed to be located;*

*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);*

- (xx) *prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the following to improve the interaction with and reduce the visual impact on the streetscape and right of way;*
- (a) *the carports adjacent to Fitzgerald Street, Menzies Street and the right of way being 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 building wall(s);*
  - (b) *design features being incorporated into the eastern walls of the carports of units, 1, 2, 3, 4, 5, 6, 7 and 8, facing the right of way; and*
  - (c) *the unit 8 carport being relocated on site in order to retain the existing eucalyptus tree at the north-western corner of the property.*

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

Discussion ensued.

Moved Cr Torre,

*That the underlined words in clauses (v) (f) and (xx) (c) be deleted.*

**AMENDMENT LAPSED FOR WANT OF A SECONDER**

Moved Cr Torre, Seconded Cr Cohen

*That the following words be added at the end of the underlined words in clauses (v) (f) and (xx) (c) "only if practicable, and subject to the eucalyptus tree being certified in good condition by a qualified arborculturist and the tree being able to be accommodated in the proposed relocated courtyard to Unit 8";*

**AMENDMENT CARRIED (8-0)**

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

**CARRIED AS AMENDED (8-0)**

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

**COUNCIL DECISION ITEM 10.1.9**

*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 Oldfield Knott Architects Pty Ltd on behalf of the owner TRG Properties Pty Ltd for proposed additional sixteen (16) two-storey grouped dwellings to existing four (4) single houses on Nos. 489-495 (Lot 200) Fitzgerald Street, dual frontage with Menzies Street, North Perth ,and as shown on the plans stamp dated 6 April 2004, subject to;*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*
- (iii) prior to the first occupation of the development, three (3) visitors car parking bays, shall be clearly marked and signposted for such, visible from the point of entry and outside any security barrier;*
- (iv) no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of the front fences and gates adjacent to Fitzgerald Street and Menzies 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. The walls to the bin store and letterboxes adjacent to Menzies Street may be solid for its entire height provided these walls incorporate a combination of at least two of the following features; different materials, differing height, different textures, indentations, portions of visual permeability, landscaping or equivalent. Details of these design features shall be submitted to and approved prior to the issue of a Building Licence;*

- (v) *a detailed landscaping plan, prepared in consultation with the Town's Parks Services, demonstrating the following:*
- (a) *a schedule of plant species;*
  - (b) *the landscaping and reticulation of the Fitzgerald Street and Menzies Street verges adjacent to the subject property;*
  - (c) *the provision of a minimum of four (4) mature Jacaranda trees (Jacaranda mimosaeifolia.) being a minimum of 500 litres, along the internal driveway;*
  - (d) *a minimum of two (2) variegated Queensland Box trees (Lophostemon confertus) being provided along the Menzies Street verge adjacent to the subject site;*
  - (e) *a minimum of eight (8) mature trees, with a minimum height of 3.0 metres at the time of planting, being provided on the subject property adjacent to the Fitzgerald Street boundary; and*
  - (f) *the retention and ongoing protection of the relocated Jacaranda tree (Jacaranda mimosaeifolia), and the eucalyptus tree at the north-western corner of the property generally where the unit 8 carport is proposed to be located only if practicable, and subject to the eucalyptus tree being certified in good condition by a qualified arborculturist and the tree being able to be accommodated in the proposed relocated courtyard to Unit 8;*
- 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) *all car-parking bays shall be dimensioned on the Building Licence application working drawings and shall comply with the minimum specifications and dimensions specified in the Town's Policy relating to Parking and Access and Australian Standards AS2890.1 – "Off Street Parking";*
- (vii) *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;*
- (viii) *prior to the issue of a Building Licence, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title and Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town;*
- (ix) *a right of way security bond and/or bank guarantee for \$880 shall be lodged prior to the issue of a Building Licence and be held until all building works have been completed. The right of way shall remain open at all times and not be used to store building materials or obstructed in anyway. The right of way surface (sealed or unsealed) shall be maintained in a trafficable condition for the duration of the works. If at the completion of the development the right of way surface has deteriorated, or become impassable (for an standard 2 wheel drive vehicle) as a consequence of the works the applicant/developer/builder/owner is to make good the surface to the satisfaction of the Town's Technical Services Division;*

- (x) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (xi) *a road and verge security bond or bank guarantee of \$1100 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*
- (xii) *the construction of crossovers shall be in accordance with the Town's specifications;*
- (xiii) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (xiv) *prior to the first occupation of the development, the bin compound shall be constructed in accordance with the Town's Health Services Section's Specifications, divided into commercial and residential areas and sized to contain;*
  - (a) *Residential - 1 x mobile garbage bin per unit; and 1 x general recycle bin per 2 units; and*
  - (b) *Commercial- 1 x mobile garbage bin per unit; and 1 x paper recycle bin per unit, or per 200 square metres of floor space;*
- (xv) *standard visual truncations, in accordance with the Town's Policies and to the satisfaction of the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*
- (xvi) *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);*
- (xvii) *the car parking bays in a tandem arrangement shall service the respective same residential dwellings;*
- (xviii) *the existing right of way adjoining the development of Menzies Street to Sholl Lane shall be dedicated as a public road in accordance with Section 56 of the Land Administration Act 1997 by the Town, at the applicant's expense, in order to meet the requirements for the installation of public utility services for the dwellings in the proposed development facing the right of way and for the provision of standard street lighting in the right of way;*
- (xix) *prior to issue of a Building Licence the applicant/owner is to pay \$12,000 to the Town for the installation of standard street lighting in the right of way, from the Western Power decorative street lighting range, to the satisfaction of the Town, and to cover any other requirements that the Town sees fit, to meet the right of way dedication requirements. Once these requirements have been met, the applicant/owner can request, in writing, a refund of any remaining funds, (if the works cost less than \$12,000);*
- (xx) *prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the following to improve the interaction with and reduce the visual impact on the streetscape and right of way;*

- (a) *the carports adjacent to Fitzgerald Street, Menzies Street and the right of way being 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 building wall(s);*
- (b) *design features being incorporated into the eastern walls of the carports of units, 1, 2, 3, 4, 5, 6, 7 and 8, facing the right of way; and*
- (c) *the unit 8 carport being relocated on site in order to retain the existing eucalyptus tree at the north-western corner of the property only if practicable, and subject to the eucalyptus tree being certified in good condition by a qualified arboriculturist and the tree being able to be accommodated in the proposed relocated courtyard to Unit 8.*

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

- (xxi) *subject to first obtaining the consent of the owners of No. 485 (Lot 1) Fitzgerald Street and for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 485 (Lot 1) Fitzgerald Street in a good and clean condition.*

*to the satisfaction of the Chief Executive Officer.*

**FURTHER REPORT:**

The Town has received documentation that confirms that the current owner of the subject property is TRG Properties Pty Ltd, therefore the details relating to *Landowner* in the agenda report should read as follows:

"*LANDOWNER:* Cape Bouvard Developments TRG Properties Pty Ltd"

**LANDOWNER:** TRG Properties Pty Ltd  
**APPLICANT:** Oldfield Knott Architects Pty Ltd  
**ZONING:** Metropolitan Region Scheme: Urban and Other Regional Road Reservation  
 Town Planning Scheme No 1: Residential R60 and Other Regional Road Reservation  
**EXISTING LAND USE:** Single Houses and Vacant Land

**COMPLIANCE:**

Use Class	Grouped dwelling, single house
Use Classification	"P" and "P"
Lot Area	4362 square metres

Requirements	Required	Proposed
Plot ratio	0.65 (2835 square metres)	0.58 (2526 square metres)
Density	31 grouped dwellings	20 grouped dwellings
Side setbacks:		
East-Unit 15	1.0 metre	Nil
East-Unit 16	1.0 metre	Nil
West-Carports to right of way	1.0 metre	0.740 metre

**SITE HISTORY:**

- 17 December 2002      The Council at its Ordinary Meeting refused an application for twenty-eight (28) two-three storey multiple dwellings, including ten (10) single bedroom multiple dwellings, and associated semi-basement car parking, to the existing four (4) grouped dwellings, on the subject property.
- 14 January 2003      The Town received a copy of the Notice of Appeal lodged with the Town Planning Appeal Tribunal (TPAT) against the above Council's refusal of the planning application.
- 7 March 2003         The first sitting of the TPAT on the appeal held.
- 6 May 2003            Hearing of the TPAT on the appeal held.
- 12 June 2003         Decision of TPAT to dismiss the appeal handed down.
- 21 November 2003    Planning application for subject proposal received.
- 15 January 2004      Previous proposal discussed at Elected Members briefing session.
- 10 February 2004     The Council at its Ordinary Meeting refused an application for fourteen (14) two-three storey multiple dwellings, seven (7) two storey grouped dwellings, and associated car parking, to existing four (4) single houses.
- 18 March 2004        Subject proposal discussed at Elected Members briefing session.

**DETAILS:**

The subject site is located along Fitzgerald Street and has dual frontage to Menzies Street, and is located in the 'Knutsford Locality' within close proximity to the North Perth Centre. The area is predominantly characterised by single storey with some two storey residential dwellings, some of which have been converted to low scale commercial uses. A 5.0 metres wide, privately owned and sealed right of way runs along the western boundary of the subject property. It should also be noted that the right of way adjacent to the subject site, although linked to Sholl Lane, is not a gazetted road and is not formally part of Sholl Lane. The site generally slopes down and away from Menzies Street from the south west corner to the north east corner of the property, and there is an approximate fall of 3.87 metres across the site.

The proposal seeks to retain and conserve four existing single house dwellings on the site fronting Fitzgerald Street and construct an additional sixteen (16) two-storey grouped dwellings the to existing four (4) single houses.

**CONSULTATION/ADVERTISING:**

There were no objections received during the advertising period. One letter and petition of non objection was received from the surrounding landowners.

The application was referred to the Department for Planning and Infrastructure (DPI) who stated that the development application is acceptable subject to the development being setback 1.5 metres from the front boundary to accommodate future road widening of Fitzgerald Street, as such the proposed development complies with the DPI requirements.

**LEGAL/POLICY:**

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

**STRATEGIC IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

**Carports to Right of Way**

The 0.740metre setback to the carports from the right of way is considered acceptable and are not considered to unduly affect the amenity of the area. These carports have also been conditioned to be open in order to improve the interaction between the development and the right of way.

**Setbacks to Stores**

The nil setbacks to stores to unit 15 and unit 16 are considered acceptable as they are not considered to unduly negatively impact the overall development and amenity of the area.

**Right of Way Upgrade**

The existing right of way adjoining the development of Menzies Street to Sholl Lane should be dedicated as a public road in accordance with Section 56 of the Land Administration Act 1997 by the Town, at the applicant's expense, in order to meet the requirements for the installation of public utility services for the dwellings in the proposed development facing the right of way and for the provision of standard street lighting in the right of way.

A bond or bank guarantee of \$12,000 should be paid by the applicant to cover the cost of installing standard street lighting, from the Western Power decorative street lighting range, and any other requirements that the Town sees fit, to meet the right of way dedication requirements.

**Design Features**

The walls to the bin store and letterboxes adjacent to Menzies Street and the east walls of the carports to units 1 to 8 have been conditioned to incorporate design features in order to comply with the Town's requirements, This is reflected in the Officer Recommendation.

**Trees**

The Towns Parks Services have requested special provisions of landscaping for the development. This is also reflected in the Officer Recommendation.

**Summary**

The proposal generally complies with the requirements of the R-Codes and the Town's Policies, as such it is considered that the proposal will generally have no undue detrimental impact on the streetscape or the amenity of the area. Accordingly, the proposal is recommended for approval, subject to standard and appropriate conditions to address the above matters.

Mayor Catania returned to the Chamber at 6.49pm and assumed the Chair. The Chief Executive Officer advised the Mayor that Item 10.1.9 was approved (8-0) with a minor amendment.

**10.1.4 No. 314 (Lot 26) Vincent Street, Leederville - Illuminated Window Sign (Application for Retrospective Planning Approval) and Proposed Illuminated Wall Sign to Existing Office**

<b>Ward:</b>	South	<b>Date:</b>	19 April 2004
<b>Precinct:</b>	Oxford Centre, P4	<b>File Ref:</b>	PRO2714; 00/33/2092
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	S Bowman		
<b>Checked/Endorsed by:</b>	D Abel	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme the Council APPROVES the application submitted by the applicant New Edison Light Company on behalf of the owner J Martin for an illuminated window sign (application for retrospective Planning Approval) and proposed illuminated wall sign to existing office at No. 314 (Lot 26) Vincent Street, Leederville, and as shown on plans stamp dated 25 February 2004, subject to;*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) the signage shall not have flashing or intermittent lighting;*
- (iii) all signage shall be subject to a separate Sign Licence application being submitted and approved prior to the erection of the signage; and*
- (iv) the window signs shall cover no more than 50 percent of the glazed area of the window;*

*to the satisfaction of the Chief Executive Officer.*

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**COUNCIL DECISION ITEM 10.1.4**

**Moved Cr Torre, Seconded Cr Farrell**

*That the recommendation be adopted.*

Discussion ensued.

**CARRIED (8-1)**

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

**LANDOWNER** J Martin  
**APPLICANT:** New Edison Light Company  
**ZONING:** Metropolitan Region Scheme - Urban  
Town Planning Scheme No.1 - Residential/Commercial  
R80  
**EXISTING LAND USE:** Commercial Units and Multiple Dwellings

**COMPLIANCE:**

Use Class	Office Building
Use Classification	“AA”
Lot Area	6960 square metres

Requirements	Required	Proposed
Illuminated wall sign	Limit of two (2) wall signs on any one wall for each tenancy, not exceeding 10 square metres in aggregate on any one wall. Illuminated signs must have a minimum clearance of 2.75 metres from finished ground level.	One (1) wall sign with an aggregate area of 1.15 square metres. The sign is 2.7 metres from finished ground level.
Illuminated window sign	Must not cover more than 50 percent of the glazed area of any one window or exceed 10 square metres in aggregate per tenancy on a lot.	Window sign covers 25 percent of the glazed area with an aggregate area of 2.95 square metres.

**SITE HISTORY:**

22 May 2001 Council granted conditional Planning Approval at its Ordinary Meeting for demolition of an existing dwelling, a commercial building and former RAAF demountable buildings; and alterations and additions to and partial demolition of a former RAAF Drill Hall and the development of five, two-storey grouped dwellings, six offices and fifty-eight (58) multiple dwellings.

**DETAILS:**

The applicant seeks retrospective Planning Approval for the existing illuminated window sign. In addition to the existing window sign, approval is sought for a proposed illuminated wall sign above the doorway and windows.

**CONSULTATION/ADVERTISING:**

No advertising was required as the strata body corporate have provided written consent for the signage.

**LEGAL/POLICY:**

Nil.

**STRATEGIC IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

**Heritage**

The subject site is listed on the Town of Vincent Municipal Heritage Inventory (MHI), but the proposal is within totally new fabric of the building and is not associated with the RAAF Drill Hall. The Heritage Officer's recommendation is to support the application subject to general Town Planning Scheme provision and policies.

**Illuminated Window Sign (Retrospective Approval)**

The existing illuminated window sign is located at the front of the building. The sign consists of neon coloured tubing, with the wording "Jeni Martin Real Estate" and "9227 7770 www.jenimartin.com.au". In accordance with the Town's Policy regarding Signs and Advertising, window signs must not cover more than 50 percent of the glazed area of the window and less than 10 square metres in aggregate. The proposed sign complies with the Policy and is considered to not have an adverse impact on the amenity and streetscape. Retrospective approval of the illuminated window sign is considered supportable, subject to standard conditions.

**Illuminated Wall Sign**

The applicant seeks approval for an illuminated wall sign, in addition to the existing illuminated window sign. The sign is located on the front façade of the building, facing Vincent Street. The total area of the proposed wall sign is 1.15 square metres. This complies with the Town's Policy regarding Signs and Advertising.

As per the requirements of the Town's Policy regarding Signs and Advertising, an illuminated sign must be 2.75 metres above the finished ground level. The applicant seeks a variation to this requirement with the wall sign being 2.7 metres above the finished ground level. The wall sign is not able to achieve the required 2.75 metres clearance due to an awning with a balcony above being situated over the doorway and window of the subject property.

The variation is considered supportable as it is minor and deemed to not cause any undue adverse impact on the amenity of the area. In addition, the sign maintains a safe clearance above the finished ground level.

In light of the above, it is recommended that the application be approved, subject to standard conditions.

**10.1.3 No. 36 (Lot PT 379) Joel Terrace, East Perth - Proposed Retaining Walls and Two-Storey Grouped Dwelling**

<b>Ward:</b>	South	<b>Date:</b>	21 April 2004
<b>Precinct:</b>	Banks, P15	<b>File Ref:</b>	PRO2666; 00/33/2031
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	V Lee		
<b>Checked/Endorsed by:</b>	D Abel	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council DEFERS determination of the application submitted by the owner, B Tonkin, for proposed retaining walls and two-storey grouped dwelling at No. 36 (Lot Pt 379) Joel Terrace, East Perth, and as shown on plans stamp dated 16 January 2004 (retaining walls) and 29 March 2004 (proposed dwelling), until the following details and information in relation to the development is received by the Town:*

- (i) the comments and recommendation of the Swan River Trust; and*
- (ii) accurate and scaled plans showing the proposed amount of cut and fill and retaining proposed on site, particularly in relation to the parks and recreation reservation, from the applicant.*

**Moved Cr Cohen, Seconded Cr Ker**

*That the recommendation be adopted.*

Discussion ensued.

**Moved Cr Torre, Seconded Cr Ker**

*That the words "and adjoining neighbours" be added to clause (i) after the words "Swan River Trust".*

**AMENDMENT LOST (2-7)**

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

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

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

**Reasons:**

1. Does not comply with bulk, scale and setbacks.
2. Complaints received.
3. Loss of amenity.

**COUNCIL DECISION ITEM 10.1.3**

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

*That the Council REFUSES the application submitted by the owner, B Tonkin, for proposed retaining walls and two-storey grouped dwelling at No. 36 (Lot Pt 379) Joel Terrace, East Perth, and as shown on plans stamp dated 16 January 2004 (retaining walls) and 29 March 2004 (proposed dwelling).*

**CARRIED (9-0)**

**LANDOWNER:** B Tonkin  
**APPLICANT:** B Tonkin  
**ZONING:** Metropolitan Region Scheme - Urban  
 Town Planning Scheme No. 1 - Residential R60  
**EXISTING LAND USE:** Vacant Land

**COMPLIANCE:**

<b>Requirements</b>	<b>Required</b>	<b>Proposed</b>
Density	Part Lot 379 - potential for 5 dwellings on site. One dwelling on proposed strata Lot 1.	3 lots proposed on Part Lot 379. One dwelling on proposed strata Lot 1.
Walls on boundaries	Walls not higher than 3.5 metres with an average of 3.0 metres for 2/3 the length of the balance of the boundary behind the front setback, to one boundary.	Northern Elevation - boundary wall proposed up to 7.9 metres high from the natural ground level. Southern Elevation - boundary wall proposed up to 7.9 metres high between proposed strata Lot 1 and strata Lot 2.
Setbacks Northern Elevation (dwelling setback off boundary)	3.15 metres 5.1 metres	2.2 metres with a minor projection setback at 1.7 metres 2.2 metres with a minor projection setback at 1.7 metres
Privacy	Major openings to habitable spaces with finished floor level greater than 0.5 metres above natural ground level to be setback: 6.0 metres for habitable rooms, 4.5 metres for bedrooms, 7.5 metres for unenclosed active habitable balconies, decks and the like, or appropriately screened.	Potential overlooking to the north: Ground floor- Bedroom 2, bedroom 3 on ground floor setback - 2.2 metres First floor- Lounge room, kitchen, balcony - 2.2 metres

Site Works	Maximum acceptable fill 500 millimetres. Retaining walls to be setback 1.5 metres from boundaries.	Retaining walls greater than 500 millimetres proposed on all boundaries.
Building Height	7 metres to the top of external wall (concealed roof)	Maximum building height of - 11.6 metres from the natural ground level including 0.7 metre of fill (stairwell). 9.1 metres building height from the natural ground level including 1 metre of fill. (portion of dwelling closest to the reserve, including turrets).
Plot Ratio	0.65 (184 square metres)	0.64 (181 square metres)

Use Class	Grouped Dwelling
Use Classification	'P'
Lot Area	Part Lot 379 is 943 square metres Proposed Strata Lot 1 is 283 square metres

**SITE HISTORY:**

16 January 2004 A development application for a three storey dwelling and retaining walls was received for the subject property.

22 January 2004 The Western Australian Planning Commission conditionally approved the subdivision of No. 36 (Lot Pt 379) Joel Terrace, East Perth, into three survey strata lots, two of the lots fronting the recreational Reserve with proposed strata lot 1 having a land area of 283 square metres, proposed strata Lot 2 having a land area of 285 square metres, and proposed strata Lot 3 being a square lot of 208 square metres, with common property access leg of 167 square metres.

Advice notes from the Western Australian Planning Commission (WAPC) in relation to the subdivision are as follows:

- "1. *This advice only relates to subdivision only. Any works such as retaining walls of filling of the side will require further consideration by the Swan River Trust.*
2. *Future development of lots that are likely to impact the Swan River Trust management area will be subject to Swan River Trust development policies. This includes the Trust's development setback requirements in accordance with the Trust Policy SRT/D3, requiring 10 metres or 20% of the average depth of the lot, whichever is the lesser from the landward boundary of the Parks and Recreation reservation.*
3. *The Swan River Trust Stormwater Disposal Policy precludes the discharge of stormwater directly into the Swan River or into the Swan River Trust Management Area without the approval of the Trust."*

- 11 February 2004      Development application for the three-storey grouped dwelling and retaining walls was referred to the Department for Infrastructure and the Swan River Trust for Comment.
- 26 February 2004      Development application was referred to owners and occupiers adjoining properties for comment in accordance with the Town's Policy relating to Community Consultation and the Residential Design Codes (R Codes).
- 29 March 2004      Revised plans were received by the Town, which show a reduction in building height, height of retaining walls, reduction in plot ratio and associated modifications, to address concerns raised by the Town, by the Swan River Trust (Trust), and comments received during the community consultation period.
- 2 April 2004      The revised plans were forwarded to the Trust for further consideration. The Trust's Officers have verbally requested that the Town defer making a decision regarding the development until the Swan River Trust Committee makes a formal recommendation to the Town. The Trust advised that the next Swan River Trust Committee meeting at which the matter can be considered is in May 2004.

The applicant has requested that the Town determine the application without comments and recommendation from the Trust, due to the delay in processing time that this will cause.

The *Town Planning and Development Act 1928* gives the Town 60 days in which to determine a development application, or the application is deemed refused. The application was received by the Town on 16 January 2004, and processing time has exceeded the statutory timeframe. This can partially be accounted for by negotiations that have taken place between the Town's Officers and the applicant in order to address a number of the issues and concerns raised. This has subsequently lead to revised plans being submitted which then need to be reassessed.

**DETAILS:**

The subject site has a significant slope, with a difference of 11.02 metres from Joel Terrace, down to the parks and recreation reserve. This application involves retaining walls throughout the whole lot and a dwelling on proposed Lot 1.

Vehicular Access is proposed from Joel Terrace, via a 4.514 metre wide driveway notated as common property in the proposed subdivision.

**Proposed Retaining Walls**

The applicant is seeking approval for retaining walls along the boundaries of proposed Lots 1, 2, and 3.

**Proposed Grouped Dwelling**

Proposed Lot 1, the site of the proposed grouped dwelling, is located on the north eastern portion of Lot Pt 379, with the eastern boundary abutting the Parks and Recreation Reserve.

The original submission included a three storey grouped dwelling on proposed Lot 1.

In consultation with the Town's Officer, revised plans were received, stamp dated 29 March 2004.

The revised plans show the deletion of the swimming pool on the ground floor, and the deletion of the third floor, therefore making the dwelling effectively two-storey and reducing the plot ratio of the development. The revised plans also show that the finished floor levels have been reduced by 300 millimetres, which has accordingly, reduced the amount of fill and retaining required on site.

**CONSULTATION/ADVERTISING:**

**Department for Planning and Infrastructure**

The application was referred to the Department for Planning and Infrastructure (DPI) as it abuts a Parks and Recreation Reserve. The DPI advised that they have no comment to provide on the development.

**Swan River Trust**

The application was referred to the Trust as the subject property abuts a parks and recreation reservation under the Trust's management area. The Trust is currently considering the revised plans stamp-dated 29 March 2004, and has yet to make formal comment in regard to these plans.

The Trust's Officers verbally expressed concern in regard to the bulk, scale and amount of fill and retaining proposed on the original plans that were submitted.

**Community Consultation**

The original proposal with plans stamp dated 16 January 2004 were advertised for a two week period. Two objections were received from the community during this time.

General concerns were raised regarding the area, including the presence and potential expansion of the Western Power site, and microwave tower.

In relation to the proposed development concerns were raised regarding the variations to building setbacks, proposed height, plot ratio, style of development "castle", building character, bulk and scale of the building, height of retaining walls, and loss of views.

One non-objection was received with the application.

A copy of the submissions has been circulated to the Councillors separately.

Given that the revised plans stamp-dated 29 March 2004 do not increase the variations to the Town's Planning Policies or the Residential Design Codes (R Codes), the Town's Officers determined that it was not necessary to refer the revised plans to the adjoining landowners for further comment. Previous comments received from the adjoining property owners are still considered relevant.

**LEGAL/POLICY:**

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

**STRATEGIC IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

## COMMENTS:

### **Swan River Trust Comments**

The subject site abuts a parks and recreation reserve, which is under the management of the Swan River Trust.

The Trust have requested an extension of time to consider the application to assess and formally comment on the revised plans that were received on 29 March 2004. As the Trust's Committee meetings are only held once a month, it is unlikely that the Town will receive a formal response from the Trust before May 2004.

The applicant has requested that the Town determine the application prior to receiving the Trust's comments. The applicant has expressed that he is keen to start the construction of the retaining walls prior to the onset of winter.

The Town's Officers consider that it is imperative that the Trust provides comments in relation to the development, considering its location, the setback of the proposed dwelling and retaining from the reserve, the significant retaining proposed and the bulk and scale of the development.

### **Fill and Retaining Walls**

#### Fill and Retaining for the Western Portion of the Lot

The geotechnical report undertaken by UTS Geotechnical, on behalf of the applicant, suggests that the underlying sands towards the middle of the subject lot are quite suitable for cut and fill purposes after the vegetation and deleterious topsoil has been removed. In addition, the geotechnical report states that stormwater disposal should not present a problem in these sandy soils.

#### Fill and Retaining for the Eastern Portion of the Lot Adjacent to the Parks and Recreation Reserve

The portion of the lot adjacent to the parks and recreation reserve is the lowest point of the site, being 2.00 AHD. This is relatively close to the water table and clay soils, which are unsuitable for building directly upon with standard building practises.

The geotechnical report, states that the eastern portion of the subject site should be classified as a 'standard S' under the relevant Australian Standards. The geotechnical report recommends that a minimum of 1800 millimetres of sand be place over the clay in order to bring the soil conditions to standard building conditions (standard 'A'). However, the Town's Technical Officer have advised that there are alternative engineering solutions, which will allow a dwelling to be built on the site with minimal, and/or potentially 'Nil' retaining on the existing 'S' classified soils.

The Town understands that the Trust has concerns regarding the amount of retaining and fill adjacent to the parks and recreation reserve.

Accordingly, the Town's Officers are not willing to support the proposed levels of retaining and fill proposed on site adjacent to the parks and recreation reserve, without the written support of the Trust.

## **Northern Elevation**

### Retaining Wall

The geotechnical report, submitted by the applicant, suggests that a minimum of 1800 millimetres clean fill on top of the existing clay, is required on the eastern end of the lot adjacent to the parks and recreation reserve, to bring the soil conditions to 'Standard A' conditions under the relevant Australian Standards.

The applicant has advised the following in relation to the amount of fill to be placed adjacent to the parks and recreation reserve:

*"The plans show the existing grass/peat level of the eastern lot boundary being 1.550m AHD. I proposed to remove 450mm and fill 1800mm to make the fill level 3.3m AHD at the river side. "*

This equates to 1.35 metres of fill on top of the current natural ground level, which will be retained by a solid wall located on the northern boundary. The applicant proposes to erect the boundary fence along this boundary in a similar material. The Town's Building Surveyors have advised that the height of this boundary fence needs to be a minimum of 1 metre high to comply with the Building Code of Australia due to the difference in height between the two properties created by the retaining walls. This will result in the retaining wall being 2.35 metres high on this boundary at this point.

Prior to the determination of the matter, the applicant is to provide the Town with scaled plans which clearly and accurately show the amount of fill to be removed, replaced and retained on site, as the current plans do not appear to be accurate or consistent.

The Residential Design Codes (R Codes) requires that retaining walls are designed or setback from common boundaries to minimise their impact on the adjoining property. It is acknowledged that making the applicant set back the retaining walls within the property boundary to comply with the acceptable development criteria of the R Codes, is not considered appropriate in this instance, due to the narrowness of the lot and as this would create a non-usable area at the side of the dwelling. Therefore some degree of retaining may be supportable on the boundary.

However, given that there are other engineering solutions which will allow a dwelling to be built with less retaining on site, the Town's Officers are unwilling to consider this amount of retaining, without the support of the Trust.

### Building on Boundary

Twelve (12) metres of the proposed dwelling is proposed to be built on the northern boundary and is considered to be a 'wall on boundary' under the R Codes. This area includes a sewer pump room, staircase on the ground floor and the garage on the first floor. The height of this wall on boundary is extensive, with the wall ranging in height from 3.5 metres to 7.9 metres high for a 12 metre length. This height includes retaining, proposed by brick build up directly underneath the dwelling.

The applicant is seeking the Town's support for this variation given that proposed Lot 1 is relatively narrow (8.993 metres wide) and has significant slope. The proposed garage (effectively located on the first floor) has been located on this boundary to allow for adequate manoeuvring area so that vehicles can leave the lot in forward gear.

The Town's Officers acknowledge that the majority of the dwelling is setback 2.2 metres from this boundary to lessen the visual bulk impact on the affected adjacent residents. However, due to the length of this wall, the setback of this wall is also a variation to the R Codes.

It is acknowledged that the proposed lot is relatively narrow and constrained due to the significant slope over the site. It is also noted that the adjacent landowner to the north has not objected to this variation.

However, the walls on boundaries and variation to this side setback are considered to be excessive and are therefore not supported.

#### Retaining Walls

Extensive retaining is also proposed along a section of the common property driveway at a height of up to 2.1 metres along the boundary.

It is acknowledged that there is significant slope over the site and that retaining will be needed in order to allow vehicles to get to the rear lots, and manoeuvre so they can leave the site in forward gear. It is not desirable for vehicles to reverse up the long and steep drive way.

The proposed retaining wall is 2.1 metres higher than the natural ground level at the highest point, however this tapers off relatively shortly, due to the significant slope in this immediate area. This retaining wall is 7.3 metres long. The existing fall of the land changes by 2.5 metres over this 7.3 metre distance.

Notwithstanding the above, site works could be undertaken over the whole lot, including cut and retaining along the common property drive way to reduce the grade of steepness over this area. This may result in a longer length of retaining, at a reduced height, which is more aesthetically desirable and is considered to be less detrimental to the amenity of the adjoining residence.

Accordingly the proposed height of retaining and fill proposed in this area is not supported.

#### **Retaining Wall on the Southern Elevation**

The applicant proposes a retaining wall along the southern elevation up to 8.086 AHD for a length of 42 metres. The retaining wall generally steps down with the slope of the lot.

The applicant proposes a retaining wall between 1 metre and 2.8 metres in height above the natural ground level, up through the steeper section of the lot, for a length of 13.5 metres. It is acknowledged that this height is required in order to meet up with the level of the driveway for car parking area and manoeuvring area provided for proposed Lot 2.

This retaining wall is considered to be extensive. The Town's Officers are unwilling to support retaining on the southern boundary without the written support of the Trust.

#### **Internal Retaining Wall between Proposed Lot 1 and Lot 2**

It is not considered appropriate to support internal retaining walls between proposed Lot 1 and 2 at this time, as the proposed height and finished floor levels are not considered supportable without the written support of the Trust.

#### **Privacy**

In order to protect the adjoining neighbours' privacy, prior to the issue of a Building Licence, windows on the northern elevation to the kitchen, lounge room, bedroom 3 and bedroom 2, and the balcony are to be appropriately screened or modified to comply with the privacy requirements of the R Codes.

### **Building Height**

The proposed development has predominately a flat roof and is considered equivalent to a "concealed roof" when wall height is determined in accordance with the R Codes. The R Codes also states that the building height should be measured from the deemed natural ground level.

However, if the building height is measured from the proposed top of retaining wall, the revised plans stamp-dated 29 March 2004, generally comply with the height requirements of the R Codes with the following exceptions:

#### Turrets

The "castleations / battlements" on top of the roof increase the height of the wall to up to 8 metres high.

#### Stair Well to the Roof

The applicant has advised that a roof terrace is not part of this application, however a stair well is desired to get to the roof to allow for access to solar panels that will be located on the roof. The applicant has used this intrusion to be a feature on the roof.

In accordance with the R Codes, the turrets/castleations are not considered to be minor projections and are therefore included in the measurement of building height.

Therefore the building height is a variation, whether taken from the natural ground level or the proposed level of fill.

One objection received considered that such intrusions exacerbates the overall bulk and scale of the development. This concern is noted.

Accordingly, as engineering solutions are possible which will enable the amount of fill and retaining to be reduced on site, the variation to building height is not supported.

### **Building Form**

The unique 'castle' design of the proposal is noted. The Town's Policy relating to the Riverside Locality states:

*"new contemporary developments are encouraged provided that the design responds to the established character. The selected use of elements such as roof pitch, building materials and wall and eaves height can be used to augment the elements of particular importance, building location and orientation."*

One objection received raised concern that the proposed development did not respond to the established character of the area.

It is acknowledged that the applicant is seeking to build a unique home on the site. The revised plans, stamp-dated 29 March 2004, reduce the visual bulk of the proposed dwelling, by removing the third floor.

The Town's Officers are reluctant to refuse the application on the grounds that there are no other 'castle' or 'medieval' developments in the immediate area as it is not considered to be a valid planning concern.

### **Plot Ratio**

The revised plans stamp dated 29 March 2004 and amended on 1 April 2004, now comply with the plot ratio requirement of 0.65. This has involved the deletion of the third storey and removal of the swimming pool / exercise area on the ground floor.

### **Bulk and Scale**

The revised plans include the deletion of the third storey. This has reduced the bulk and scale of the development to a level that is less detrimental to the amenity of the area.

However there is concern that the amount of retaining and building on boundary adds to the bulk and scale of the building to an unacceptable level.

### **Loss of Views**

One submission received raised concern that their view would be compromised by the development. Loss of views are not considered to be a valid reason for refusal of the development application. However the intent of this concern is addressed in the over all building height variation.

### **Summary**

The proposed dwelling is unique in character, and is proposed on a site that is constrained by slope and by the width of the block, and the nature of the area including the level of the natural water table and associated soils. The applicant has been willing to compromise on several issues including building height to reduce the bulk and scale of the development so that it is less intrusive on the visual amenity of the area.

However, the proposed levels of fill and retaining and scale of the development is not considered to be appropriate for the site.

It is also acknowledged that reducing the amount of fill and retaining levels to those that can be approved 'as a right' under the R Codes will potentially be more expensive for the applicant. However, the Town's Officers believe it is imperative to work in conjunction with the Swan River Trust to create a riverscape that is considered appropriate and sympathetic to the river and reserve.

The application is being presented to the Ordinary Meeting of Council for consideration at the request of the applicant. However, the Town's Officers believe that the proposed development is generally not appropriate for the site and that it is not appropriate to determine the application without written comments and recommendation by the Swan River Trust. Accordingly, it is recommended that the determination of the application be formally deferred until such time that written comments and recommendation are received from the Swan River Trust.

**10.1.7 No. 20 (Lot 39) Bondi Street, Mount Hawthorn – Proposed Carport Addition to Existing Single House**

<b>Ward:</b>	North	<b>Date:</b>	19 April 2004
<b>Precinct:</b>	Mount Hawthorn, P1	<b>File Ref:</b>	PRO 2678; 00/33/2059
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	S Bowman		
<b>Checked/Endorsed by:</b>	D Abel	<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, the Council APPROVES the application submitted by Patios 2000 on behalf of the owner D Mercadante for the proposed carport addition to existing single house on No. 20 (Lot 39) Buxton Street, Mount Hawthorn, and as shown on the plans stamp-dated 10 February 2004, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) prior to issuing the Building Licence, revised plans will be submitted and approved demonstrating the carport being setback a minimum of 1.0 metre from the western side boundary. The revised plans shall not result in any greater variation to the requirements of the Town's Policies and Residential Design Codes;*
- (iii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (iv) a road and verge security deposit bond and/or bank guarantee of \$220 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building/development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired/reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing; and*
- (v) standard visual truncations, in accordance with the Town's Policies and to the satisfaction to the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*

*to the satisfaction of the Chief Executive Officer.*

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

*That the recommendation be adopted subject to clause (ii) being amended as follows:*

- (ii) prior to issuing the Building Licence, revised plans shall be submitted and approved demonstrating the following:*
  - (a) the carport being setback a minimum of 1.0 metre from the western side boundary; and*

**(b) the maximum internal ceiling height of the carport being a maximum of 2.4 metres from the finished floor level, with the maximum overall height of the carport being 2.7 metres.**

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

Discussion ensued.

**CARRIED (9-0)**

**COUNCIL DECISION ITEM 10.1.7**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region, the Council APPROVES the application submitted by Patios 2000 on behalf of the owner D Mercadante for the proposed carport addition to existing single house on No. 20 (Lot 39) Buxton Street, Mount Hawthorn, and as shown on the plans stamp-dated 10 February 2004, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) prior to issuing the Building Licence, revised plans shall be submitted and approved demonstrating the following:*
  - (a) the carport being setback a minimum of 1.0 metre from the western side boundary; and*
  - (b) the maximum internal ceiling height of the carport being a maximum of 2.4 metres from the finished floor level, with the maximum overall height of the carport being 2.7 metres.*

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

- (iii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (iv) a road and verge security deposit bond and/or bank guarantee of \$220 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building/development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired/reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing; and*
- (v) standard visual truncations, in accordance with the Town's Policies and to the satisfaction to the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*

*to the satisfaction of the Chief Executive Officer.*

**LANDOWNER:** D Mercadante  
**APPLICANT:** Patios 2000  
**ZONING:** Metropolitan Region Scheme - Urban  
Town Planning Scheme No. 1 - Residential R30  
**EXISTING LAND USE:** Single House

**COMPLIANCE:**

Use Class	Single House
Use Classification	"P"
Lot Area	513 square metres

Requirements	Required	Proposed
Western side setback	1.0 metres minimum	0.5 metre
Plot ratio	N/A	N/A

**SITE HISTORY:**

The site is occupied by a single storey single house fronting Bondi Street. There is no right of way at the rear or sides of the property, however access to the proposed carport to the rear of the property is proposed from Green Street.

**DETAILS:**

The applicant seeks approval for the proposed carport addition to the existing single house. The carport is proposed to the rear of the existing dwelling, with access from Green Street. The site currently accommodates parking at the front of the house, which is accessed from Bondi Street.

**CONSULTATION/ADVERTISING:**

The proposal was advertised for a two week period in accordance with the requirements of the Residential Design Codes (R Codes) and the Town's Policy relating to Community Consultation. One objection was received and the concerns raised are summarised below:

- (1) The proposed building will be too close to the dividing fence.
- (2) The bulk and scale of the carport will decrease the amenity of the neighbouring property.

The application was referred to the Department for Planning and Infrastructure (DPI) for comments regarding access from Green Street. The DPI provided a written response stating the application is supported.

**LEGAL/POLICY:**

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

**STRATEGIC IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

**Side Setback**

In accordance with the Residential Design Codes (R-Codes) the carport is required to be setback 1.0 metre from the boundary as it is less than 3.5 metres in height and 9 metres in length. A 0.5 metre setback can be considered as a variation to the R-Codes providing the adjoining affected landowner gives their consent. In this instance the adjoining landowner has not given their consent for the variation to the R-Code requirements.

The overall height of the carport is approximately 3.3 metres, which is taller than a "standard" single storey house. The reduced setback of 0.5 metres is not supportable in this instance given that the height of the carport is significantly taller than a standard carport and will unduly impact on the amenity of the adjoining neighbour.

Given the subject property has a substantial sized backyard, the required 1.0 metre setback from the western boundary is not considered difficult to achieve. Therefore it is recommended the application be approved, subject to the proposed carport being setback the required 1.0 metre from the western boundary. This has been conditioned appropriately in the Officer recommendation.

Accordingly, the proposal is recommended for approval, subject to standard and appropriate conditions to address the above matters.

**10.1.15 Nos.22-28 (Lot 800) Knutsford Street, (corner Blake and Little Walcott Streets), North Perth - Proposed Demolition of Existing Hotel**

<b>Ward:</b>	North	<b>Date:</b>	15 April 2004
<b>Precinct:</b>	North Perth, P8	<b>File Ref:</b>	PRO0254 00/33/2018
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	H Eames		
<b>Checked/Endorsed by:</b>	D Abel	<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 for the proposed demolition of existing hotel at Nos. 22-28 (Lot 800) Knutsford Street (corner Blake and Little Walcott Streets), North Perth and as shown on the plans stamp dated 12 January 2004, subject to:*

- (i) a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (ii) an archival documented record of the place including photographs (internal, external and streetscape elevations), floor plans and elevations for the Town's Historical Archive Collection shall be submitted and approved prior to the issue of a Demolition Licence;*
- (iii) support of the demolition application is not to be construed as support of the Planning Approval/Building Licence application for the redevelopment proposal for the subject property;*
- (iv) demolition of the existing building may make the property ineligible for any development bonuses under the provisions of the Town of Vincent Town Planning Scheme No.1 and associated Policies for the retention of existing building valued by the community;*
- (v) compliance with all relevant Environmental Health, Engineering and Building requirements; and*
- (vi) any subsequent development application for the redevelopment of the site is to be accompanied by an interpretation proposal, to be designed, produced and installed at the expense of the applicant, which recognises the former location of the hotel and which is visible from the public domain;*

*to the satisfaction of the Chief Executive Officer*

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**COUNCIL DECISION ITEM 10.1.15**

**Moved Cr Cohen, Seconded Cr Lake**

*That the recommendation be adopted.*

**Discussion ensued.**

**CARRIED (9-0)**

**LANDOWNER:** T Baker  
**APPLICANT:** T Baker  
**ZONING:** Metropolitan Region Scheme - Urban  
Town Planning Scheme No.1 - Local Centre  
**EXISTING LAND USE:** Vacant Hotel

**SITE HISTORY:**

The hotel, now vacant, was constructed and operated from the mid 1950s through to the mid 1990s. In more recent years it was primarily a venue for live music and pub food and drink. In 1995 the rear portion of the hotel land was redeveloped with a set of two storey apartments.

**DETAILS:**

The applicant is seeking approval to demolish the vacant hotel building at Nos.22-28 (Lot 800) Knutsford Street, North Perth.

The applicant has indicated to the Town's Officer's that he wishes to have the matter of the demolition considered by Council, due to the concerns regarding the standard condition normally requiring a redevelopment to be approved by the Town prior to issuing a Demolition Licence. The applicant's concern in this regard is related to vandalism and illegal use of the premises and its close proximity to adjacent residential apartments. The applicant's request in written correspondence dated 6 January 2004 is included in an attachment to this report.

**CONSULTATION/ADVERTISING:**

Applications for the proposed demolition of existing buildings not listed on the Municipal Heritage Inventory are not required to be advertised.

**LEGAL/POLICY:**

Nil.

**STRATEGIC IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

A Heritage Assessment for the existing property known as the Knutsford Arms Hotel is included as an attachment to this report.

The place is considered to have *little to some social significance* as illustrated by its association with various live music events, community knowledge and its role as a key development in post war growth in suburbs north of the city. Due to the limited nature of this significance and the lack of significance associated with the physical fabric of the place, it is recommended that an appropriate condition for the redevelopment of the site be applied, which will recognise the past associations and use of the place, such as an interpretive art work or sign to be erected on the site in view of the public. It is also recommended that a professional archival documented record of the place be commissioned at the expense of the application to the Town's satisfaction prior to the issue of a Building or Demolition Licence, which ever comes first.

The request for the removal of the standard condition relating to the issuing of a Demolition Licence or Building Licence only after the redevelopment has been approval, is considered acceptable given the significant size of the building and the letter of support from the applicant. No complaints relating to illegal use or vandalism have been lodged with the Town's Environmental Health Officers to date; however, the building displays some signs of vandalism.

Therefore, it is recommended that the proposal for the demolition of this place be approved subject to conditions to address the above matters.

**10.1.17 No. 484 (Lot 51) Beaufort Street, Highgate - Proposed Change of Use from Shop to Eating House and Residential Dwelling, and Associated Signage, Alterations, Additions and Partial Demolition**

<b>Ward:</b>	South	<b>Date:</b>	19 April 2004
<b>Precinct:</b>	Mount Lawley Centre, P11	<b>File Ref:</b>	PRO1151; 00/33/2152
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	V Lee, R Rasiah		
<b>Checked/Endorsed by:</b>	D Abel	<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 D Morison and R Luca on behalf of Benjamin and Co Pty Ltd, for proposed change of use from shop to eating house and residential dwelling, and associated signage, alterations, additions and partial demolition at No. 484 (Lot 51) Beaufort Street, Highgate, and as shown on plans stamp dated 25 March 2004, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements, including access, car parking and facilities for people with disabilities;*
- (ii) a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;*
- (iii) subject to first obtaining the consent of the owners of No.476 (Lot 50) Beaufort 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.476 (Lot 52) Beaufort Street, description of adjoining land in a good and clean condition;*
- (iv) a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
- (v) no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services Section. Should such an approval be granted with all cost associated the removal and replacement shall be borne by the applicant/owner(s);*
- (vi) all car parking bays shall be dimensioned on the Building Licence application working drawings and shall comply with the minimum specifications and dimensions specified in the Town's Policy relating to Parking and Access and Australian Standards AS2890.1 – "Off Street Parking";*
- (vii) all signage shall be subject to a separate Planning Approval and Sign Licence application being submitted and approved prior to the erection of the signage;*
- (viii) an archival documented record of the place (including photographs, floor plans and elevations) for the Town's Historical Archive Collection shall be submitted and approved prior to the issue of a Demolition Licence;*

- (ix) *doors and windows and adjacent floor areas fronting Beaufort Street shall maintain an active and interactive relationship with these streets, including a 2.56 metres solid bricked in facade as per option one(1), and this solid wall shall incorporate significant design features;*
- (x) *prior to the first occupation of the development, two (2) car bays (car bays 2 and 3) are to be provided for the residential component of the development, and shall be clearly marked and signposted for the exclusive use of the residents of the development;*
- (xi) *the car parking area(s) on the subject land shall be adequately lit in accordance with the Australian Standards, AS 1158.1, lighting categories C2 and C3 for open car bays, sealed, drained, paved and line marked in accordance with the approved plans prior to the first occupation of the development and maintained thereafter by the owner(s)/occupier(s) to the satisfaction of the Town;*
- (xii) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (xiii) *a Road and Verge security bond or bank guarantee of \$1650 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building /development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired /reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing.*
- (xiv) *the construction of crossovers shall be in accordance with the Town's specifications;*
- (xv) *all pedestrian access and vehicle driveway/crossover levels shall match into existing verge/footpath levels;*
- (xvi) *the maximum floor space for the eating house shall be limited to 55 square metres of gross floor area;*
- (xvii) *provision of adequate access for person's with disabilities in accordance with the relevant standards of the Building Code of Australia;*
- (xviii) *prior to the issue of the Building Licence or first occupation of the development, whichever occurs first, the applicant/owner shall pay a cash-in-lieu contribution of \$3075 for the shortfall of 1.23 carbays based on the cost of \$2,500 per bay as set out in the Town's 2003/2004 Budget. Alternatively, if the car parking shortfall is reduced as a result of a greater number of carbays being provided or the carparking requirements have decreased as a result of the change in floor area use, the cash in lieu amount can be reduced to reflect the new changes in car parking requirements;*
- (xix) *no part of the residential component of the development is to be used for associated activities related to the commercial use on site; and*
- (xx) *the signage shall not have flashing or intermittent lighting;*

*to the satisfaction of the Chief Executive Officer;*

**COUNCIL DECISION ITEM 10.1.17**

**Moved Cr Cohen, Seconded Cr Ker**

*That the recommendation be adopted.*

**Discussion ensued.**

**CARRIED (9-0)**

**LANDOWNER:** Benjamin and Co Pty Ltd  
**APPLICANT:** D Morison and R Luca  
**ZONING:** Metropolitan Region Scheme: Urban  
 Town Planning Scheme No.1: Commercial  
**EXISTING LAND USE:** Vacant (Previously shop on ground floor and residence on upper floor)

**COMPLIANCE:**

Requirements	Required	Proposed
Town's Policy relating to Security Roller Shutters and Grilles on Non-Residential Buildings	Permeable interface at street level	Partly permeable and partly bricked up wall.
Car Parking	12 car parking bays (before adjustment factors taken into account)	4 car bays provided on site for commercial use.

Use Class	Eating house and multiple dwelling
Use Classification	P and AA
Lot Area	501 square metres.

**SITE HISTORY:**

The above site is located along Beaufort Street and is zoned Commercial. The site is currently vacant and was last used as a shop on the ground floor and as a residence on the upper floor.

- 12 April 1999      The Council at its Ordinary Meeting conditionally approved the change of use of the vacant ground floor tenancy to an eating house subject to conditions.
- 7 October 2003    The Council at its Ordinary Meeting deferred determination of a proposed change of use from shop to eating house and residential, and associated alterations and additions involving partial demolition, pending consideration of parking issues and cash-in-lieu requirements.
- 4 November 2003    The Council at its Ordinary Meeting conditionally approved a development application for a change of use from shop to eating house and residential, and associated alterations and additions involving partial demolition.

**DETAILS:**

The Council at its Ordinary Meeting held on 4 November 2003 approved a change of use from shop to eating house and residential, and associated alterations and additions involving partial demolition, including the following condition:

"(ii) *prior to the occupation of the building for the proposed eating house use, a grant of easement or a legal agreement in favour of the Town shall be provided over the vehicle access and registered on the respective Certificate of Titles for No. 484 (Lot 2), No. 476 (Lot 1) Beaufort Street and Nos. 118-120 (Lot 4) Broome Street; OR alternatively, the applicant/owners 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 complete the grant of easement for access 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);"*

The subject application is for a similar proposal, mainly to request Council to reconsider condition (ii) of the previous approval. The applicant has undertaken research to prove that this condition is no longer applicable.

In addition, this application also includes proposed signage.

**CONSULTATION/ADVERTISING**

The proposal is not required to be advertised as it does not involve further variations to the relevant development requirements compared to the previous proposal, which was advertised in the past 12 months.

One submission was received in relation to the previous proposal. The main concerns related to car parking and the bricking up of a front window.

**FINANCIAL/ BUDGET IMPLICATIONS:**

Nil.

**STRATEGIC IMPLICATIONS:**

Nil.

**LEGAL/POLICY:**

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

**COMMENTS:**

**Signage**

The proposed signage complies with the Town's Policy relating to Signs and Advertising.

**Reconsideration of Condition (ii)**

Further to the Council's decision at the Ordinary Meeting of Council held on 4 November 2003, the applicant has provided the Town with a copy of a letter from the owner's solicitors advising that condition (ii) is not appropriate in this instance. A copy of this advice has been circulated to Councillors separately.

In addition, the most recent Certificate of Title provided by the applicant advises that new lot numbers are appropriate as follows:

Lot	Former PI/Tenure
50	Pt Lot 1
51	Pt Lot 2
52	Pt Lot 3

Accordingly, the development relates to Lot 51, and this report reflects the current lot numbers.

The advice suggests that the encumbrance of Lot 4's freehold title is not necessary, nor the extension of the right of carriage way over Part Lot 3 (Lot 52). The driveway that provides vehicular and pedestrian access through to the rear of the subject site is fully contained on site and does not need to involve land associated with Lot 4.

An existing easement over Part Lots 1 and 2 (Lots 50 and 51) allows access to the rear of the properties via Broome Street.

The applicant has had the subject site resurveyed to confirm the location of the easement and lot boundaries, and confirm that there is adequate vehicle manoeuvring area from proposed car parking bays 5 and 6.

The Town's Technical Officers have advised that proposed car parking option 2, which involves the demolition of the existing garage is acceptable and will allow vehicles to leave the premise in forward gear without the need to use land on adjoining lots Lot 4 or Part Lot 3 (Lot 52).

Therefore this negates the need for condition (ii) to include any agreement with adjoining Lot 4 and Part Lot 3 (Lot 52).

Accordingly, the Town's Officers support the deletion of the previous condition (ii) of the previous approval.

**Related Matters**

The other matters relating to the proposal have been addressed in the Item 10.1.1 to the Ordinary Meeting of Council held on 4 November 2003.

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

**10.1.1 Further Report - No. 61 (Lot 139) Buxton Street, Mount Hawthorn – Proposed Carport Addition to Existing Single House**

<b>Ward:</b>	North	<b>Date:</b>	19 April 2004
<b>Precinct:</b>	Mount Hawthorn, P1	<b>File Ref:</b>	PRO 2702; 00/33/2077
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	S Bowman		
<b>Checked/Endorsed by:</b>	D Abel	<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, the Council REFUSES the application submitted by Carport Constructions on behalf of the owners W Dowling and D Ansley for the proposed carport addition to existing single house on No. 61 (Lot 139) Buxton Street North Perth, and as shown on the plans stamp-dated 10 February 2004, for the following reasons:*

- (i) the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality; and*
- (ii) the non-compliance with the Residential Design Codes and the Town's Policy relating to Parking and Access, regarding the design of car parking spaces.*

---

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

*That the recommendation be adopted.*

Discussion ensued.

Cr Torre departed the Chamber at 7.08pm.

**LOST (0-8)**

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

**Reasons:**

1. The area is already being used for carparking.
2. A satisfactory carport can be established.
3. The only alternative is a carport in the front setback area.

**Moved Cr Ker, Seconded Cr Lake**

*That this item LIE ON THE TABLE while photocopies of an alternative recommendation are made for circulation to the Elected Members.*

**CARRIED (8-0)**

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

Item 10.1.6 was considered see page 96.

Cr Torre returned to the Chamber at 7.12pm.

**ALTERNATIVE RECOMMENDATION – ITEM 10.1.1**

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

*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 Carport Constructions on behalf of the owners W Dowling and D Ansley for the proposed carport addition to existing single house at No. 61 (Lot 139) Buxton Street, Mount Hawthorn, and as shown on the plans stamp-dated 10 February 2004, subject to;*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) prior to the issue of a Building Licence, revised plans will be submitted and approved demonstrating the following:*
  - (a) no part of the roof, including gutters (other than metal beams) being setback nearer than 500 millimetres from the northern side boundary, or alternatively;*
  - (b) a parapet wall being constructed for the entire length of the carport along the northern boundary. Subject to first obtaining the consent of the owners of No.63 (Lot 138) Buxton 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.63 (Lot 138) Buxton Street in a good and clean condition. The revised plans shall not result in any greater variation to the requirements of the Town's Policies and the Residential Design Codes;*
- (iii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (iv) a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building/development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired/reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing; and*
- (v) standard visual truncations, in accordance with the Town's Policies and to the satisfaction to the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*

*to the satisfaction of the Chief Executive Officer.*

**Discussion ensued.**

**Moved Cr Ker, Seconded Cr Farrell**

*That clause (ii) (b) be deleted.*

**Discussion ensued.**

Cr Farrell departed the Chamber at 7.12pm.

Cr Farrell returned to the Chamber at 7.15pm.

**AMENDMENT CARRIED (6-3)**

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

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

**COUNCIL DECISION ITEM 10.1.1**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme the Council APPROVES the application submitted by Carport Constructions on behalf of the owners W Dowling and D Ansley for the proposed carport addition to existing single house at No. 61 (Lot 139) Buxton Street, Mount Hawthorn, and as shown on the plans stamp-dated 10 February 2004, subject to;*

- (ii) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) prior to the issue of a Building Licence, revised plans will be submitted and approved demonstrating the following:
  - (a) no part of the roof, including gutters (other than metal beams) being setback nearer than 500 millimetres from the northern side boundary, or alternatively;**
- (iii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (iv) a road and verge security deposit bond and/or bank guarantee of \$550 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building/development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired/reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing; and*
- (v) standard visual truncations, in accordance with the Town's Policies and to the satisfaction to the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*

*to the satisfaction of the Chief Executive Officer.*

**FURTHER REPORT:**

At its Ordinary Meeting on 13 April 2004, Council agreed to defer the application at the request of the owner. The owner requested the deferral to clarify the reasons for refusal with the Town's Officers.

During discussions between the owner and the Town's Officers, it was clarified that the application was recommended for refusal on planning grounds as the width of the carport does not comply with the Residential Design Codes (R-Codes) requirements. However, if Council were of mind to approve the variation to the required width of the carport, the application would still need to comply with the Building Code of Australia (BCA) in order for a Building Licence to be issued.

The owner was advised that in order for the proposed carport to comply with the BCA, the roof and eaves would be need to be setback 0.5 metre from the side boundary or alternatively a parapet wall be constructed for the entire length of the carport along the boundary. Due to the considerable costs involved with the construction of a masonry wall, the owner indicated he would be more likely to submit amended plans for the Building Licence indicating the proposed door and eaves setback 0.5 metre from the side boundary.

The application has not been altered in anyway, therefore the previous refusal 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 13 April 2004:

*"OFFICER RECOMMENDATION:*

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region, the Council REFUSES the application submitted by Carport Constructions on behalf of the owners W Dowling and D Ansley for the proposed carport addition to existing single house on No. 61 (Lot 139) Buxton Street North Perth, and as shown on the plans stamp-dated 10 February 2004, for the following reasons:*

- (i) the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality; and*
- (ii) the non-compliance with the Residential Design Codes and the Town's Policy relating to Parking and Access, regarding the design of car parking spaces.*

---

*Moved Cr Ker, Seconded Cr Lake*

*That the recommendation be adopted.*

*Discussion ensued.*

*COUNCIL DECISION ITEM 10.1.22*

*Moved Cr Ker, Seconded Cr Cohen*

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

*CARRIED (9-0)*

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*LANDOWNER:* W Dowling and D Ansley  
*APPLICANT:* Carport Constructions  
*ZONING:* Metropolitan Region Scheme - Urban  
Town Planning Scheme No. 1 - Residential R30  
*EXISTING LAND USE:* Single House

*COMPLIANCE:*

<i>Use Class</i>	<i>Single House</i>
<i>Use Classification</i>	<i>"P"</i>
<i>Lot Area</i>	<i>491 square metres</i>

<i>Requirements</i>	<i>Required</i>	<i>Proposed</i>
<i>Northern side setback</i>	<i>1.5 metres minimum</i>	<i>Nil</i>
<i>Width of car bay</i>	<i>3.0 metres minimum</i>	<i>2.4 metres</i>
<i>Plot Ratio</i>	<i>N/A</i>	<i>N/A</i>

*SITE HISTORY:*

*The site is occupied by a single storey single house fronting Buxton Street. There is no right of way at the rear or sides of the property, with access to on site parking provided solely from Buxton Street.*

*DETAILS:*

*The applicant seeks approval for the proposed carport addition to the existing single house. The carport is proposed along the northern side of the house with access from Buxton Street. The site currently accommodates parking along the side of the house, which is accessed from Buxton Street.*

*CONSULTATION/ADVERTISING:*

*No advertising was required as the adjoining affected neighbour to the subject property signed the plans stating they have no objections.*

*LEGAL/POLICY:*

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

*STRATEGIC IMPLICATIONS:*

*Nil.*

*FINANCIAL/BUDGET IMPLICATIONS:*

*Nil.*

*COMMENTS:*

*Side Setback*

*In accordance with the Residential Design Codes (R-Codes) the carport is required to be setback 1.5 metres from the boundary as it is longer than 9.0 metres in length. A nil setback can be considered as a variation to the R-Codes providing the adjoining affected landowner provides their consent. In this instance nil setback could be considered supportable given the adjoining neighbour has consented to the carport.*

*However, notwithstanding the above, it is important to note that in order to comply with the Building Code of Australia (BCA) requirements, the proposed carport roof would need to be setback 0.5 metre from the boundary.*

*Design of Parking Spaces*

*The R-Codes require parking bays to have a minimum width of 2.4 metres plus an extra 0.3 metres for any side confined by a wall, fence, column or pier. The additional 0.3 metre requirement is to allow sufficient room for the opening of car doors whilst the car is parked. Based on these calculations the proposed carport needs to be 3.0 metres in width. The variation of is not supported as the proposed carport is considered too narrow and does not meet R-Code requirements.*

*In light of the above, it is recommended that the proposal for the carport addition be refused."*

**10.1.6 No. 28A (Lot 301) Burt Street, Mount Lawley – Proposed Patio Additions to Existing Grouped Dwelling**

<b>Ward:</b>	South	<b>Date:</b>	19 April 2004
<b>Precinct:</b>	Norfolk; P10	<b>File Ref:</b>	PRO2587; 00/33/1940
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	M Bonini		
<b>Checked/Endorsed by:</b>	D Abel	<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 Outdoor World on behalf of the owners B and C Fazio for proposed patio additions to existing grouped dwelling at No.28a (Lot 301) Burt Street, Mount Lawley, and as shown on the plans stamp dated 18 November 2003 and 18 March 2004, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) a road and verge security bond or bank guarantee of \$220 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing.*
- (iii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division; and*
- (iv) the patio shall be one hundred (100) per cent open on at least two sides and at all times;*

*to the satisfaction of the Chief Executive Officer.*

---

**Moved Cr Lake, Seconded Cr Ker**

*That the recommendation be adopted with the additional new clause (v) as follows:*

- (v) prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the finished floor level of the patio additions being no greater than the finished floor level of the adjacent ground floor family/living room of unit 2 main dwelling, which is FFL 10.9. The revised plans shall not result in any greater variation to the requirements of the Town's Policies and Residential Design Codes;*

**CARRIED (8-0)**

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

**Cr Torre returned to the Chamber at 7.12pm.**

**COUNCIL DECISION ITEM 10.1.6**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by Outdoor World on behalf of the owners B and C Fazio for proposed patio additions to existing grouped dwelling at No.28a (Lot 301) Burt Street, Mount Lawley, and as shown on the plans stamp dated 18 November 2003 and 18 March 2004, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) a road and verge security bond or bank guarantee of \$220 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing.*
- (iii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iv) the patio shall be one hundred (100) per cent open on at least two sides and at all times; and*
- (v) prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the finished floor level of the patio additions being no greater than the finished floor level of the adjacent ground floor family/living room of unit 2 main dwelling, which is FFL 10.9. The revised plans shall not result in any greater variation to the requirements of the Town's Policies and Residential Design Codes;*

*to the satisfaction of the Chief Executive Officer.*

**Item 10.1.1 was then re-considered.**

---

**LANDOWNER:** B and C Fazio  
**APPLICANT:** Outdoor World  
**ZONING:** Metropolitan Region Scheme: Urban  
Town Planning Scheme No.1: Residential R40  
**EXISTING LAND USE:** Grouped Dwelling

**COMPLIANCE:**

Use Class	Single House
Use Classification	"P"
Lot Area	380 square metres (Site Area)

Requirements	Required	Proposed
Setbacks:		
North	1.5 metres	0.5 metre
South	1 metre	0.6 metre
Plot Ratio	N/A	N/A

**SITE HISTORY:**

The total lot currently supports 3 grouped dwellings on 681 square metres of land area. The lot subject to this application is 380 square metres in total area with the allocated portion of the accessway.

**DETAILS:**

The applicants/owners are seeking Planning Approval for a proposed patio to the rear of the subject grouped dwelling (unit 2).

**CONSULTATION/ADVERTISING:**

The proposal has been advertised and two written submissions (objections) have been received by the Town.

The main points raised in the first letter are as follows;

*"My objection is based upon the fact that the application does not meet the acceptable requirements of the Residential Design Codes (R Codes) and as a consequence I feel our privacy will be extremely compromised. R Codes are in place for a reason, assumably to protect an individuals privacy. Because the application does not comply I feel the construction 0.5 metre from the boundary line instead of the regulatory 1.5 metres would be extremely intrusive."*

The second letter makes the following comments;

*"My objections are made for the following reasons*

- 1. The structure will obscure the light to surrounding properties.*
- 2. With the introduction of another structure so close to the boundary it gives other properties a closed in feel.*
- 3. It is not aesthetically pleasing having this type of structure so close to neighbouring properties.*
- 4. It will effect the natural flow of sea and inland air flows.*
- 5. I feel that it is unfair that this type of structure be allowed to be built so close to the boundaries when other structures such as walls etc are disallowed."*

**LEGAL/POLICY:**

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

**STRATEGIC IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

The subject application for a patio is non compliant with the setback requirement to the north and west boundaries. The setback requirement from the north boundary is 1.5 metres due to its length and 1 metre from the west boundary. The applicant proposes 0.5 metre from both boundaries. The patio reaches a maximum height of 2.84 metres with a slight pitch to the roof. The patio is not considered to cause undue negative impact to the adjoining properties as it is single storey in nature.

**Response to Objections**

In response to the comments made in the first letter, whilst development may not meet the acceptable development of the R Codes, development is also assessed under the performance criteria of the R Codes thus allowing development to be assessed on a performance based approach.

Privacy is not considered to be compromised as a result of this development due to the fact that it is single storey in nature, therefore resulting in no potential for undue overlooking to take place. The section of the patio affecting this neighbour is the west side of the patio and the variation to the requirement on this side is 0.5 metre. This is considered to be a minor variation.

The second letter expresses concern over the loss of light as a result of the proposed development. Due to the single storey nature of the development, it is considered that there is no undue adverse impact to the adjoining properties in relation to overshadowing.

The letter goes on to mention that the patio will create a closed in feel and is not aesthetically pleasing. Approximately 1 metre of the patio would be visible from the adjoining properties when relating the height of the proposed patio to a 1.8 metre high fence. Therefore, it is considered that the overall visual impact is minor.

The last two points mention the effect of the patio on the natural flow of sea and inland air flows and the structure being too close to the boundary. The flow of inland and sea air flows are not deemed to be unduly affected as a result of the proposed patio. The structure maintains a 0.5 metre setback from both boundaries. Under the provisions of the R Codes, the Town allows walls to be built on a boundary. The subject patio with the setbacks proposed is considered to be less intensive than a solid boundary wall.

On the above basis, the additions are considered acceptable, subject to standard and appropriate conditions to address the above matters.

**10.1.2 Car Parking, Carports and Garages Accessed from the Street rather than an Available Right of Way - Interim Practice**

<b>Ward:</b>	Both Wards	<b>Date:</b>	21 April 2004
<b>Precinct:</b>	All Precincts	<b>File Ref:</b>	PLA0022
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	S Turner, D Abel		
<b>Checked/Endorsed by:</b>		<b>Amended by:</b>	John Giorgi

**OFFICER RECOMMENDATION:**

*That;*

- (i) *the Council RECEIVES the report regarding Car parking, Carports and Garages Accessed from the Street rather than an Available Right of Way - Interim Practice;*
- (ii) *the Council NOTES that the Town's Policies relating to Street Setbacks, Vehicular Access, and Vehicle Access to Dwellings Via a Right-Of-Way, are currently being reviewed;*
- (iii) *the Council APPROVES the following variations to the Town's Policies relating to Street Setbacks, Vehicular Access, and Vehicle Access to Dwellings Via a Right-Of-Way as an interim practice, until finalisation of the review of these Policies:*

*Vehicular access to car parking, carports and garages to a dwelling that directly fronts onto a street can be from that street, regardless whether a right of way is available to the property, where the following criteria is met to the satisfaction of the Town:*

- (a) *the right of way is unsealed or not programmed to be sealed within the current financial year in accordance with the Town's right of way upgrade program;*
  - (b) *any carport with the front setback area shall be one hundred (100) per cent open on all sides at all times (open type gates/panels are permitted), except where it may abut the front main building wall of the dwelling (not open verandah, porch, portico, balcony and the like);*
  - (c) *the total width of any carport within the front setback area does not exceed 50 per cent of the lot frontage at the building line; and*
  - (d) *garages setback a minimum of 6.0 metres from the frontage street, or at least 500 millimetres behind the line of the front main building wall of the dwelling (not open verandah, porch, portico, balcony and the like); and*
- (iv) *pursuant to Section 5.42 of Division 4 of Part 5 of the Local Government Act 1995, the Council APPROVES BY AN ABSOLUTE MAJORITY, the following delegation of the exercise of its powers and duties to the Chief Executive Officer:*

<b>No.</b>	<b>Area</b>	<b>Description of Council Function Delegated to the Chief Executive Officer from Council</b>	<b>Assignee(s)</b>	<b>Conditions</b>
102	<b>Planning and Building Services</b>	<b>Authority to exercise discretion and approve and apply conditions to planning applications and building licence applications, for proposed car parking, carports and garages to a dwelling that directly fronts onto a street where vehicular access to such is from that street, regardless whether a right of way is available to the property.</b>	<b>EMEDS MPBS</b>	<p><b>(i) The right of way is unsealed or not programmed to be sealed within the current financial year in accordance with the Town's right of way upgrade program.</b></p> <p><b>(ii) Any carport with the front setback area shall be one hundred (100) per cent open on all sides at all times (open type gates/panels are permitted), except where it may abut the front main building wall of the dwelling (not open verandah, porch, portico, balcony and the like).</b></p> <p><b>(iii) The total width of any carport within the front setback area does not exceed 50 per cent of the lot frontage at the building line.</b></p> <p><b>(iv) Garages setback a minimum of 6.0 metres from the frontage street, or at least 500 millimetres behind the line of the front main building wall of the dwelling (not open verandah, porch, portico, balcony and the like).</b></p>

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

*That the recommendation be adopted subject to clauses (iii) and (iv) being amended as follows:*

*(iii) the Council APPROVES the following variations to the Town's Policies relating to Street Setbacks, Vehicular Access, and Vehicle Access to Dwellings Via a Right-Of-Way as an interim practice, until finalisation of the review of these Policies:*

*Vehicular access to car parking, carports and garages to a dwelling that directly fronts onto a street can be from that street, regardless whether a right of way is available to the property, where all of the following criteria is are met to the satisfaction of the Town:*

- (a) the right of way is unsealed or not programmed to be sealed within the current, or subsequent, financial year, whichever is the more appropriate, in accordance with the Town's right of way upgrade program;*
- (b) any carport with the front setback area shall be one hundred (100) per cent open on all sides at all times (open type gates/panels are permitted), except where it may abut the front main building wall of the dwelling (not open verandah, porch, portico, balcony and the like);*
- (c) the total width of any carport within the front setback area does not exceed 50 per cent of the lot frontage at the building line; and*
- (d) garages setback a minimum of 6.0 metres from the frontage street, or at least 500 millimetres behind the line of the front main building wall of the dwelling (not open verandah, porch, portico, balcony and the like); and*

*(iv) pursuant to Section 5.42 of Division 4 of Part 5 of the Local Government Act 1995, the Council APPROVES BY AN ABSOLUTE MAJORITY, the following delegation of the exercise of its powers and duties to the Chief Executive Officer:*

No.	Area	Description of Council Function Delegated to the Chief Executive Officer from Council	Assignee(s)	Conditions
102	Planning and Building Services	Authority to exercise discretion and approve and apply conditions to planning applications and building licence applications, for proposed car parking, carports and garages to a dwelling that directly fronts onto a street where vehicular access to such is from that street, regardless whether a right of way is available to the property.	EMEDS MPBS	<u>All of the following criteria are met to the satisfaction of the Town:</u>  <u>(i) Right of Way Trafficability -</u> The right of way is unsealed or not programmed to be sealed within the <u>current, or subsequent financial year, whichever is</u>

			<p><i>the more appropriate, in accordance with the Town's right of way upgrade program.</i></p> <p><i><u>(ii) Carport Within Front Setback Area Visual Permeability (Open) -</u></i> <i>Any carport with the front setback area shall be one hundred (100) per cent open on all sides at all times (open type gates/panels are permitted), except where it may abut the front main building wall of the dwelling (not open verandah, porch, portico, balcony and the like).</i></p> <p><i><u>(iii) Carport Within Front Setback Area Visual Permeability (Width) -</u></i> <i>The total width of any carport within the front setback area does not exceed 50 per cent of the lot frontage at the building line.</i></p> <p><i><u>(iv) Garage Reduced Visual Impact -</u></i> <i>Garages setback a minimum of 6.0 metres from the frontage street, or at least 500 millimetres behind the line of the front main building wall of the dwelling (not open verandah, porch, portico, balcony and the like)."</i></p>
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**Discussion ensued.**

**Moved Cr Cohen, Seconded Cr Torre**

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

- (ii) *the Council NOTES that the Town's Policies relating to Street Setbacks, Vehicular Access, and Vehicle Access to Dwellings Via a Right-Of-Way, are currently being reviewed; and AUTHORISES the Chief Executive Officer to consider factors including, but not limited to;*
- (a) *the size of the rear outdoor living area;*
  - (b) *existing structures;*
  - (c) *trees and vegetation in the rear of the property;*
  - (d) *the level difference between the rear of the property and the adjacent right of way;*
  - (e) *equity of access and physical disability; and*
  - (f) *safety issues that may impede  
in the review of these Policies.*

Discussion ensued.

**AMENDMENT CARRIED (9-0)**

Presiding Member ruled the following amendments would be moved in two parts.

- (e) *equity of access and physical ability,*

**AMENDMENT CARRIED (9-0)**

- (f) *safety issues that may impede.*

**AMENDMENT CARRIED (6-3)**

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

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

**COUNCIL DECISION ITEM 10.1.2**

*That;*

- (i) *the Council RECEIVES the report regarding Car parking, Carports and Garages Accessed from the Street rather than an Available Right of Way - Interim Practice;*
- (ii) *the Council NOTES that the Town's Policies relating to Street Setbacks, Vehicular Access, and Vehicle Access to Dwellings Via a Right-Of-Way, are currently being reviewed; and AUTHORISES the Chief Executive Officer to consider factors including, but not limited to;*
- (a) *the size of the rear outdoor living area;*
  - (b) *existing structures;*

- (c) trees and vegetation in the rear of the property;  
(d) the level difference between the rear of the property and the adjacent right of way;  
(e) equity of access and physical disability; and  
(f) safety issues that may impede  
in the review of these Policies.

- (iii) *the Council APPROVES the following variations to the Town's Policies relating to Street Setbacks, Vehicular Access, and Vehicle Access to Dwellings Via a Right-Of-Way as an interim practice, until finalisation of the review of these Policies:*

*Vehicular access to car parking, carports and garages to a dwelling that directly fronts onto a street can be from that street, regardless whether a right of way is available to the property, where all of the following criteria are met to the satisfaction of the Town:*

- (a) *the right of way is unsealed or not programmed to be sealed within the current, or subsequent, financial year, whichever is the more appropriate, in accordance with the Town's right of way upgrade program;*  
 (b) *any carport with the front setback area shall be one hundred (100) per cent open on all sides at all times (open type gates/panels are permitted), except where it may abut the front main building wall of the dwelling (not open verandah, porch, portico, balcony and the like);*  
 (c) *the total width of any carport within the front setback area does not exceed 50 per cent of the lot frontage at the building line; and*  
 (d) *garages setback a minimum of 6.0 metres from the frontage street, or at least 500 millimetres behind the line of the front main building wall of the dwelling (not open verandah, porch, portico, balcony and the like); and*

- (iv) *pursuant to Section 5.42 of Division 4 of Part 5 of the Local Government Act 1995, the Council APPROVES BY AN ABSOLUTE MAJORITY, the following delegation of the exercise of its powers and duties to the Chief Executive Officer:*

No.	Area	Description of Council Function Delegated to the Chief Executive Officer from Council	Assignee(s)	Conditions
102	Planning and Building Services	Authority to exercise discretion and approve and apply conditions to planning applications and building licence applications, for proposed car parking, carports and garages to a dwelling that directly fronts onto a street where vehicular access to such is from that street, regardless whether a right of way is available to the property.	EMEDS MPBS	All of the following criteria are met to the satisfaction of the Town:  (i) Right of Way Trafficability - The right of way is unsealed or not programmed to be sealed within the current, or subsequent financial year, whichever is

			<p><i>the more appropriate, in accordance with the Town's right of way upgrade program.</i></p> <p><i>(ii) Carport Within Front Setback Area Visual Permeability (Open) - Any carport with the front setback area shall be one hundred (100) per cent open on all sides at all times (open type gates/panels are permitted), except where it may abut the front main building wall of the dwelling (not open verandah, porch, portico, balcony and the like).</i></p> <p><i>(iii) Carport Within Front Setback Area Visual Permeability (Width) - The total width of any carport within the front setback area does not exceed 50 per cent of the lot frontage at the building line.</i></p> <p><i>(iv) Garage Reduced Visual Impact - Garages setback a minimum of 6.0 metres from the frontage street, or at least 500 millimetres behind the line of the front main building wall of the dwelling (not open verandah, porch, portico, balcony and the like).</i></p>
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**BACKGROUND:**

This proposed interim practice has resulted from the significant variation between the existing Town's Policies relating to Street Setbacks, Vehicular Access, and Vehicle Access to Dwellings Via a Right-Of-Way and a number of recent Council decisions (since the May 2003 elections) to approve carports within the front setback area with vehicular access from the street in lieu of an available right of way (ROW). This situation is summarised in the following table:

<b>PROPOSED DEVELOPMENT INCLUDING CARPORTS/GARAGES ACCESSED FROM THE STREET RATHER THAN AN AVAILABLE RIGHT OF WAY</b>			
<b>Property Address</b>	<b>OMC Date/ Agenda Item</b>	<b>Officer Recommendation</b>	<b>Council Determination</b>
No.53 (Lot 21) Redfern Street, North Perth	13/05/2003 10.1.12	Approval (addition to existing single house, strong existing precedent for carports with access from the primary street)	Approval
No.59 (Lot 257) Dunedin Street, Mount Hawthorn	13/05/2003 10.1.16	Approval (small number of properties have access from the right of way with the majority of properties using the primary street as access)	Approval
No. 7(Lot 79) Cantle Street, Perth	12/08/2003 10.1.19	Refusal	Refusal
No.7 (Lot 37) Buxton Street, Mount Hawthorn	12/08/2003 10.1.20	Refusal	Refusal
No.97 (Lot 238) Dunedin Street, Mount Hawthorn	12/08/2003 10.1.14	Approval (with condition that revised plans be submitted demonstrating carport deleted)	Approval (with amendment that condition be removed)
No.27 (Lot 14) Waugh Street, North Perth	26/08/2003 10.1.19	Refusal	Refusal
No.103 (Lot 131) Zebina Street, East Perth	23/09/2003 10.1.5	Approval (supported as the property is subject to a road widening and the carport could not be located off of the ROW)	Approval
No.10 (Lot 11) Marian Street, Leederville	7/10/03 10.1.1	Approval (subject to the garage being located from the ROW)	Refusal (due to location of garage and other non-compliance issues)
No.136 (Lots 113 & 114) Vincent Street, North Perth	4/11/2003 10.1.10	Refusal	Refusal
No.97 (Lot 265) Coogee Street, Mount Hawthorn	16/12/03 10.1.19	Refusal	Approval
No.84 (Lot 1) The Boulevard, Mount Hawthorn	16/12/03 10.1.20	Refusal	Refusal

No.191 (Lot 9) Anzac Road, Mount Hawthorn	10/02/04 10.1.19	Refusal	Approval
No.27 (Lot 14) Waugh Street, North Perth	10/02/04 10.1.20	Refusal	Approval
No.15 (Lot 29) Raglan Road, Mount Lawley	24/02/04 10.1.12	Refusal	Approval
No.106 (Lot 120) Edinboro Street, Mount Hawthorn	13/04/2004 10.1.18	Refusal	Approval

The following note was recorded in the Minutes of the Ordinary Meeting of Council held on 13 April 2004:

*"Note: The Presiding Member advised the meeting that it would be appropriate for the Town's Officers to review the Council Policy relating to carports in front setbacks, as the current Council has been approving applications which do not comply with the current policy."*

**DETAILS:**

The Town's Policies states the following in relation to vehicular access to car parking for residential development where a right of way (ROW) is available to a property:

Street Setbacks Policy:

Acceptable Development -

*"A2.1 Car parking to be accessible from an existing Rights-of-Way where (legally) available."*

Performance Criteria -

*"P2 The setting back of carports and garages so as not to detract from the streetscape or appearance of dwellings, or obstruct views of dwellings from the street."*

Vehicular Access Policy -

Acceptable Development -

*"A1.1 Access to on-site parking provided, where available, solely from a right of way, or from a secondary street where a right of way does not exist."*

Performance Criteria -

*"P1 Minimise the number of vehicle access points to frontage streets."*

The Town is currently reviewing the Policies relating to Street Setbacks, Vehicular Access, and Vehicle Access to Dwellings Via a Right-Of-Way, and this review is expected to be completed in June 2004.

**LEGAL/POLICY:**

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

**STRATEGIC IMPLICATIONS:**

Strategic Plan 2003-2008 - Key Result Area One: Environment and Infrastructure: *"1.3 Develop, implement and promote sustainable urban design"*.

**FINANCIAL/ BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

The main reasons stated for the Council decisions to allow car parking, carports and garages with vehicular access from the street in lieu of an available ROW is; safety and security and also the ROW being untrafficable.

The intent of the Town's subject Policies is to preserve the general streetscape, while promoting safety and security via casual surveillance of both the street and the right of way. Safety and security in ROWs are achievable through promoting its utilisation where available and feasible. The promotion of vehicular access via the ROW will lead to better lighting surveillance by adjacent residents through regular vehicle movements and subsequent safer conditions in rights of ways.

It is noted that many ROWs are sealed and other ROWs will be sealed in the future in accordance with the Town's ROW upgrade program. The vast majority of ROWs are unlit; however the individual property owners can provide lighting on their properties adjacent to the right of way.

In light of the above and to better align the Town's Policies with the recent Council decisions, therefore a more consistent, efficient and effective approach to assessment and decision making, the following actions are recommended as detailed in the Officer Recommendation:

- (i) The Council approves the variations to the Town's subject Policies as an interim practice until finalisation of the review of these Policies, such that vehicular access to car parking, carports and garages to a dwelling that directly fronts onto a street can be from that street, regardless whether a right of way is available to the property, subject to compliance with the specified criteria.
- (ii) The Council delegates the authority to the Chief Executive Officer (and assignees) to exercise discretion and approve applications that reflect the above variations and criteria.

CEO's Comment

The Council's inconsistent decisions and non-adherence to its current policy is unsatisfactory and causing considerable confusion. The Town's Administration is assessing development applications under the criteria of the current policy. However, the Council's decisions over the previous eighteen months has been to approve of the applications. This is causing confusion to the ratepayers/residents, is causing additional workload to the Officers, considerable inconvenience and anxiety to the applicants and also unnecessary expense to applicants due to delay in processing and additional costs to re-draw plans.

The current situation is not considered "good governance" and accordingly it is recommended that the current policy be reviewed and the CEO be delegated the authority to process these applications in accordance with the conditions detailed in the report.

**10.1.5 No. 322 (Lot 26) Vincent Street, Leederville - Proposed Consulting Room (Dental Surgery - Renewal of Previous Approval) and Associated Signage**

<b>Ward:</b>	South	<b>Date:</b>	20 April 2004
<b>Precinct:</b>	Oxford Centre, P4	<b>File Ref:</b>	PRO2366; 00/33/1922
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	S Bowman, N Edgecombe		
<b>Checked/Endorsed by:</b>	D Abel	<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 Best Signs and Prints on behalf of the owners I Lamattina and T Dhepnorarat for proposed consulting room (dental surgery - renewal of previous approval) and associated signage, at No.322 (Lot 26) Vincent Street, Leederville, and as shown on plans stamp dated 6 November 2003 and 4 February 2003 (floorplan), subject to;*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements, including the relevant Australian Standards and Noise Regulations;*
- (ii) the signage shall not have flashing or intermittent lighting;*
- (iii) prior to issuing of a Sign Licence, revised plans shall be submitted and approved demonstrating the following:*
  - (a) the projecting illuminated having a minimum clearance of 2.75 metres above finished ground level;*
  - (b) minimal fixings are used to secure any signage; and*
  - (c) the window signs covering no more than 50 percent of the glazed area of the respective windows.*

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

- (iv) the signage shall be subject to a separate Sign Licence application being submitted and approved prior to the erection of the signage;*
- (v) a maximum of one (1) consulting room shall be used at any one time;*
- (vi) this approval pertains only to the consulting room (dental surgery) use. Any other use will require a separate planning application to be submitted to and approved by the Town prior to the commencement of such uses;*
- (vii) no massage activity of a commercial nature shall occur at the premises at any one time;*
- (viii) the hours of operation shall be limited to 8am to 8pm Monday to Friday, and 8am to 2.00pm on Saturday, inclusive; and*

- (ix) *prior to the issue of a Sign Licence for the illuminated projecting sign, the support/approval of the Department for Planning and Infrastructure and/or the Western Australian Planning Commission and compliance with its comments and conditions in relation to the illuminated projecting sign protruding over Vincent Street;*

*to the satisfaction of the Chief Executive Officer.*

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**Moved Cr Chester, Seconded Cr Lake**

*That the recommendation be adopted subject to clause (iii) being amended as follows:*

- (iii) *prior to issuing of a Sign Licence, revised plans shall be submitted and approved demonstrating the following:*
- (a) *the projecting illuminated sign having a minimum clearance of 2.75 metres above finished ground level;*
  - (b) *minimal fixings are used to secure any signage; ~~and~~*
  - (c) *the window signs covering no more than 50 percent of the glazed area of the respective windows; and*
  - (d) *proposed window signs facing Vincent Street being located in the top section of the glass panels of the respective arched windows;*

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

**Moved Cr Cohen, Seconded Cr Lake**

*That clause (iii) of the previous recommendation be amended as follows:*

- (iii) *prior to issuing of a Sign Licence, revised plans shall be submitted and approved demonstrating the following:*
- (a) *the projecting illuminated sign having a minimum clearance of 2.75 metres above finished ground level;*
  - (b) *minimal fixings are used to secure any signage; ~~and~~*
  - (c) *the window signs covering no more than 50 percent of the glazed area of the respective windows; and*
  - (d) *the proposed created roof sign stating 'Dentists on Vincent' being deleted as this sign is not approved.*

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

**Discussion ensued.**

**AMENDMENT CARRIED (5-4)**

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

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

**COUNCIL DECISION ITEM 10.1.5**

*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 Best Signs and Prints on behalf of the owners I Lamattina and T Dhepnorarat for proposed consulting room (dental surgery - renewal of previous approval) and associated signage, at No.322 (Lot 26) Vincent Street, Leederville, and as shown on plans stamp dated 6 November 2003 and 4 February 2003 (floorplan), subject to;*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements, including the relevant Australian Standards and Noise Regulations;*
- (ii) the signage shall not have flashing or intermittent lighting;*
- (iii) prior to issuing of a Sign Licence, revised plans shall be submitted and approved demonstrating the following:*
  - (a) the projecting illuminated sign having a minimum clearance of 2.75 metres above finished ground level;*
  - (b) minimal fixings are used to secure any signage;*
  - (c) the window signs covering no more than 50 percent of the glazed area of the respective windows; and*
  - (d) the proposed created roof sign stating 'Dentists on Vincent' being deleted as this sign is not approved.*

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

- (iv) the signage shall be subject to a separate Sign Licence application being submitted and approved prior to the erection of the signage;*
- (v) a maximum of one (1) consulting room shall be used at any one time;*
- (vi) this approval pertains only to the consulting room (dental surgery) use. Any other use will require a separate planning application to be submitted to and approved by the Town prior to the commencement of such uses;*
- (vii) no massage activity of a commercial nature shall occur at the premises at any one time;*
- (viii) the hours of operation shall be limited to 8am to 8pm Monday to Friday, and 8am to 2.00pm on Saturday, inclusive; and*

(ix) *prior to the issue of a Sign Licence for the illuminated projecting sign, the support/approval of the Department for Planning and Infrastructure and/or the Western Australian Planning Commission and compliance with its comments and conditions in relation to the illuminated projecting sign protruding over Vincent Street;*

*to the satisfaction of the Chief Executive Officer.*

**LANDOWNER:** I Lamattina and T Dhepnorrarat  
**APPLICANT:** Best Signs and Prints  
**ZONING:** Metropolitan Region Scheme - Urban, abuts Other Regional Road.  
 Town Planning Scheme No.1 - Residential/Commercial R80, abuts Other Regional Road  
**EXISTING LAND USE:** Subject Tenancy - Consulting Room (Dental Surgery)

**COMPLIANCE:**

Use Class	Consulting Rooms
Use Classification	"P"
Lot Area	6943 square metres

Requirements	Required	Proposed
Illuminated Projecting Signs	Limit of one projecting sign per tenancy on a lot other than any projecting signs, which are attached to the fascia of a verandah or the like. Illuminated sign must have a minimum clearance of 2.75 metres from finished ground level.	One (1) projecting sign attached directly to the building, which does not project more than one (1) metre from the wall and is two (2) square metres in area. The sign is 2.7 metres above finished ground level and projects over Vincent Street which is classified as Other Regional Roads.
Window Signs	Must not cover more than 50 percent of the glazed area of any one window or exceed 10 square metres in aggregate per tenancy on a lot.	Window signs covering 50 percent of the glazed area with an aggregate of 2.95 square metres for the tenancy.
Created Roof Sign	Sign must be fixed parallel to the fascia or portion to the building which it is attached. The maximum height above finished ground level is 7.5 metres to 9 metres with an area of 4.5 metres.	Sign is fixed to the building with a maximum height above finished ground level of 7.5 metres and an area of 2.16 square metres.

**SITE HISTORY:**

22 May 2001 Council granted conditional Planning Approval at its Ordinary Meeting for demolition of an existing dwelling, a commercial building and former RAAF demountable buildings; and alterations and additions to and partial demolition of a former RAAF Drill Hall and the development of five, two-storey grouped dwellings, six offices and fifty-eight (58) multiple dwellings.

8 April 2003 Council granted conditional Planning Approval at its Ordinary Meeting for change of use from approved office to consulting room (dental surgery) for a period of twelve (12) months.

**DETAILS:**

The previous approval for the subject site to operate as a consulting room (dental surgery) was conditionally approved for a period of twelve (12) months. This approval has since expired and the applicant seeks to continue using the premises for a consulting room (dental surgery).

In addition, approval is sought for the erection of multiple signs on site, including one (1) projecting illuminated sign, two (2) window signs and one (1) created roof sign.

**CONSULTATION/ADVERTISING:**

The application to renew the previously approved consulting room (dental surgery) use of the site has not been advertised, as the application does not differ from the previous approval.

The proposed signage for the site was not advertised as the strata body corporate have consented to the application. The projecting illuminated sign is not contained within the lot boundaries and protrudes over land reserved as Other Regional Roads. In accordance with the Notice of Delegation made under Section 20 of the Western Australian Planning Commission Act 1985, the application was referred to the Department for Planning and Infrastructure (DPI) for its comments regarding the signage. DPI were given a period of 30 days to make comments regarding the subject signs. No comments have been received to date.

In addition the signage application was referred to the Heritage Council for comments as the building (R.A.A.F Air Training Corps) is contained on the Town's Municipal Heritage Inventory (MHI).

**LEGAL/POLICY:**

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

**STRATEGIC IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

**Heritage**

This property is listed on the Town of Vincent Municipal Heritage Inventory and the State Register of Heritage Places. Comments have been received from the Heritage Council of Western Australia on the proposed signage as follows:

- i. That the applicant revise the proposal for the signs to be placed within the windows on the Vincent Street façade to better reflect the configuration of the window panes; and
- ii. That minimal fixings are used to secure any signage.

In light of these comments, the Town considers that the proposed foam acrylic letters to the front fascia is considered acceptable and recommends the configuration of the proposed window signage on Vincent Street be revised.

It is also noted that it is the Heritage Council's preference that the vertical projecting sign on Vincent Street be non-illuminated, however the Town of Vincent has no objection to this element of the proposal and is generally supportive of the illumination, subject to general provisions of the Town Planning Scheme and Policies.

#### **Projecting Illuminated Sign**

The applicant is proposing one (1) projecting illuminated sign, which is attached to the front of the building. The wording on the sign is minimal, with only "dentist" and "322" contained within the sign. As per the requirements of the Town's Policy regarding Signs and Advertising an illuminated sign must be 2.75 metres above the finished ground level. This has been conditioned accordingly in the Officer Recommendation.

#### **Created Above Roof Sign**

The applicant is proposing one (1) created roof sign with an area of 2.16 square metres, attached to the front of the building. The proposal complies with the requirements of the Town's Policy regarding Signs and Advertising, and has been supported by the Heritage Council. The proposed sign is considered supportable as it will not have an undue affect on the amenity of the area.

#### **Window Signs**

The application also seeks approval for two (2) window signs. The signs are 1.5 square metres in area and are contained within the windows at the front of the building facing Vincent Street.

The Heritage Council has recommended the proposed window signs be reconfigured to cover 100 percent of the glazed area of the window. However, in accordance with the Town's Policy regarding Signage and Advertising, window signs are not permitted to cover more than 50 percent of the glazed area. It is considered that increasing the area of the signs to cover 100 percent of the glazed area of the window will have a detrimental impact on the streetscape and amenity of the area. Given that an additional two signs have been proposed on the front façade of the building, the window signs should be limited to cover 50 percent of the glazed area, as per the Town's Policy. This has been conditioned accordingly in the Officer Recommendation. Given the proposed window signs comply with the Town's Policy requirements, it is recommended that the signs be supported, subject to standard conditions.

#### **Renewal of Approval for Consulting Room (Dental Surgery) Use**

Conditional approval was previously issued for the subject site to operate as Consulting Room (Dental Surgery). This approval was valid for an initial period of twelve (12) months. The Town's records have confirmed that no formal complaints have been received regarding the subject premises being used for unlawful purposes. On this basis it is recommended that the consulting room (dental surgery) use be conditionally approved to operate indefinitely, without the twelve (12) month restriction period. If the owner wishes to use the premises for any other use apart from the approved consulting room (dental surgery), a separate planning approval will be required to be applied to and obtained from the Town.

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

**10.1.8 No. 3A (Lot 114) Primrose Street, Perth – Proposed Two Storey with Loft Single House**

<b>Ward:</b>	South	<b>Date:</b>	19 April 2004
<b>Precinct:</b>	Hyde Park, P12	<b>File Ref:</b>	PRO1286; 00/33/2084
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	P Mastrodomenico		
<b>Checked/Endorsed by:</b>	D Abel	<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 B Schenk on behalf of the owner R Mead for proposed two-storey with loft single house on No.3A (Lot 114) Primrose Street, Perth, and as shown on the plans stamp dated 17 February 2004, subject to:*

- (i) subject to first obtaining the consent of the owners of No. 3 (Lot 115) Primrose Street, No. 5 (Lot 113) Primrose Street and No. 240 (Lot 124) Bulwer 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. 3 (Lot 115) Primrose Street, No. 5 (Lot 113) Primrose Street and No. 240 (Lot 124) Bulwer Street in a good and clean condition;*
- (ii) no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to Primrose Street shall be a maximum height of 1.2 metres above the adjacent footpath level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (iii) detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence application;*
- (iv) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (v) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (vi) a road and verge security bond or bank guarantee of \$880 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*
- (vii) 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 with all cost associated the removal and replacement shall be borne by the applicant/owner(s);*
- (viii) the construction of crossovers shall be in accordance with the Town's specifications;*

- (ix) *prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (x) *standard visual truncations, in accordance with the Town's Policies and to the satisfaction of the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*
- (xi) *the garage/carport shall be one hundred (100) per cent open on all sides and at all times (open type gates/panels are permitted), except where it abuts the main dwelling building wall(s); and*
- (xii) *to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development the windows to bedroom 2 and study on the first floor level and the master bedroom window on the loft floor level on the north western side elevation (elevation 2) shall be screened with a permanent obscure material and be non openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole 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 windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be a major opening as defined in the Residential Design Codes 2002;*

*to the satisfaction of the Chief Executive Officer.*

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**Moved Cr Chester, Seconded Cr Ker**

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

- (xiii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the garage/carport being 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 building wall(s). The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies.*

**CARRIED (8-1)**

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

**COUNCIL DECISION ITEM 10.1.8**

*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 Schenk on behalf of the owner R Mead for proposed two-storey with loft single house on No.3A (Lot 114) Primrose Street, Perth, and as shown on the plans stamp dated 17 February 2004, subject to:*

- (i) subject to first obtaining the consent of the owners of No. 3 (Lot 115) Primrose Street, No. 5 (Lot 113) Primrose Street and No. 240 (Lot 124) Bulwer 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. 3 (Lot 115) Primrose Street, No. 5 (Lot 113) Primrose Street and No. 240 (Lot 124) Bulwer Street in a good and clean condition;*
- (ii) no fence shall exceed a maximum of 1.8 metres above the ground level. Decorative capping on top of posts and piers may extend up to a maximum height of 2.0 metres. The solid portion of any new front fences and gates adjacent to Primrose Street shall be a maximum height of 1.2 metres above the adjacent footpath level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (iii) detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence application;*
- (iv) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (v) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (vi) a road and verge security bond or bank guarantee of \$880 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*
- (vii) 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 with all cost associated the removal and replacement shall be borne by the applicant/owner(s);*
- (viii) the construction of crossovers shall be in accordance with the Town's specifications;*
- (ix) prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (x) standard visual truncations, in accordance with the Town's Policies and to the satisfaction of the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*

- (xi) *the garage/carport shall be one hundred (100) per cent open on all sides and at all times (open type gates/panels are permitted), except where it abuts the main dwelling building wall(s);*
- (xii) *to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development the windows to bedroom 2 and study on the first floor level and the master bedroom window on the loft floor level on the north western side elevation (elevation 2) shall be screened with a permanent obscure material and be non openable to a minimum of 1.6 metres above the finished first floor level. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole 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 windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be a major opening as defined in the Residential Design Codes 2002; and*
- (xiii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the garage/carport being 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 building wall(s). The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*

*to the satisfaction of the Chief Executive Officer.*

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**LANDOWNER:** R Mead  
**APPLICANT:** B Schenk  
**ZONING:** Metropolitan Region Scheme - Urban  
 Town Planning Scheme No. 1 - Residential R80  
**EXISTING LAND USE:** Single house  
**COMPLIANCE:**

<b>Requirements</b>	<b>Required</b>	<b>Proposed</b>
Open Space	45 per cent	26 per cent
Plot Ratio	0.65	1.11
Garage Width	50 percent maximum of lot width	64 per cent
Street Setbacks:		
Ground floor	4.5 metres	0.300 metre to garage 0.300 metre to balcony, 3.940 metres to main dwelling
First Floor	6.0 metres	metres to main dwelling
Loft	6.0 metres	2.9 metres to balcony, 4.7 metres to main dwelling
Setbacks:		
North West	1.5 metres	Nil
North East	1.5 metres	Nil
South East	1.5 metres	Nil
(First Floor)		
North West	2.1 metres	Nil
North East	1.2 metres	Nil
South East	1.2 metres	Nil

Privacy Setbacks: North-West Boundary - Bedroom 2 and Master bedroom	Bedroom window within 4.5 metres of a property boundary more than 0.5 metre above natural ground level to be screened	No screening shown
Study	Window within 6.0 metres of a property boundary more than 0.5 metre above natural ground level to be screened	No screening shown

Use Class	Single House
Use Classification	"P"
Lot Area	178 square metres

**SITE HISTORY:**

The surrounding area is characterised by medium density development on Lake and Glendower Streets and new two and three storey single houses along Lake and Primrose Streets. The Council at its Ordinary Meeting held 23 April 2002 approved a two-storey single dwelling on the subject site.

**DETAILS:**

Approval is sought to construct a two-storey single dwelling on the subject lot.

**CONSULTATION/ADVERTISING:**

One objection was raised during the advertising period, issues raised included overlooking and concerns over the reduced north eastern setback.

**LEGAL/POLICY:**

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

**STRATEGIC IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

**Plot Ratio**

The plot ratio is not compliant with the R60 requirements of the Residential Design Codes. The proposed development is consistent with the approved and constructed development along Primrose Street and as such is considered acceptable in this instance.

### **Garage Width**

The proposed lot has a 9.0 metre frontage and proposes a garage which takes up 64 percent of the lot frontage yet in this instance is supportable as all the development along Primrose Street incorporate double carports/garages. The garage has been conditioned to be an open car port in accordance with the Town's requirements.

### **Setbacks - Ground -Garage**

The location of the proposed garage within the front setback is considered acceptable given the existence of similar garages/carports along Primrose Street, however a setback of 300 millimetres from the front boundary should be required to provide a minimum sense of separation from the street.

### **Setbacks - First Floor and Loft**

The first floor setback of 0.300 metre to balcony, 3.940 metres to main dwelling, and the loft setback of 2.9 metres to balcony and 4.7 metres to main dwelling, although not compliant with the Town's Policies is considered acceptable in this instance as the constructed neighbouring properties have similar setbacks.

### **Setbacks - Parapet Walls**

Given the small and narrow lot sizes along Primrose Street and a general acceptance by landowners of boundary walls, it is considered that the south eastern, north western and north eastern side setbacks are acceptable as the abutting properties have two storey parapet walls.

### **Open Space**

The Council has consistently supported variations to open space requirements along Primrose Street. In this instance the open space is 24 percent. The previous approved application proposed 15.5 percent open space. Although the open space does not comply with the R Codes requirement, the area of courtyard is useable and functional at 25.84 square metres. Given that land along Primrose Street has been fully developed and variations to open space have been consistently approved in the past, it is considered reasonable to vary the requirement in this instance.

### **Privacy**

With regard to the potential for unreasonable overlooking from the first floor bedroom 2 and study windows and the master bedroom window on the loft floor level, on the north western side elevation, it is considered necessary that relevant screening conditions are applied to these openings to comply with the privacy requirements of the Residential Design Codes.

### **Objections Raised**

The windows to the north eastern elevation are not considered to overlook the neighbouring property as there are no windows proposed, and in relation to the setback of this wall, the nil setback is considered acceptable as there are similar parapet walls in the immediate area and the wall does not abut the courtyard of the objector's property.

### **Conclusion**

In light of the above, it is considered that the proposal is supportable. It is recommended that approval be granted for the proposal, subject to standard and appropriate conditions to address the above matters.

**10.1.13 No. 38 (Lot 1) Sydney Street, North Perth – Proposed Demolition of Existing House and Construction of Three, Two-Storey Grouped Dwellings**

<b>Ward:</b>	North	<b>Date:</b>	19 April 2004
<b>Precinct:</b>	North Perth, P8	<b>File Ref:</b>	PRO2437; 00/33/2097
<b>Attachments:</b>	<a href="#">001 002 003</a>		
<b>Reporting Officer(s):</b>	P Mastrodomenico N Edgecombe		
<b>Checked/Endorsed by:</b>	D Abel	<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 submitted by the applicant Georgestan Homes Pty Ltd on behalf of the owner D Novatscou for proposed demolition of the existing single house and construction of three two-storey grouped dwellings, at No. 38 (Lot 1) Sydney Street, North Perth, and as shown on plans stamp-dated 19 February 2004, subject to:*

- (i) detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence application;*
- (ii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iii) a road and verge security bond and /or bank guarantee of \$550 shall be lodge prior to the issue of a Building License and be held until all works have been completed and/or any damage to existing Towns assets have been reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security deposit must be made in writing;*
- (iv) standard visual truncations, in accordance with the Town's Policies and to the satisfaction to the Town's Technical Services Division, are to be provided at the intersection of the road reserve boundary and all internal vehicular accessways to ensure that the safety of pedestrians and other road users is not compromised;*
- (v) the construction of crossovers shall be in accordance with the Town's specifications;*
- (vi) prior to the first occupation of the development, redundant or 'blind' crossovers shall be removed and the verge and kerb made good to the satisfaction of the Town's Technical Services Division, at the applicant's/owner(s)' full expense;*
- (vii) 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 Sydney Street shall be a maximum height of 1.2 metres above the adjacent footpath level, with the upper portion of the front fences and gates being visually permeable, with a minimum 50 per cent transparency;*
- (viii) detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Sydney 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);*

- (ix) *subject to first obtaining the consent of the owners of No. 36 (Lot 3) Sydney Street and No. 40 (Lot 66) Sydney 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. 36 (Lot 3) Sydney Street and No. 40 (Lot 66) Sydney Street in a good and clean condition;*
- (x) *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);*
- (xi) *prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the first floor of unit 1 being setback a minimum of 6 metres from Sydney Street. The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies;*
- (xii) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site; and*
- (xiii) *an archival documented record of the place (including photographs, floor plans and elevations) for the Town's Historical Archive Collection shall be submitted and approved prior to the issue of a Demolition Licence;*

*to the satisfaction of the Chief Executive Officer.*

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**COUNCIL DECISION ITEM 10.1.13**

**Moved Cr Lake, Seconded Cr Ker**

*That the recommendation be adopted.*

Discussion ensued.

**CARRIED (7-2)**

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

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<b>LANDOWNER:</b>	D Novatscou
<b>APPLICANT:</b>	Georgestan Homes Pty Ltd
<b>ZONING:</b>	Metropolitan Region Scheme - Urban Town Planning Scheme No. 1 - Residential R20
<b>EXISTING LAND USE:</b>	Single House

Use Class	Grouped Dwelling
Use Classification	"P"
Lot Area	1022 square metres

**COMPLIANCE:**

<b>Requirements</b>	<b>Required</b>	<b>Proposed</b>
Setbacks:		
First Floor-Upper Level	6.0 metres	5.5 metres to 6.0 metres
North (garage)	1.0 metre	Nil
South (garage)	1.0 metre	Nil
Density	N/A	N/A
Plot Ratio	N/A	N/A

**SITE HISTORY:**

- 12 September 2003      The Western Australian Planning Commission conditionally approved a survey strata subdivision (654-03) for the subject site to be subdivided into three lots to accommodate the proposed subject development. One of the conditions imposed by the WAPC was that *"the applicant obtaining development approval for the development of a dwelling(s) on the lots less than 350 square metres in accordance with Clause 2.3.3 of the Residential Design Codes"*.
- 23 September 2003      The Council at its Ordinary Meeting refused an application for the demolition of the existing single house and the construction of three (3) two-storey grouped dwellings on the subject lot.

**DETAILS:**

The applicant seeks approval for the demolition of the existing single house and the construction of three (3) two-storey grouped dwellings on the subject lot.

The applicant has submitted the following information in support of the application.

*"We have designed the proposed dwellings with the aim of maximizing distances from side boundaries & thus providing maximum private open space to each dwelling. We have also attempted not to vary any of the development requirements of R Code & Council. Our townhouses are well articulated via massing & by the use of materials. The garages between the units serve to break up the vertical massing. In addition to this the footprints of each unit are well articulated with the upper floor footprint being smaller than the lower, hence enabling lower floor roof around the dwellings. Our design proposes a garage (unit 1) adjacent the existing garage of our neighbour at 40 Sydney Street. Their existing setback is 3.6m. We have setback further than this, 4m min. to the Dwelling & 4.5m min. to the corner of the garage. Due to the angled shape of the block this exposes 3.2m of the neighbours garage wall. This will ensure that this neighbour retains amenity and street presence. **We have deleted the balcony to Bed 1 & angled the central balcony to be at the 6m setback line as requested by the planning officer in an attempt to satisfy the northern neighbours.** We have attempted to maximize landscaped areas.*

*On upper floors we have kept bedroom windows along north & south elevations no closer than 4.5m to the boundaries. On the east, we have gone a little closer but provided only highlights.*

*We have ensured car turning circles work and also that the owners of units 2 & 3 can egress in the forward direction. **Additional turning space has been allocated to unit 3.** The units have been designed with a modern design style in mind. Namely, a combination of rendered feature walls/ parapets, maxi face brick walls, colourbond roofs, glass balustrades & aluminium windows."*

**CONSULTATION/ADVERTISING:**

One letter of non objection was received from the neighbouring property who stated that the top floor balcony to Unit 1 should be increased to portico dimensions. In this instance the balcony complies with the Towns requirements for a six metre setback to the upper floor.

**LEGAL/POLICY:**

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

**STRATEGIC IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

**Demolition**

A detailed heritage assessment is contained as an attachment in this report.

The single storey brick and tile dwelling at No. 38 Sydney Street, North Perth was built in 1929, a period of increased residential development in North Perth. The original floor plan and detailing of the dwelling remain intact despite additions to the rear enclosed skillion. The subject dwelling features an original low pitched roof with chimney, painted cement and brick rendering and two sets of wooded three-paned casement windows addressing Sydney Street. An 'L' shaped verandah wraps around the front and southern elevations, and provides access to the main entrance facing the city. Wooden skirtings, picture rails, and floorboards are consistent throughout the dwelling, with air vents of varying styles in each room.

Although the subject dwelling contributes to the streetscape in terms of traditional setbacks, building style and proportion, the dwelling is not rare, has little historic, scientific, aesthetic or social value. It is not considered that the place warrants consideration for listing on the Municipal Heritage Inventory and as such, it is recommended that approval be granted for the demolition of the existing dwelling, subject to standard conditions.

**Street Setback - First Floor**

The Town's Policies requires upper level front setbacks to be a minimum of 6.0 metres from the front boundary. The application incorporates a setback of 5.5 metres to 6.0 metres. The variation to the upper floor setback of 0.375 metres squared has been conditioned to comply with the Town's requirements.

**Neighbours comments**

In relation to the comments raised from the neighbouring property, in relation to the first floor front setback, in this instance the balcony complies with the Towns requirements for a six metre setback to the upper floor.

**Setbacks to Garages**

The nil setbacks to stores to the garage on the north and southern elevation are acceptable as they are not considered to negatively impact the overall development and amenity of the area.

**Summary**

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

**10.1.16 Tenancies Six ( 6 ) & Seven (7), Nos. 375-393 (Lot 500) (Strata Lots 6 & 7) William Street, Corner Forbes Road and Wellman Street, Perth – Proposed Alterations and Additions to Existing Consulting Rooms and Eating House and Change of Use from Consulting Rooms to Eating House**

<b>Ward:</b>	South	<b>Date:</b>	19 April 2004
<b>Precinct:</b>	Beaufort , P13	<b>File Ref:</b>	PRO 2202; 00/33/2118
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	J Barton		
<b>Checked/Endorsed by:</b>	D Abel	<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 M Wee on behalf of the owners Lukman Enterprise Pty Ltd and Lime Grove Pty Ltd, for proposed alterations and additions to existing consulting rooms and eating house and change of use from consulting rooms to eating house at tenancies six (6) and seven (7), Nos. 375-393 (Lot 500) (strata Lots 6 and 7) William Street, corner Forbes Road and Wellman Street, Perth and as shown on plans stamp dated 5 March 2004, subject to:*

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) all signage shall be subject to a separate Planning Approval and Sign Licence application being submitted and approved prior to the erection of the signage;*
- (iii) prior to the issue of a Building Licence or the first occupation of the development, whichever occurs first, revised plans being submitted and approved demonstrating the following;*
  - (a) this provision of a bin storage area that is not visible from any street and/or demonstrating access to the existing bin enclosure to the satisfaction of the Town's Health Services and Technical Services; and*
  - (b) the position of the roller doors being clearly indicated on the site plans and elevations plans, and the roller doors being 50 per cent permeable in accordance with the Town's Policy relating to Security Roller Shutters, Doors and Grilles on Non-Residential Buildings.*

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

- (iv) prior to the first occupation of the development, two (2) class three (3) bicycle parking rail(s) shall be provided at a location convenient to the entrance of tenancy six (6). Details of the design and layout of the bicycle parking facilities shall be submitted and approved prior to the installation of such facilities;*
- (v) the combined public floor area of both eating houses in tenancies 6 and 7, shall be limited to 47.5 square metres; and*

- (vi) *a road and verge security bond or bank guarantee of \$550 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*

*to the satisfaction of the Chief Executive Officer.*

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**Moved Cr Lake, Seconded Cr Cohen**

*That the recommendation be adopted.*

**Moved Cr Lake, Seconded Cr Farrell**

*That the words "at least" be inserted in clause (iii) (b) after the words "roller doors being".*

**AMENDMENT CARRIED (9-0)**

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

**COUNCIL DECISION ITEM 10.1.16**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by M Wee on behalf of the owners Lukman Enterprise Pty Ltd and Lime Grove Pty Ltd, for proposed alterations and additions to existing consulting rooms and eating house and change of use from consulting rooms to eating house at tenancies six (6) and seven (7), Nos. 375-393 (Lot 500) (strata Lots 6 and 7) William Street, corner Forbes Road and Wellman Street, Perth and as shown on plans stamp dated 5 March 2004, subject to:*

- (i) *compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) *all signage shall be subject to a separate Planning Approval and Sign Licence application being submitted and approved prior to the erection of the signage;*
- (iii) *prior to the issue of a Building Licence or the first occupation of the development, whichever occurs first, revised plans being submitted and approved demonstrating the following;*
- (a) *this provision of a bin storage area that is not visible from any street and/or demonstrating access to the existing bin enclosure to the satisfaction of the Town's Health Services and Technical Services; and*
- (b) *the position of the roller doors being clearly indicated on the site plans and elevations plans, and the roller doors being at least 50 per cent permeable in accordance with the Town's Policy relating to Security Roller Shutters, Doors and Grilles on Non-Residential Buildings.*

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

- (iv) *prior to the first occupation of the development, two (2) class three (3) bicycle parking rail(s) shall be provided at a location convenient to the entrance of tenancy six (6). Details of the design and layout of the bicycle parking facilities shall be submitted and approved prior to the installation of such facilities;*
- (v) *the combined public floor area of both eating houses in tenancies 6 and 7, shall be limited to 47.5 square metres; and*
- (vi) *a road and verge security bond or bank guarantee of \$550 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*

*to the satisfaction of the Chief Executive Officer.*

**LANDOWNER:** Lukman Enterprise P/L and Lime Grove P/L  
**APPLICANT:** M Wee  
**ZONING:** Metropolitan Region Scheme – Urban, abuts Other Regional Road  
 Town Planning Scheme No. 1 – Commercial, abuts Other Regional Road  
**EXISTING LAND USE:** Eating House and Consulting Rooms

**COMPLIANCE:**

Use Class	Eating House, Consulting Rooms
Use Classification	'P', 'AA'
Lot Area	4490 square metres

**Car Parking:**

<p><b>Car parking requirement (nearest whole number)</b></p> <ul style="list-style-type: none"> <li>• Existing development requires 91 bays</li> </ul> <p>Tenancy 7-7.7 car bays were required for 35 square metres of public area for previous eating house, and 10 bays required for proposed eating house. Therefore, three (3) extra bays required due to alterations and additions to new eating house.</p> <p>Tenancy 6-three (3) car bays were required for previous use as a consulting room, and 4 bays required for change of use to eating house. Therefore, one extra bay is required.</p> <p>Total = 4 extra bays required</p>	95 car bays
<p>Apply the adjustment factors.</p> <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 50 spaces – Wilson car park within City of Perth)</li> </ul>	(0.7225)
Minus the car parking provided on site.	80 car bays
Minus the most recently approved on site car parking shortfall. * due to addition of new car park approved by Council in 1996 it is not considered that there is any existing shortfall.	*
Resultant surplus.	11.36 car bays

**Bicycle Parking Facilities:**

Required	Provided
One class one or class two bicycle parking space per 100 square metres public area for staff use.	One space required previously for tenancy seven (7) staff.
Four class three bicycle parking spaces for patrons, and one for staff. Encourage end of trip facilities to be provided where site constraints allow.	Two bays required previously for patrons of tenancy seven (7). Therefore, two extra class three bicycle parking bays required for tenancy six (6) patrons.
	No end of trip facilities provided or required.

**SITE HISTORY:**

- 1987 The City of Perth approved an application for the subject land that comprised shops, showrooms, office and a restaurant. These uses were proposed within fourteen separate tenancies to be constructed on site. Seventy nine parking bays were required to be provided for the approved uses. Only sixty seven bays, however, were provided, the shortfall of twelve bays for the development being supported by the Council of the City of Perth.
- 1987 – 1994 The City of Perth approved a number of applications to change the use of various on-site tenancies, which increased the shortfall of on site parking bays to 23 bays (90 bays required, 67 bays provided).
- 12 June 1995 The Town of Vincent approved an eating house within tenancy 5.
- 10 June 1996 The Town of Vincent approved a change of use of tenancy 7 from shop to take away food outlet. However, it does not appear that this use commenced as no health licence to conduct an eating house appears to have been issued by the Town.
- 22 July 1996 The Town of Vincent conditionally approved a car park addition along the Wellman Street frontage increasing the car park partly on the site to 80 car bays, including the following:
- "the additional car parking provided off Wellman Street as part of this approval shall not be construed as a reduction of the current shortfall of car parking on site and the reduction to car parking requirements of further developments on the subject land;"*.
- 28 October 1996 The Town of Vincent resolved to receive an appeal to the Honourable Minister for Planning against Condition (xi) of the Council's Approval for the car park addition and resolved to request the Minister to dismiss the appeal.
- 11 November 1996 The Council at its Ordinary Meeting conditionally approved a change of use at tenancy 8 from an eating house to a take away food outlet.

- 24 December 1996      The Minister determined that Condition (xi) could be deleted from the Council's approval of 22 July 1996, therefore it is reasonable to allow for the nett increase of the number of spaces to be offset against any shortfall which may exist on the site as a result of the original development or more recent changes in the use of various tenancies within the development which have increased the need for parking accommodation. Accordingly, 80 car parking bays were approved on site.
- 28 June 1999          The Council conditionally approved a change of use for unit 1 from a shop to a shop with food processing. Reassessment of the car parking was not considered required at this time.
- 11 February 2003      The Council conditionally approved a change of use for unit 7 from a shop to eating house, which included a surplus of 14.25 car bays and the requirement to provide three (3) bicycle parking rails.

**DETAILS:**

There are twelve (12) other tenancies in the complex, including shops, restaurants, and a hair dressing salon.

The applicant advised that they wish to use units six (6) and seven (7) as a central kitchen for the wholesale part of the business, as well as retail eat-in/ take way Japanese style café. The predominant trading hours are between 11.30am to 3.30pm, Monday to Friday. The eating houses will also operate after hours and on weekends, however no specific hours were specified.

On average, the applicants anticipate the employment of five (5) to six (6) people on a casual basis, and up to eight (8) staff members at peak times. They also expect an average of ten (10) customers at any one time, to a maximum of twenty (20) customers. Additionally, two (2) to four (4) wholesale clients are expected per day.

Tenancy seven (7) was previously approved as an eating house, and the applicants are proposing alterations and additions to the layout of the existing eating house. The applicant also wishes to change the use of the consulting room in tenancy six (6) to an eating house. Although the use class is classified as Eating House for both tenancies, as the applicants are proposing to knock out a wall to combine the two units, the main use of tenancy six (6) is for food storage, office and administration, a cool-room, lobby and packing areas for the restaurant and take away business. Given this, the car parking requirement has been adjusted to reflect the mixture of uses within tenancy six (6), and the requirement is not based on the one (1) bay per 4.5 square metres of public floor area, as this is considered too onerous as tenancy six (6) will not be occupied on a frequent basis by restaurant diners and take-away customers, only on the occasional basis by wholesale customers, and staff members who use the office and kitchen.

The application also includes minor alterations and additions to the internal layout of the existing eating house and consulting room uses, in order to accommodate the new business. Also, minor external alterations and additions are proposed to the windows and doors only.

**CONSULTATION/ADVERTISING:**

The proposal was advertised for comment for 14 days and no submissions were received.

**LEGAL/POLICY:**

Town Planning Scheme No. 1 and associated Policies.

**STRATEGIC IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

**Parking and Access**

The proposed on-site car parking provisions are considered adequate, in accordance with the Town's Policy relating to Parking and Access.

The provision of two additional class three bicycle parking facilities for patrons is considered acceptable for tenancy 6, and it is not considered necessary to provide end of trip facilities.

Additionally, a condition has been recommended to ensure that the combined eating area and standing area in both tenancies does not exceed 47 square metres (this calculation includes the lobby area in tenancy six (6), and the seating and standing area in tenancy seven (7)).

**Roller Shutters**

The applicant appears to be proposing new roller shutters at the rear of the tenancies, along Wellman Street. As per the Town's Security Roller Shutters, Doors and Grilles on Non-Residential Buildings Policy, and in the interest of maintaining the visual amenity of, and interaction with, the streetscape along Wellman Street, the solid roller doors are not permitted, and a condition has been recommended to ensure that the roller doors are visually permeable with a minimum of 50 per cent visual permeability, when viewed from the street. Also, the exact location of the roller door is not clear and it has not been depicted on the site plans or elevations. Given this, a condition has also been recommended so that additional plans are provided at the Building Licence stage to depict the location of the roller door.

**Conclusion**

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

**10.1.19 No. 3 (Lot 202) Glendower Street, Corner William Street, Perth – Proposed Demolition of Existing House and Construction of Two Two-Storey Single Houses**

<b>Ward:</b>	South	<b>Date:</b>	20 April 2004
<b>Precinct:</b>	Hyde Park, P12	<b>File Ref:</b>	PRO 2527; 00/33/1857
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	M Bonini		
<b>Checked/Endorsed by:</b>	D Abel	<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 San Leesi Pty Ltd on behalf of the owner N Mungioli for proposed demolition of existing house and construction of two two-storey single houses at No.3 (Lot 202) Glendower Street, corner William Street, Perth, and as shown on the plans stamp dated 23 February 2004, for the following reasons:*

- (i) the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
- (ii) the non-compliance with streetscape, building setbacks, open space, plot ratio, privacy and density requirements of the Residential Design Codes;*
- (iii) the non-compliance with the street setback requirements of the Policy relating to Robertson Locality; and*
- (iv) consideration of the objections received.*

**Moved Cr Ker, Seconded Cr Lake**

*That the recommendation be adopted subject to the deletion of the words "proposed demolition of existing house and" being deleted from the preamble.*

Discussion ensued.

**CARRIED (9-0)**

**Moved Cr Ker, Seconded Cr Lake**

*That the existing motion be renumbered accordingly and a new clause (ii) be added as follows:*

- (ii) APPROVES the application submitted by San Leesi Pty Ltd on behalf of the owner N Mungioli for demolition of the existing dwelling at No.3 (Lot 202) Glendower Street, corner William Street, Perth subject to:*
  - (a) a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*

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

*to the satisfaction of the Chief Executive Officer.*

Discussion ensued.

**CARRIED (9-0)**

**Reasons for significant change to the Officer Recommendation:**

1. The existing dwelling has no heritage value nor does it contribute to the streetscape.

**COUNCIL DECISION ITEM 10.1.19**

*That;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council*

- (i) *REFUSES the application submitted by San Leesi Pty Ltd on behalf of the owner N Munglioli for construction of two two-storey single houses at No.3 (Lot 202) Glendower Street, corner William Street, Perth, and as shown on the plans stamp dated 23 February 2004, for the following reasons:*
  - (a) *the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
  - (b) *the non-compliance with streetscape, building setbacks, open space, plot ratio, privacy and density requirements of the Residential Design Codes;*
  - (c) *the non-compliance with the street setback requirements of the Policy relating to Robertson Locality; and*

- (d) *consideration of the objections received.*
- (ii) *APPROVES the application submitted by San Leesi Pty Ltd on behalf of the owner N Mungioli for demolition of the existing dwelling at No.3 (Lot 202) Glendower Street, corner William Street, Perth subject to:*
- (a) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on site;*
  - (b) *an archival documented record of the place including photographs (internal, external and streetscape elevations), floor plans and elevations for the Town's Historical Archive Collection shall be submitted and approved prior to the issue of a Demolition Licence;*
  - (c) *a development proposal for the redevelopment of the subject property shall be submitted to and approved by the Town prior to the issue of a Demolition Licence;*
  - (d) *support of the demolition application is not to be construed as support of the Planning Approval/Building Licence application for the redevelopment proposal for the subject property;*
  - (e) *demolition of the existing dwelling may make the property ineligible for any development bonuses under the provisions of the Town of Vincent Town Planning Scheme No.1 and associated Policies for the retention of existing dwellings valued by the community;*
  - (f) *any redevelopment on the site should be sympathetic to the scale and rhythm of the streetscape in line with the provisions of the Town of Vincent Town Planning Scheme No.1 and associated Policies; and*
  - (g) *compliance with all relevant Environmental Health, Engineering and Building requirements;*
- to the satisfaction of the Chief Executive Officer.*

**FURTHER REPORT:**

**Consultation/Advertising**

On further investigation of the Town's records, the Town's Officers confirm that two objections were received during the community consultation period in relation to the subject proposal. The submission regarding No. 173 Fitzgerald Street does not relate to the subject property and should not be taken into account when assessing and determining the current application.

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<b>LANDOWNER:</b>	N Mungioli
<b>APPLICANT:</b>	San Leesi Pty Ltd
<b>ZONING:</b>	Metropolitan Region Scheme - Urban Town Planning Scheme No. 1 - Residential R80
<b>EXISTING LAND USE:</b>	Single House

**COMPLIANCE:**

<b>Requirements</b>	<b>Required</b>	<b>Proposed</b>
<b>Setbacks:</b>		
<b>Unit 1</b>		
East/Front Ground Floor (Entry, Powder Room, Study, Sitting)	4 metres	1.45 metres to 2.1 metres
West Ground Floor (Garage, Laundry, Stairs, Sitting)	1.5 metres	0 metre to 1.3 metres
South Ground Floor (Garage)	1 metre	0 metre (Internal Boundary)
East/Front First Floor (Bed 1, Bath, Bed 2, Kitchen, Dining, Living)	6 metres	1.45 metres to 2.1 metres
West First Floor (Bed 1, Bath, Bed 2, Kitchen, Dining, Living)	3.5 metres	1.2 metres to 1.9 metres
South First Floor (Bed 1)	1.1 metres	0 metres (Internal Boundary)
<b>Unit 2</b>		
East/Front Ground Floor (Garage, Entrance, Study, Sitting)	4 metres	1.6 metres to 4 metres
West Ground Floor (Laundry, Stair, Garage, Sitting)	1.5 metres	0 metre to 1.3 metres
North Ground Floor (Sitting)	1 metre	0 metre (Internal Boundary)
South Ground Floor (Garage)	2.98 metres to accommodate 6 metres maneuvering requirement	2.6 metres
East/Front First Floor (Balcony, Kitchen, Living, Bed 2, Bed 1)	6 metres	1.5 metres to 2.1 metres
North First Floor (Bed 1)	1.2 metres	0 metre (Internal Boundary)
South First Floor (Balcony)	2.3 metres	1 metre - Balcony 2.6 metres - Main Building Wall
West First Floor (Balcony, Living, Dining, Stair, Bed 1)	4.2 metres	1.2 metres to 2 metres
<b>Privacy Assessment:</b>		
<b>Unit 2</b>		
Living Room - Balcony First Floor (south and west facing)	7.5 metres	2 metres to west boundary 1 metre to south boundary
Living Window (south facing)	6 metres	4.11 metres to south boundary with inclusion of half the width of the right of way.
<b>Open Space:</b>		
Unit 1	45 percent	39 percent
Unit 2	45percent	40.8 percent
<b>Plot Ratio:</b>		
Unit 1	0.65	0.80
Unit 2	0.65	0.83
<b>Density:</b>		
R60	166.66 square metres per lot	152 square metres per lot (Represents "R65")
<b>Courtyard:</b>		
Unit 1	75 percent without solid cover	49 percent without solid cover
Unit 2	75 percent without solid cover	52.5 percent without solid cover

Boundary Walls:		
Boundary Wall - West	3 metres average with maximum of 3.5 metres on one side boundary	3.3 metres average

Use Class	Single House
Use Classification	"P"
Lot Area	304 square metres

**SITE HISTORY:**

The subject site is occupied by a single storey single house. A right of way abuts the lot on the southern side. According to Town records, the right of way is sealed and privately owned with a width of 3.02 metres.

**DETAILS:**

The applicant seeks approval for demolition of existing house and construction of two, two storey-single houses with orientation towards William Street.

The proposal is non-compliant in many areas relating mainly to the Residential Design Codes (R Codes) and also the Town of Vincent Town Planning Scheme No. 1 and Policies.

**CONSULTATION/ADVERTISING:**

The proposal has been advertised and two written submissions have been received by the Town from the western neighbour and planning consultants acting on behalf of the western neighbour. The main points raised in the letter by the planning consultants are as follows;

*"We acknowledge that the applicant has substantially amended their designs, however, we object to the future development of this site in its proposed form due to the large number of proposed setback, privacy, open space, plot ratio, living, boundary wall variations.*

*These proposed variations will directly affect our client, ... property and as such the following comments should be noted:*

*1. Setback Variations – Unit 1*

*As stated within your correspondence, the minimum required setback for the proposed ground floor (west) and first floor (west and north) of Unit 1 does not comply.*

*The proposed design shows a boundary wall on the western side and a setback of 1.3 metres on the ground floor rather than a 1.5 metre setback as required by the R Codes. Although this may be viewed as a minor variation, these reduced setbacks will increase the building bulk on the adjoining boundary and ultimately impact our clients property.*

*The design on the western side also includes a number of windows to habitable rooms on the first floor, creating an additional setback requirement of 3.5 metres at this point. The proposed setback of 1.2 metres to 1.9 metres does not comply with the acceptable development criteria, creating an even greater impact on our clients land in regard to privacy and overlooking.*

*The proposed design also shows a setback of 1 metre for the first floor balcony. This reduced setback has the effect of allowing the building to creep forward of the setback line thereby reducing sightlines on the corner. The proposed setback will also not reflect the existing streetscape of Glendower Street.*

*We therefore object to the northern boundary being considered as a secondary boundary and not a primary boundary, due to the effect that this will have on the streetscape of Glendower Street. We believe that the William Street setback should be considered as a secondary street achieving a 1.0 metre setback (similar to that proposed) and the Glendower Street setback should conform to the primary street setback of 4 metres.*

2. *Setback Variations – Unit 2*

*As stated within your correspondence, the minimum required setback for the proposed ground floor (west and south) and first floor (west and south) of Unit 2 does not comply.*

*Similar to Unit 1, the proposed design shows a boundary wall on the western side and a setback of 1.3 metres on the ground floor rather than a 1.5 metre setback as required by the R Codes. To reiterate, these reduced setbacks will increase the building bulk on the adjoining boundary and ultimately impact our clients property.*

*Within the proposed design, the setback of the first floor balcony does not conform to the acceptable development criteria of the R Codes. On the southern side, the balcony is setback at 1 metre rather than the 2.3 metres as required. Similarly, on the western side, the balcony, living, dining, stair and bedroom 1 is setback at 1.2 metres to 2.0 metres rather than 4.2 metres as required.*

*Due to the proposal's non-conformance with the acceptable development criteria, this unit can be seen to be located forward of the setback line and therefore will reduce sight lines and act as an imposing structure on our client's boundary.*

3. *Setback Variations – General*

*Setback provisions allow building bulk to be regulated and as such are controlled through the implementation of the R Codes.*

*Unfortunately, in this instance, the proposal does not comply with the required setback under the R Codes. If these setbacks were to be approved, the impact on our client's property would be severe, with the biggest impact being on areas of private open space located to the west of the proposed development.*

*It is therefore imperative for the amenity of the subject site and the aesthetics of the area that the setbacks as stipulated within the R Codes are adhered to.*

4. *Visual Privacy Setback – Unit 2:*

*As stated within your correspondence, the minimum required setback for the proposed first floor balcony does not comply.*

*The 7.5 metre cone of vision as stipulated in the R Codes has not been provided, with a setback of only 2.0 metres to the west boundary and 1.0 metre to the south boundary provided.*

*Due to the location of the south facing window, the 6 metre cone of vision as stipulated in the R Codes, has not been implemented with a distance of 4.11 metres to the south boundary proposed. The construction and location of this window at a reduced setback to the boundary, without adequate screening as required by the R Codes, will cause a complete loss of privacy.*

*As such we request that this balcony and window be removed or screened to an adequate height and density to protect our client's privacy.*

5. *Plot Ratio – Units 1 & 2:*

*As stated within your correspondence, the minimum required plot ratio for Unit 1 and Unit 2 does not comply.*

*Within an R80 coding, the plot ratio is considered to be that of R60 being 0.65. The proposed plot ratio is almost 0.20 more than that permitted under the R Codes resulting in an imposing, bulky structure, with enormous visual impacts on the amenity of our client's property.*

*We therefore object strongly to this proposed increase in plot ratio.*

6. *Boundary Wall – Units 1 & 2:*

*Within the R Codes, the maximum permissible height for boundary walls in areas coded R30 and higher is a 3 metre average with a maximum height of 3.5 metres. The applicant proposes a boundary wall with an average of 3.3 metres.*

*Although not a large variation to the R Codes, it does not enhance the amenity of the development and yet has a significant adverse effect on the amenity of the adjoining property.*

7. *General Comments – Units 1 & 2:*

*The proposal also includes a number of variations which although not directly affecting the owner's property, do contribute to a reduction in general amenity of the local neighbourhood. We therefore object to these additional variations which include:*

- *Reduced setbacks to east ground floor and first floor on Unit 1 and Unit 2;*
- *Reduced setbacks to south ground floor and first floor on Unit 1;*
- *Reduced setbacks to north ground floor and first floor on Unit 2;*
- *Reduced outdoor living area/courtyard in terms of total area and minimum dimension for both Unit 1 and Unit 2; and*
- *Reduced open space requirement for Units 1 and 2.*

*To reiterate, we oppose this proposal due to its adverse impact on our client's property and surrounding neighbourhood and the large number of proposed variations from the acceptable development criteria of the R Codes."*

The second letter is from the south neighbour and the main points raised are as follows;

*"We wish to respond to the development for No 173 Fitzgerald Street, West Perth. We would like to oppose not only the grossly out of code building proposed but also the demolition of the current building on the site, which is part of a matching pair of buildings that are circa 1890-1905.*

*This extended proposal however includes the demolition of a significant building and the mirror partner to the building and home in which we currently reside as well as own. Both buildings are attached to each other, there are shared flashings and the parapets are joined in various points. Demolition of this building will cause damage to our residence. No mention has been made on plans of any special consideration for this eventuality and measures to deal with such problems.*

*More importantly however, if 173 Fitzgerald Street were to be demolished it would destroy not just the building but also the neighbouring building at 171 Fitzgerald Street in terms of heritage and street appeal.*

*Quite apart from our severe concerns over the demolition of 173 Fitzgerald Street, we are also extremely concerned at the proposed new residence...this proposal is non-compliant in a great many ways.*

*In addition to these concerns already raised by planners we feel there are further concerns:*

- *Overshadowing - On midday June 21 our rear living space (our major outdoor living space) will be in 100% shadow, also far greater than 50% of our block will be overshadowed...*
- *Featureless parapet wall - The wall facing our property is largely featureless...*
- *Structural concerns - apart from the structural concerns to our property with regard to demolition, the compacting of footings for the new building would almost undoubtedly cause major cracking considering our building is over 100 years old...*
- *Parking - when our building was built no provisions were made for parking bays, as such we have always had to either streetpark on Fitzgerald Street during non-clearway times or park in Fitzroy Street - that bay has already been destroyed by the crossover for the new development abutting this proposal..."*

The submission made by the owner of No. 5 Glendower Street states as follows;

*"There are two items in your letter under R Codes which are of concern. The first is the setback, North onto Glendower Street. Not only does this not comply, every building in Glendower Street having a setback of at least 4 metres, it constitutes a traffic hazard when turning into Glendower Street from William Street in that it would restrict the viewing aspect.*

*The second item of concern is the west boundary wall. The codes state that a boundary wall shall not take up more than two thirds (66%) of the boundary from the front setback. The proposed wall would appear about 4 metres too long."*

The proposal occurs along William Street, which is classified as an Other Regional Road (ORR) Reservation. The proposal was referred to the Department for Planning and Infrastructure (DPI) for comment. DPI have notified that the development application is acceptable to the Integrated Transport Planning Directorate.

**LEGAL/POLICY:**

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

**STRATEGIC IMPLICATIONS:**

Nil.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

## **COMMENTS:**

### **Demolition**

A site inspection was undertaken by the Town's Senior Heritage Officer on 2 December 2003. The place was constructed circa 1903 and underwent substantial alterations and additions in 1960. The place is characterised by modern hopper windows and horizontal feature stonework. The place has been rendered and painted, tiled and the fenestration has been altered. The place is not considered to warrant a full heritage assessment and is not considered to have any cultural heritage significance. It is not included on the Town's Interim Heritage Data Base or Municipal Heritage Inventory.

Certificate of Title details indicate that the property was part of a parcel of land owned by Daniel Congdon, a Fremantle Merchant, in the 1880s. It was owned for a short time in 1900 by William Brookman and then Edward Butt, of North Perth. In 1903 it was purchased by John Limb, of Subiaco, in 1903. Metropolitan Sewerage Plans revised in 1923 show the original footprint of the dwelling, which has since been extended to the rear and altered to the front. The original footprint is shown to be the same of those at Nos. 5 and 7 Glendower Street, which have since been demolished. In 1939 Mr. d O'Leary constructed a brick wash house to the rear of the property and Building Licence 438/60 shows the substantial alterations undertaken by Mr L Mungioli in 1960. Mr Mungioli's wife remained the owner of the property at the time of assessment. She advised that the front of the house was once used as a shop for her husband, who was a tiler.

The place contains typical architectural features of an adapted 1960s dwelling, altered fenestration, hopper windows, rendered and painted walls, shallow skirting boards and horizontal feature stonework to the facade. The hallway is narrow and the general floor plan alludes to the original construction date and design of the property.

The place is not considered to have any cultural heritage significance and it is recommended that the proposed demolition of the dwelling be supported subject to standard conditions.

### **Setbacks**

The proposed setback variations affect almost all boundaries. The variations of most concern are the ones that affect the front boundary (streetscape) and those that affect the west neighbour. The west neighbour is considerably affected by reduced setbacks to the west boundary, which is considered to be visually over imposing. The front setbacks for both units are considered to depart significantly from the requirement, which is 6 metres. The proposed setback variations pertaining to the lot are not considered acceptable and therefore not supported.

### **Privacy Setback**

The variations relating to privacy are considered to be minor. The variations relate to the living room balcony and the living room window. This could be addressed via the application of screening in accordance with the Town's requirements. These variations could therefore achieve compliance and be supported.

### **Open Space**

The open space proposed is 39 per cent for unit 1 and 40.8 per cent for unit 2 as opposed to 45 per cent as required. The shortfall in open space is considered to be excessive demanding an overdevelopment of a relatively small site. The degree of this variation results in disruption to the overall amenity of the immediate area. The open space variation proposed is therefore not considered acceptable and not supported.

### **Plot Ratio**

The plot ratio requirement is an indicator of the scale and bulk of a development as is open space. In this instance the development exceeds the plot ratio requirement. The R Codes require a plot ratio of no more than 0.65. Unit 1 proposes 0.80 and unit 2, 0.83. The result is a maximum variation of 0.18 from the requirement. A variation in plot ratio of this degree is not considered to be acceptable and indicates an over development of the site. The variation to plot ratio is therefore not supported.

### **Boundary Wall Development**

The R Codes permit boundary wall development on one side boundary with restrictions placed on the height and length of the boundary wall. In this instance, the proposed development involves a boundary walls on the west side boundary. Whilst it is a 'single storey' wall, the average height exceeds the requirement by 0.3 metre. This would require modification to ensure that the height is reduced to the required average height of no more than 3 metres.

### **Outdoor Living Area**

The R Codes state that outdoor living areas are to be a minimum of 75 per cent without solid cover. The proposed outdoor living areas are only 49 per cent open due to the first floor being cantilevered above the outdoor living space for both units 1 and 2. There is very little usable open area available to both units and therefore it is considered important to ensure that adequate outdoor living space is provided. The outdoor living areas as proposed are not considered to be acceptable and therefore not supported.

### **Density**

The subject property is zoned R 80, however, all standards for grouped dwellings and single houses are as for R 60. The current lot area requirement for the R 60 zoning is 166.66 square metres as per the previous R Codes. This provision is still valid until December 2004. Based on the total lot area being 305 square metres inclusive of the corner truncation, the maximum size of each lot is calculated at no more than 152.5 square metres. The subject lot is therefore considered to be a single residential lot with no subdivision potential. The subject property seeks two dwellings on a site that can support only one. The proposed variation to density is not considered to be acceptable and therefore not supported.

In view of the above, it is recommended that the proposal be refused due to the nature and extent of variations involved.

**10.1.20 Hyde Park Conservation Plan - Final Report and Adoption**

<b>Ward:</b>	South	<b>Date:</b>	20 April 2004
<b>Precinct:</b>	Hyde Park, P12	<b>File Ref:</b>	RES0044
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	H Eames		
<b>Checked/Endorsed by:</b>	D Abel	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the final report of the Hyde Park Conservation Plan dated June 2003, as 'Laid on the Table'; and*
- (ii) *ADOPTS the recommendations and guidelines contained within the Conservation Plan for the purposes of retaining and conserving the cultural heritage significance of Hyde Park.*

**Moved Cr Lake, Seconded Cr Ker**

*That the recommendation be adopted subject to clause (ii) being amended as follows:*

- (ii) *ADOPTS IN PRINCIPLE the recommendations and guidelines contained within the Conservation Plan for the purposes of retaining and conserving the cultural heritage significance of Hyde Park, subject to consideration of other factors relating to economic, social and environmental matters.*

Discussion ensued.

**CARRIED (9-0)**

**COUNCIL DECISION ITEM 10.1.20**

*That the Council;*

- (i) *RECEIVES the final report of the Hyde Park Conservation Plan dated June 2003, as 'Laid on the Table'; and*
- (ii) *ADOPTS IN PRINCIPLE the recommendations and guidelines contained within the Conservation Plan for the purposes of retaining and conserving the cultural heritage significance of Hyde Park, subject to consideration of other factors relating to economic, social and environmental matters.*

**BACKGROUND:**

A Conservation Plan in accordance with the standards and specifications required by the Heritage Council of Western Australia has been commissioned by the Town.

A conservation plan is a document which manages changes to a heritage place, so that its' significance is not lost. It includes a full history of the place, identifies significant elements and makes recommendations relating to future management decisions and priorities.

**SITE HISTORY:**

December 2002 - Consultants Kelsall Binet Architects appointed to undertake the documentation.

January to May 2003 - Five meetings between administration, field staff and consultants as draft report progresses.

June 2003 - Draft Hyde Park Conservation Plan provided to Manager Community Development Services, Manager Parks Services, Executive Manager Technical Services, Manager Planning and Building Services and Senior Planning Officer (Strategic) for comments.

July 2003 - Minor amendments to the draft document and peer review process by Heritage Council of WA (HCWA).

September 2003 - Peer review comments received from HCWA.

19 February 2004 - Elected Members Briefing

**DETAILS:**

The Hyde Park Conservation Plan document is "Laid on the Table", while the Executive Summary of the document is included as an attachment to the report.

Hyde Park is included on the Heritage Council of Western Australia's Register of Heritage Places in the Heritage of Western Australia Act 1990.

Funds to commission a Conservation Plan for the Park were made available in the 2002/2003 Budget.

A Conservation Plan is a necessary document for a place of considerable heritage significance and is a standardised document which identifies what is important about a place and how to manage change so that these important elements are not eroded over time and to give guidance to improving and conserving the place.

A conservation Plan is also commonly cited as a pre-requisite to funding application for conservation works through agencies like HCWA, Lotteries West and the Australian Heritage Commission. The completion and adoption of the document is therefore considered to be a positive step towards possible future access to funding assistance for conservation works within the Park.

**CONSULTATION/ADVERTISING:**

A series of consultation meetings were held between administrative staff and field staff through out the documentation process. The consultation undertaken by the consultant is considered to be comprehensive and has contributed to the final outcomes of the document and its recommendations.

In accordance with protocol, the document was forwarded to HCWA for peer review.

The document is not required to be advertised.

**LEGAL/POLICY:**

Hyde Park is subject to the provisions of the Heritage of Western Australia Act 1990.

**STRATEGIC IMPLICATIONS:**

Strategic Plan 2003-2008 - Key Result Area 1 Environment and Infrastructure: *"1.2 Recognise the value of heritage in providing a sense of place and identity - d) Foster activities which add to the community's understanding of heritage value."*

**FINANCIAL/BUDGET IMPLICATIONS:**

The project was completed within the specified budget allocation of \$15,000.

**COMMENTS:**

The document is considered to comprehensively and sensitively address all aspects of the history and future management challenges of the park to achieve a long term objective of overall conservation and heritage presentation.

In its peer review letter dated 4 September 2003, HCWA advised that the report is *"well researched and presented ...all sections are of a high standard and conform to current conservation planning practice."*

Following various discussions with staff, the consultants attended an Elected Members briefing session on 19 February 2004. Key areas of discussion related to replacement of trees and vegetation, the management and health of the lake, impact of traffic on tree roots, park furniture and services.

The Executive Summary is attached as an appendix to this report, however it should not be read in isolation from the main report as the justifications and background to the key policies outlined in the Executive Summary are crucial to understanding the reasoning behind the recommendations.

The Conservation Plan is considered to be a comprehensive, holistic and sensitive document that responds to the complex and multi-layered needs of the Park to ensure its long term protection and management of its evolution. In light of this; endorsement by the Heritage Council and inclusive consultation undertaken throughout the report process, it is recommended that the Council adopts the Hyde Park Conservation Plan.

**ITEM WITHDRAWN BY CEO PRIOR TO THE MEETING FOR FURTHER  
INFORMATION AND CLARIFICATION OF FUNDING ARRANGEMENTS****10.1.22 Community Crime Prevention Partnerships**

<b>Ward:</b>	All Wards	<b>Date:</b>	21 April 2004
<b>Precinct:</b>	All Precincts	<b>File Ref:</b>	ORG0064
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	K Bennett		
<b>Checked/Endorsed by:</b>	J Maclean, D Abel	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) RECEIVES the report on the new structure for community crime prevention in the Town;*
- (ii) APPROVES the implementation of the new structure for community crime prevention in the Town as detailed in the Community Crime Prevention Partnership Group, Terms of Reference contained in Appendix 10.1.22; and;*
- (iii) AUTHORIZES the Mayor and/or Chief Executive Officer to sign the Crime Prevention Partnership Agreement between the Town and the Minister for Community Development and affix the Council's Common Seal.*

**BACKGROUND:**

Following a State Government review, changes have been made to the structure of crime prevention in the State. The new structure seeks to streamline the current process and to adopt a more strategic approach to community safety and crime prevention. The new approach seeks to promote local community safety partnerships based on the local plans facilitated by local governments.

In 2003, the State Government decided that the previous State Government crime prevention strategy, Safer WA, was not functioning properly and they introduced a Community Safety and Crime Prevention Partnership Program, administered through the Office of Crime Prevention.

The new approach depends on the establishment of formal partnership relationships particularly with local government. Given that there are already established structures and networks in place, which facilitate an existing consultative process, for many local governments, including the Town of Vincent, this new structure will enhance their effectiveness.

At the Ordinary Meeting of Council held on 24 February 2004, an in-principle approval was given for the State Government's new Community Safety and Crime Prevention Partnership Program and the Safer Vincent Coordinator was directed to arrange a public information session presented by the Office of Crime Prevention to inform Elected Members, residents and ratepayers of the changes to the crime prevention structure and how it will impact on the Town. Direction was also given by Council to convene a meeting of the Safer Vincent Advisory Group to develop a structure that will improve the alignment with the required partnership agreements between the State Government and the Town and to report back to the Council.

"COUNCIL DECISION ITEM 10.1.23

*That the Council:*

- (i) *RECEIVES the report on Western Australian State Government Community Safety and Crime Prevention Partnership Programme;*
- (ii) *APPROVES IN PRINCIPLE the State Government's new Community Safety and Crime Prevention Partnership Programme;*
- (iii) *DIRECTS the Safer Vincent Co-ordinator to arrange for the Office of Crime Prevention to present a community information session, as soon as possible, to make the Elected Members, ratepayers and residents of the Town of Vincent aware of the changes in the crime prevention and community safety and security programmes. Further, that community groups, precinct groups and key stakeholders be invited by mail; and*
- (iv) *DIRECTS the Safer Vincent Advisory Group to meet to develop a structure that will improve its alignment with the required partnership agreements between the State Government and the Town and to report back to the Council as soon as practicable, but no later than the Ordinary Meeting of Council to be held on 27 April 2004."*

**DETAILS:**

On Tuesday 6 April 2004, a presentation by the Office of Crime Prevention was conducted at the Town. Over seventy invitations were sent and an advertisement was placed in the local media however only 15 people attended. Invitees included representatives of precinct and community groups, Administration staff, Beatty Park staff and Police among others.

Extensive discussions have been undertaken between many stakeholders including Police, community and government agencies at the Information evening, the Safer Vincent Advisory Group and in general at different forums. There is an understanding that an agreement with State Government could be advantageous in many aspects and whilst there are some reservations the consensus has been that the partnership is a viable opportunity for Local Government to participate in the State's crime prevention program.

The new structure will require a formalisation between a number of stakeholders with Local Government providing the facilitation and general administration for the development of a committee and the development and implementation of an appropriate three year Crime Prevention Business Plan. The process of restructure would be as follows:

- The Town engages with the Office of Crime Prevention and enters into a formal Partnership Agreement.
- Agreement signed by Mayor and Minister for Community Development.
- The Town would apply for funding of \$10,000 to develop a business plan,
- A locally based Community Safety and Crime Prevention Partnership formed with a suggested name of "Community Crime Prevention Partnership".
- The local Community Crime Prevention Partnership undertakes a planning exercise to develop a Community Safety and Crime Prevention Plan as part of the business plan.
- The Community Crime Prevention Partnership present the Plan to the Council for its approval and endorsement.
- Office of Crime Prevention endorses the Plan.
- A \$20,000 incentive payment is made to the Community Crime Prevention Partnership for use for specific issues.

- Local Government registers the Community Safety and Crime Prevention Plan with the Office of Crime Prevention.
- Local Government houses the Plan on behalf of the local community.
- The local Community Crime Prevention Partnership implements the Plan, and the Plan is integrated into the review cycle to ensure monitoring of programs on a regular basis.

Government Agencies may be invited to participate in the partnership on a needs basis. That is as issues become evident or are identified, an appropriate agency representative would be engaged to respond to and provide a level of support and direction based on their expertise.

On 21 April 2004 the Safer Vincent Advisory Group met to develop the new structure based on amended Terms of Reference, which is attached at Appendix 10.1.22. The changes are not extensive; however, they now reflect a broader membership with a more flexible process under which to operate.

The Safer Vincent Advisory Group will cease to be a group that only meets to discuss specific issues and will be used to ensure that the approved programmes are implemented, on time and on budget. The name of the group would be changed to the Community Crime Prevention Partnership and would meet on a monthly basis. This Partnership will be responsible for the development, implementation and review of a 3 year Business Plan, which will address evidence based issues of safety, security and crime prevention in the Town. The Office of Crime Prevention will provide detailed information from the Crime Research Centre at the University of WA identifying Town specific issues.

The Town is being asked to facilitate this partnership and provide a certain level of administrative support, to this end the Safer Vincent Program will provide the structure in which the partnership can operate. A level of funding is provided by the Office of Crime Prevention for the establishment of the Business Plan then a sum as an incentive payment for the implementation of that Plan and an ongoing annual sum to offset administrative costs. Grants will be made available regularly to carry out various strategies as identified by the Partnership.

The Business Plan will be developed on the information received from the Crime Research Centre and based on the extensive existing information through the Safer Vincent Program. With endorsement of the Plan by the Office of Crime Prevention and Council the Partnership will be charged with the responsibility to ensure the identified issues as reflected in the Business Plan are addressed.

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

This program depends on extensive consultation with a diverse group of residents, business proprietors and government agencies. Advertising would form part of any crime prevention strategy whether to promote the actual program or to promote awareness of a specific crime prevention strategy/initiative.

#### **LEGAL/POLICY:**

Other than the legalities associated with the formal partnership agreement, there are no other legal implications associated with this proposal.

#### **STRATEGIC IMPLICATIONS:**

Area 2.5 of the Town of Vincent Strategic Plan 2003 – 2008 *“Develop and implement community programs for law order and safety”* requires the Town to:

"

- (a) Initiate research to identify needs and expectations of the community.*
- (b) Implement a holistic and proactive community safety program.*
- (c) Develop and promote safety and security education programs.*
- (d) Identify and utilise appropriate funding sources (e.g. grants and budget allocations).*
- (e) Develop partnerships with Government Agencies, businesses and the community.*

Participation in the Community Safety and Crime Prevention Partnerships Programme will assist in all of the above strategies.

**FINANCIAL/BUDGET IMPLICATIONS:**

On entering into an agreement with the Office of Crime Prevention, an immediate \$10,000 grant would be made available to develop the Business Plan and, once adopted by the Town and the Office of Crime Prevention, a further \$20,000 would then be offered as an incentive payment to undertake priorities stated in the Plan. As an on-going commitment, a further annual payment of \$1,200 will be made, to offset any administrative costs.

**COMMENTS:**

Entering into the Community Crime Prevention Partnership is seen as an opportunity to formalise and streamline Local Government's involvement in the State Crime Prevention Strategy. Importance is being placed on evidence based strategies and it is the intention of the Office of Crime Prevention to ensure funding is available for these programs. The information received from the Crime Prevention Research Centre and the established local knowledge through the Safer Vincent Program will provide a strong basis for an effective partnership.

Access to State funding and agency expertise is vital and can be provided through the partnership. In entering into the Partnership Agreement the Office of Crime Prevention seeks to encourage a broad, consultative program and, in seeking the involvement of Local Government, it recognises the unique position held by Councils, in providing local, relevant and responsible service.

It is considered appropriate that the Town participate and enter into this Partnership.

**10.2.2 Traffic Management Request for Hobart Street, Mount Hawthorn - London Street to Charles Street**

<b>Ward:</b>	North	<b>Date:</b>	21 April 2004
<b>Precinct:</b>	North Perth P8	<b>File Ref:</b>	TES0196
<b>Attachments:</b>	<a href="#">001;</a>		
<b>Reporting Officer(s):</b>	R Lotznicher		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the report on Traffic Management request for Hobart Street, North Perth;*
- (ii) *APPROVES in principle the proposal as shown on attached Plan No. 2268-CP-1, as endorsed by the Town's Local Area Traffic Management Advisory Group at its meeting held on 19 April 2004, estimated to cost \$45,000;*
- (iii) *NOTES that no funds have been included for the proposal in the 2003/04 budget;*
- (iv) *CONSULTS with the residents of Hobart Street giving them 21 days in which to provide comments on the proposal; and*
- (v) *RECEIVES a further report on the proposal at the end of the community consultation period.*

**COUNCIL DECISION ITEM 10.2.2**

**Moved Cr Chester, Seconded Cr Ker**

*That the recommendation be adopted.*

**Discussion ensued.**

**CARRIED (9-0)**

**BACKGROUND:**

At the Ordinary Meeting of Council held on 10 February 2004, the Council adopted the following resolution:

*“That the Council;*

- (i) *receives the report on Traffic Management matters at various locations;*
- (ii) *refers the seven (7) locations listed in the report to the Town's Local Area Traffic Management Advisory Group for their consideration; and*
- (iii) *receives a further report on each of the locations listed in the report once the Town's Local Area Traffic Management Advisory Group have considered the matters.”*

The seven (7) locations outlined in the report included the following:

Location 1	<i>Forrest Street (in progress)</i>
Location 2	<i>Lincoln / Beaufort Streets</i>
Location 3	Eton Street
Location 4	Monger Street
Location 5	<b>Hobart Street</b>
Location 6	Brookman Street, Moir Street and Forbes Road
Location 7	Woodstock / Edinboro Street

Location 5 is the subject of this report. (*Locations 1 and 2 were considered by the Council at its Ordinary Meeting held on 23 March 2003*)

**DETAILS:**

The Local Area Traffic Management (LATM) Advisory Group at its meeting held on 19 April 2004, discussed Hobart Street following the receipt of a petition signed by 48 residents requesting the following:

*“We the undersigned request that Council include Hobart Street (between London Street and Charles Street) in the wider street program, which would include a central median strip and landscaping, narrowing the carriageway, for the purpose of slowing down and reducing traffic along this section of road.*

*It is also requested that traffic signs (facing east and west) indicating:*

- a) the maximum road speed*
- b) children playground/crossing*

*be placed on Hobart Street.*

*In conjunction with the wider street program, it is requested that council approach Main Roads WA to modify the traffic signals on the corner of Charles Street and Scarborough Beach Road as well as Scarborough Beach Road and Loftus/London Streets by the inclusion of a dedicated right hand turn for vehicles travelling north and south on Charles and London/Loftus Streets. Such modifications would reduce the number of vehicles turning right into Hobart Street (from Charles and London Streets) during peak travel periods.”*

A community representative from Hobart Street and the Chair of the North Perth Precinct Group Inc. were also invited to attend the meeting.

The group was provided with the following statistics with regard to Hobart Street.

Section: Charles to London Street  
Request: Petition signed by 48 residents requesting traffic calming, and inclusion in the wider street program and other modifications.

Traffic Data

Section	Volume (vpd)	85% Speed (kph)
• London – Charles	Ave 1,600	57

Classification: Access Road

Budget: N/A

Details: Residents are concerned that the street is being used as a short cut during the peak periods due to the peak right turn ban at London/Scarborough Beach Road.

Comments: Hobart Street provides a link between London and Charles Streets. There are approximately 42 properties serviced by this section of Hobart Street. *Resident Only* traffic would therefore account for about 420 vpd. It also provides access to a delicatessen and an area of Public Open Space (Auckland / Hobart Reserve) which would account for part of the non-residential component of traffic in the street.

The remaining traffic comprises residential traffic accessing Auckland, Eton and Sydney Streets and through traffic from London Street through to Charles Street.

The posted speed on Hobart Street is 50 kph and the 85% speed is approximately 7 kph above the posted speed.

### **Discussion**

The community representatives expressed concerns regarding the speed and volume of traffic using the street, especially by the “rat runners” between London and Charles Streets. They did not consider that some form of closure would be appropriate, however, they considered some form of streetscape enhancement in the form of a “wider street” treatment, or similar, would be appropriate.

Discussion also centred on Hobart Street providing access to a wider residential area.

Other matters raised by the community representatives included:

- Installation of a right turn phase on Charles Street right into Scarborough Beach Road
- Deletion of the right turn ban during peak periods Loftus Street right into Scarborough Beach Road, Speed Zoning signage on Hobart Street
- Signage indicating playground/children crossing on Hobart Street

The Town’s Officers wrote to Main Roads WA (MRWA) with regard to dot points (1) and (2). MRWA provided the following response in part:

*“The suggested modifications to the traffic control signals should be considered a “last resort measure” and Council should show that all other alternatives have been fully evaluated and that they are not appropriate or as cost effective. The fact that the community has stated a preference for these modifications is not considered sufficient reason to accept this as the best solution without Council first undertaking a formal evaluation before forwarding the matter to Main Roads WA to consider. Modifications to traffic control signals are not an appropriate solution for all traffic issues and these proposed modifications may in fact reduce the level of service at these intersections and cause traffic problems elsewhere. It is therefore suggested that a local area traffic management scheme be considered to allow a holistic approach to addressing the concerns raised.*”

*Main Roads WA has recently commissioned a Road Link Performance Review of Charles Street, which incorporated the intersection of Scarborough Beach Road and Charles Street. The findings of the review did not indicate the need for the right turn facilities you have requested.*

*I can advise Main Roads WA has no discretionary funds available for traffic control signal improvement works on local roads and that the proposed project, if approved, would need to be fully funded by the Town of Vincent."*

In addition, MRWA advised that under their current policy / procedure, additional speed zone signs would not be considered - dot point (2).

With regard to dot point (3), this could be accommodated as part of the proposed improvements, however, MRWA approval would still be required.

### **Proposal**

An example of the wider street treatment recently installed in York Street was discussed. York and Hobart Streets are very similar, as follows:

- They are both access roads
- They are both 10 metres wide
- They both link two higher order roads
- They both have similar geometry

### **LATM Advisory Group Recommendation:**

The LATM Advisory Group and community representatives were most agreeable to implementing a "York Street type" proposal in Hobart Street, which would include the following:

- Embayed parking with nibs at the intersections
- Carriageway width reduced from 10 metres wide to 5.5 metres wide (line marking /nibs)
- Nibs to be a combination of brickpaved/landscaped with low maintenance ground cover/shrubs
- Line marking to delineate the parking and carriageway
- Low profile red asphalt entry statements at the intersection with London and Charles Streets

The installation of low profile speed humps at strategic locations was also discussed, however, it was considered this could be implemented as Stage 2 of the proposal if required.

It is recommended that the following procedures be implemented:

- 21 day community consultation, on recommended traffic treatments as outlined on attached Plan No. 2268-CP-1
- Report to Council at conclusion of consultation
- List funds for inclusion in 2004/2005 draft budget
- Implement works in 2004/05
- Assess impact on Hobart Street traffic once implemented
- Re-assess in six (6) months if required

**CONSULTATION/ADVERTISING:**

It is recommended that the proposal be advertised to Hobart Street residents for a period of 21 days, inviting them to provide comments.

**LEGAL/POLICY:**

N/A

**STRATEGIC IMPLICATIONS:**

In accordance with Key Result Area One of the Draft Plan 2002-2008 – 1.4 Maintain and enhance the Town's infrastructure to provide a safe, healthy, sustainable and functional environment. *“o) Investigate and implement traffic management improvements in liaison with the Local Area Traffic Management (LATM) Advisory Group.”*

**FINANCIAL/BUDGET IMPLICATIONS:**

There are no funds allocated in the current budget for this project. Should the proposal be adopted by the Council, \$45,000 will need to be listed for consideration in the 2004/05 draft budget.

**COMMENTS:**

The Town receives many requests for Traffic Management from time to time. Most requests received are addressed by the officers, as vehicle classifier results usually indicate that there is a perceived problem rather than an actual problem. Other matters are referred to the Police Services for enforcement of the legal speed limit.

With regard to Hobart Street, the LATM Advisory Group considered that while the traffic volumes in Hobart Street are higher than the adjoining streets, they were still below the threshold for an access road. In addition, Hobart Street provides access to a wider residential network and acts more like a local distributor at times. The measured 85 percentile speed is some 7 kph higher than the 50 kph posted speed.

It is therefore recommended that the Council approve, in principle, the proposal as shown on attached Plan No. 2268-CP-1 as endorsed by the Town's LATM Advisory Group at its meeting held on 19 April 2004, estimated to cost \$17,000, consults with the residents of Forrest Street with regard to the proposal, giving them 21 days in which to provide comments; and receives a further report on the proposal at the end of the community consultation period.

**10.3.3 Adoption of Draft Principal Activities Plan 2004-2008**

<b>Ward:</b>	-	<b>Date:</b>	19 April 2004
<b>Precinct:</b>	-	<b>File Ref:</b>	ADM0039
<b>Attachments:</b>	001		
<b>Reporting Officer(s):</b>	M Rootsey		
<b>Checked/Endorsed by:</b>		<b>Amended by:</b>	

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) ADOPTS BY AN ABSOLUTE MAJORITY the Draft Principal Activities Plan for the four (4) year period 2004-2008, circulated to Elected Members and as "Laid on the Table";*
- (ii) the Draft Principal Activities Plan be advertised on a local basis for a period of forty-two (42) days, seeking written submissions from members of the public;*
- (iii) the Council further considers the Draft Principal Activities Plan and any submissions at the conclusion of the statutory public advertising period; and*
- (iv) a briefing session be held for all community/precinct and business groups.*

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**Moved Cr Chester, Seconded Cr Lake**

*That the recommendation be adopted.*

Cr Torre departed the Chamber at 8.12pm.

Discussion ensued.

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

*That clause (i) of the recommendation be amended as follows:*

- (i) ADOPTS BY AN ABSOLUTE MAJORITY the Draft Principal Activities Plan for the four (4) year period 2004-2008, circulated to Elected Members and as "Laid on the Table"; subject to:*
  - (a) Page 4 of the Draft Principal Activities Plan being amended by deleted the word "Chinatown" and replacing with "Asian Theme";*

Cr Torre returned to the Chamber at 8.15pm.

**AMENDMENT CARRIED (9-0)**

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

*That clause (i) of the recommendation be amended as follows:*

- (i) ***ADOPTS BY AN ABSOLUTE MAJORITY the Draft Principal Activities Plan for the four (4) year period 2004-2008, circulated to Elected Members and as "Laid on the Table" subject to:***
  - (a) ***Page 4 of the Draft Principal Activities Plan being amended by deleted the word "Chinatown" and replacing with "Asian Theme";***
  - (b) ***Page 12 of the Draft Principal Activities Plan being amended by adding the words "and Formats" to 'Project/Initiative' No. 2;***

**AMENDMENT CARRIED (9-0)**

**Moved Cr Chester, Seconded Cr Ker**

*That clause (i) of the recommendation be amended as follows:*

- (i) ***ADOPTS BY AN ABSOLUTE MAJORITY the Draft Principal Activities Plan for the four (4) year period 2004-2008, circulated to Elected Members and as "Laid on the Table" subject to:***
  - (a) ***Page 4 of the Draft Principal Activities Plan being amended by deleted the word "Chinatown" and replacing with "Asian Theme";***
  - (b) ***Page 12 of the Draft Principal Activities Plan being amended by adding the words "and Formats" to 'Project/Initiative' No. 2;***
  - (c) ***Page 21 of the Draft Principal Activities Plan being amended by adding the words "at appropriate locations" to 'Project/Initiative' No. 6;***

**AMENDMENT CARRIED (9-0)**

**Moved Cr Chester, Seconded Cr Farrell**

*That clause (i) of the recommendation be amended as follows:*

- (i) ***ADOPTS BY AN ABSOLUTE MAJORITY the Draft Principal Activities Plan for the four (4) year period 2004-2008, circulated to Elected Members and as "Laid on the Table" subject to:***
  - (a) ***Page 4 of the Draft Principal Activities Plan being amended by deleted the word "Chinatown" and replacing with "Asian Theme";***
  - (b) ***Page 12 of the Draft Principal Activities Plan being amended by adding the words "and Formats" to 'Project/Initiative' No. 2;***
  - (c) ***Page 21 of the Draft Principal Activities Plan being amended by adding the words "at appropriate locations" to 'Project/Initiative' No. 6; and***

(d) Page 25 of the Draft Principal Activities Plan being amended by adding a new dot point as follows:

- Percentage of planning applications as retrospective approvals.

AMENDMENT CARRIED (9-0)

CARRIED AS AMENDED BY AN ABSOLUTE MAJORITY (9-0)

COUNCIL DECISION ITEM 10.3.3

*That the Council;*

- (i) **ADOPTS BY AN ABSOLUTE MAJORITY** the Draft Principal Activities Plan for the four (4) year period 2004-2008, circulated to Elected Members and as "Laid on the Table" subject to:
- (a) *Page 4 of the Draft Principal Activities Plan being amended by deleted the word "Chinatown" and replacing with "Asian Theme";*
- (b) *Page 12 of the Draft Principal Activities Plan being amended by adding the words "and Formats" to 'Project/Initiative' No. 2;*
- (c) *Page 21 of the Draft Principal Activities Plan being amended by adding the words "at appropriate locations" to 'Project/Initiative' No. 6; and*
- (d) *Page 25 of the Draft Principal Activities Plan being amended by adding a new dot point as follows:*
- *Percentage of planning applications as retrospective approvals.*
- (ii) *the Draft Principal Activities Plan be advertised on a local basis for a period of forty-two (42) days, seeking written submissions from members of the public;*
- (iii) *the Council further considers the Draft Principal Activities Plan and any submissions at the conclusion of the statutory public advertising period; and*
- (iv) *a briefing session be held for all community/precinct and business groups.*

---

**BACKGROUND:**

The Local Government Act 1995 requires each Local Government to adopt a Principal Activities Plan for a period of four or more years and for the plan to be annually reviewed.

**DETAILS:**

This current Principal Activities Plan has been prepared by the Chief Executive Officer and Executive Managers in conjunction with Managers and Administration Staff to identify significant areas of the Council's operations for the above mentioned period.

**LEGAL/POLICY:**

The Local Government Act 1995 states:

5.52 The Local Government Act definition of "Principal Activity" includes -

- (a) a major capital works project to be undertaken by the local government;
- (b) a major service to be provided by the local government;
- (c) a programme for the replacement of the local government's major assets;
- (d) major land transactions and major trading undertakings within the meaning of Section 3.59; and
- (e) such other activities as may be prescribed.

### **Principal Activities Plans**

- 5.56 (1) Each Financial Year a local government is to prepare a plan for the next four or more financial years.
- (2) The plan is to contain details of:
- (a) the principal activities that are proposed to be commenced or to be continued in each financial year affected by the plan;
  - (b) the objectives of each principal activity;
  - (c) the estimated cost of, and proposed means of funding, each principal activity;
  - (d) how the local government proposes to assess its performance in relation to each principal activity;
  - (e) the estimated income and expenditure for each financial year affected by the plan; and
  - (f) such other matters as may be prescribed.

### **CONSULTATION/ADVERTISING:**

The Draft Principal Activities Plan will be advertised on a local basis. It will be sent to all Community/Precinct and Business Groups and placed on the Town's web page.

### **Notice of Proposed Plans for Principal Activity**

The Local Government Act states as follows;

- "5.57 (1) After preparing a plan under section 5.56, the local government is to;*
- (a) give local public notice in accordance with subsection (2); and*
  - (b) make available for public inspection copies of the proposed plan at the local government offices and at each local government library in the district.*
- (2) The local public notice is to contain;*
- (a) notification that a plan for the local government's principal activities for the next 4 or more years has been prepared;*
  - (b) details of where and when the plan may be inspected; and*
  - (c) an invitation for submissions in relation to the plan to be made by members of the public within 42 days of the day on which local public notice was first given.*

#### *Acceptance of plans for principal activity*

- 5.58 The local government is to consider any submissions received in relation to a plan prepared under section 5.56 and may accept the plan with or without modification."*

### **STRATEGIC IMPLICATIONS:**

Strategic Plan 2004-2008 – Key Result Area

- 4.1 "Create vision and leadership for the overall benefit of the Town and its people."

4.1(d) *“Continue to develop a medium to long term Strategic Vision and Financial Plan for the Town.”*

**FINANCIAL/BUDGET IMPLICATIONS:**

The Plan provides a financial look ahead for the period, however it must be noted that revenues and expenditure included are indicative and it should not be taken that the amounts contained in the Plan will either be allocated to projects or initiatives included or funded from the sources indicated.

**COMMENT:**

This year there have been no format changes to the Principal Activities Plan.

The Projects and Initiatives in the Plan have been updated to reflect the new period covered and linked to the adopted 2004-2008 Strategic Plan.

It should be noted that in the Review of the Local Government Act 1995 which is currently being undertaken, it is recommending the following in regard to the Principal Activities Plan.

There are various proposed amendments to the sections relating to the plan of principal activities.

Amendments are proposed to the Local Government forward planning provisions to ensure that the plans developed are consistent with community designs and that there is flexibility for Local Governments to prepare plans that meet corporate needs. This will require the following amendments:

- Sections 5.52, 5.56, 5.57 and 5.58 are to be deleted;
- Any reference in the act (or regulations) to Principal Activities Plan is to be removed.

A statement is to be included in Section 2.7 to require Council to plan for the future. The procedure for the making and the content of such plans shall be as prescribed in regulations.

The amendments to the Local Government Act are currently in the parliamentary process. It was anticipated that the amendments to the Local Government Act would have been adopted in Parliament last year, however this did not materialise.

This Plan for years 2004-2008 provides for an extensive range of services, projects and initiatives to be undertaken to serve the community.

The Plan is recommended to the Council for public advertising and adoption.

**10.4.1 Town of Vincent Elections - 2005**

<b>Ward:</b>	Both Wards	<b>Date:</b>	19 April 2004
<b>Precinct:</b>	All Precincts	<b>File Ref:</b>	ADM0030
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	John Giorgi		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) **RESOLVES BY A SPECIAL MAJORITY to;**
  - (a) **DECLARE** in accordance with Section 4.20(4) of the Local Government Act 1995, the Electoral Commissioner be responsible for the conduct of the May 2005 Elections; and
  - (b) **DECIDE**, in accordance with Section 4.61(2) of the Local Government Act 1995, the method of conducting the 2005 Elections be as a postal election; and
- (ii) **RECEIVES** the information relating to the Local Government Postal Elections Election Report 2003 as shown in Appendix 10.4.1.

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**COUNCIL DECISION ITEM 10.4.1**

**Moved Cr Ker, Seconded Cr Lake**

*That the recommendation be adopted.*

**CARRIED BY A SPECIAL MAJORITY (9-0)**

---

**DETAILS:**

The Western Australian Electoral Commissioner recently wrote to the Town regarding the 2005 elections seeking "...An early indication of the likelihood of a postal election..." The Commissioner sought this early indication so as to commence preliminary planning of the election process on a State wide basis. A copy of the "Local Government Postal Elections Election Report 2003" is "Laid on the Table".

Since the inception of the Town in 1995, the Western Australian Electoral Commissioner has conducted all elections as postal elections except the extraordinary election for the Mount Hawthorn Ward in December 1997.

**LEGAL/POLICY IMPLICATIONS:**

The Council needs to pass two (2) motions by special majority, namely;

1. declare in accordance with section 4.20(4) of the Local Government Act, 1995 the Electoral Commissioner to be responsible for the conduct of the May 2005 elections; and

2. decide, in accordance with section 4.61(2) of the Local Government Act, 1995 the method of conducting the election will be as a postal election.

In the case of the Town of Vincent, a “special majority” is the same as an “absolute majority”.

#### **STRATEGIC IMPLICATIONS:**

The Town has a philosophy of community consultation and encouraging its residents to participate in elections. Postal voting has a much higher participation rate.

#### **FINANCIAL/BUDGET IMPLICATIONS**

The estimated cost to conduct the postal election is approximately \$42,000 - as there is no Mayoral election on this occasion. It should be noted that this is an indicative amount and actual costs will be determined by the Electoral Commission at the conclusion of the elections. An amount of \$42,000 has been provided in the 2004/2005 Draft Budget.

#### **COMMENT**

Local Government is required to consult more with the community, encourage community participation and be more open and accountable for their actions. The Town of Vincent has actively supported these requirements. From an election view point, the conduct of the 1995, 1997 and 1999 ordinary elections by the postal vote method, has ensured that the highest consultation and participation rates possible would be achieved.

Having the local government election process managed by the Western Australian Electoral Commission, whose principle activity is to conduct elections, is accepted most appropriate for the following reasons;

1. The election is conducted by professionally trained staff appointed for that sole purpose;
2. The election is overseen by an independent person with the experience and resources to perform the task;
3. The appointment of the Electoral Commission to manage Local Government Election removes any conflict of interest that may exist between Elected Members and the Chief Executive Officer as the Returning Officer and other local government officers appointed for the election.

Appointing the Western Australian Electoral Commission to manage the Town’s 2005 Election, would continue the strong commitment to consult with the community and achieve high voter participation rates, as established with previous elections. It is therefore recommended that the 2005 Ordinary Elections for the Town be conducted using the postal vote method.

### 10.4.2 Strategic Plan 2003-2008 - Progress Report

<b>Ward:</b>	Both	<b>Date:</b>	20 April 2004
<b>Precinct:</b>	All	<b>File Ref:</b>	ADM0038
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	John Giorgi		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council RECEIVES the progress report on the Strategic Plan 2003-2008, as shown in Appendix 10.4.2.*

---

**COUNCIL DECISION ITEM 10.4.2**

**Moved Cr Chester, Seconded Cr Torre**

*That the recommendation be adopted.*

**Discussion ensued.**

**CARRIED (9-0)**

---

**BACKGROUND:**

At the Ordinary Meeting of Council held on 23 March, this matter was considered and it was resolved as follows;

*"That;*

- (i) the Council RECEIVES the progress report on the Strategic Plan 2003-2008, as shown in Appendix 10.4.3; and*
- (ii) a more detailed report be submitted to the Ordinary Meeting of Council to be held on 27 April 2004."*

The Town's CEO, Executive Managers and Managers reviewed the Strategic Plan and provided indicative priorities, timeline and financial implications during October and November 2003. Assistance was obtained from the Western Australian Local Government Association to prepare key result areas, which will also be used as performance indicators in the CEO and Executive Managers' contracts of employment.

At the Ordinary Meeting of the Council held on 16 December 2003 the Council approved of the amendments, indicative priorities and financial implications to the Strategic Plan 2003-2008.

**CONSULTATION/ADVERTISING:**

Not applicable.

**LEGAL/POLICY:**

It is not a legal requirement to have a Strategic Plan however, it is considered “*Best Practice*” management that a Strategic Plan be adopted to complement and be linked and aligned to both the Principal Activities Plan and the Annual Budget.

**STRATEGIC IMPLICATIONS:**

The Strategic Plan provides the elected Council and administration with its aims, goals and objectives (key result areas) for the next five (5) years.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

The progress report for the Strategic Plan indicates that the Town's administration is progressing the various strategies in accordance with the adopted program.

**10.4.3 Western Australian Local Government Association (WALGA) Survey -  
Date of Future Local Government Elections (ORG0030)**

<b>Ward:</b>	-	<b>Date:</b>	20 April 2004
<b>Precinct:</b>	-	<b>File Ref:</b>	ADM0030
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	John Giorgi		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council ADVISES the Western Australian Local Government Association (WALGA) that it prefers the timing for Local Government elections to remain in May.*

---

**Moved Cr Lake, Seconded Cr Ker**

*That the recommendation be adopted.*

**Discussion ensued.**

**Moved Cr Ker, Seconded Cr Lake**

*That the words "prefers the timing for Local Government elections to remain in May" be deleted and replaced with "favours a revised date for Local Government elections in late March / early April to allow new Elected Members to make informed decisions about budgets".*

**AMENDMENT CARRIED (9-0)**

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

**COUNCIL DECISION ITEM 10.4.3**

*That the Council ADVISES the Western Australian Local Government Association (WALGA) that it favours a revised date for Local Government elections in late March / early April to allow new Elected Members to make informed decisions about budgets.*

---

**BACKGROUND:**

WALGA has written to the Town advising that the Department of Local Government and Regional Development is undertaking a review of its electoral provisions, including timing of elections. In addition, several of the Association's Zones have requested that consideration be given to changing the date for the conduct of biennial Local Government elections. Currently all elections are held on the first Saturday in May each two years, with the next election due in 2005.

Under Section 4.7 of the *Local Government act 1995*, elections for a Mayor or President are to be held on the first Saturday in May each four years and in regard to the election of councillors on the first Saturday in May every two years, with one half of the seats (or as near to) being filled for a four year term.

Zones suggested a date later in the year, possibly September or October, as this will allow all newly elected members to participate in the budget process for the following financial year, in a meaningful way rather than being elected in the May when a large number of Councils have already established their budget parameters. With the proposed change to the Budget timetable where Councils will be able to adopt the budget during June, this situation could be exacerbated.

The State Council at its April meeting decided to survey all members to determine if there is general support for the suggested change in date for the biennial Local Government elections from May to October. It was felt that this change would enable Elected Members to be better informed before having to vote on the adoption of the Local Government's annual budget.

WALGA advised that Members are invited to provide their views on the proposal of changing the date from May to October. Alternatively if Members feel that the date should be changed but do not agree with October, they would also be pleased to have those comments along with reasons for the suggested alternative.

WALGA have asked that responses be sent to them by Monday 31 May 2004.

The period from May to August is traditionally a busy period for Local Governments, with preparation of budgets and finalisation of end of year. The additional work created to brief newly Elected Members adds to this workload. Anecdotal feedback from previous elections is that if an Elected Member has not had previous local government experience, they have a very steep "learning curve" and there is often "information overload". However, this has not previously caused any problems as considerable information is provided during the budget process.

However, should the election dates change to September/October, it would not unduly impact on the Council or Town's operations.

**CONSULTATION/ADVERTISING:**

Not applicable.

**LEGAL/POLICY:**

The Local Government Act prescribes elections to be held every two years for Councillors and every four years for Mayors or Presidents.

**STRATEGIC IMPLICATIONS:**

Not applicable.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

The Council does not have a formal position regarding this matter and it has not been previously raised as an issue.

**10.4.6 Information Bulletin**

<b>Ward:</b>	-	<b>Date:</b>	21 April 2004
<b>Precinct:</b>	-	<b>File Ref:</b>	-
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	N Wilton		
<b>Checked/Endorsed by:</b>	John Giorgi	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Information Bulletin dated 27 April 2004 as distributed with the Agenda, be received.*

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

*That the recommendation be adopted.*

Cr Cohen departed the Chamber at 8.42pm.

**Moved Cr Lake, Seconded Cr Torre**

*That the Information Bulletin dated 27 April 2004 as distributed with the Agenda, be received noting that Item IB06 has been amended as tabled.*

**AMENDMENT CARRIED (8-0)**

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

Cr Cohen returned to the Chamber at 8.44pm.

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

**COUNCIL DECISION ITEM 10.4.6**

*That the Information Bulletin dated 27 April 2004 as distributed with the Agenda, be received noting that Item IB06 has been amended as tabled.*

**DETAILS:**

The items included in the Information Bulletin dated 13 April 2004 are as follows:

ITEM	DESCRIPTION
IB01	Letter of appreciation from Ms Patricia Malone for Carers Luncheon held on 31 March 2004
IB02	Brochure "Landmark Decision" from Mindarie Regional Council Waste Management Authority, regarding its preferred site for the initial stage of a proposed Resource Recovery Facility to be built in the Neerabup Industrial Area.

<b>ITEM</b>	<b>DESCRIPTION</b>
IB03	New Legislation and Park for the Swan and Canning Rivers - Information Paper
IB04	Community Visioning Project - Progress Report
IB05	Residential Design Codes Review Committee
IB06	Elected Member Forum - 18 March 2004

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

### 11.1 Notice of Motion – Councillor Simon Chester – Car Parking Beaufort Street into Stirling Street, Perth

*That the Council places on hold its proposal to install embayed angle parking in Stirling Street between Harold and Broome Streets, as funded in the 2003/2004 budget and re-considers the creation of additional parking in adjoining residential streets to service the Beaufort Street commercial strip.*

---

Moved Cr Chester, Seconded Cr Lake

*That the recommendation be adopted.*

Moved Cr Chester, Seconded Cr Lake

*That the words "and effect" be added after the words "re-considers the creation".*

Discussion ensued.

**AMENDMENT CARRIED (9-0)**

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

### **COUNCIL DECISION ITEM 11.1**

*That the Council places on hold its proposal to install embayed angle parking in Stirling Street between Harold and Broome Streets, as funded in the 2003/2004 budget and re-considers the creation and effect of additional parking in adjoining residential streets to service the Beaufort Street commercial strip.*

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**11.2 Notice of Motion – Councillor Simon Chester - Residential Design Codes Review**

*That the Council;*

- (i) AUTHORISES the Chief Executive Officer to prepare a review paper on the Residential Design Codes of Western Australia considering their performance and operation in the Town, specifically;*
  - (a) identifying and reporting any problems with the Codes and the accompanying explanatory text; and*
  - (b) suggesting amendments to remedy these problems; and*
- (ii) REQUESTS the above report be prepared for Council's consideration no later than May 2004.*

---

**Moved Cr Chester, Seconded Cr Lake**

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

- (iii) AUTHORISES the Chief Executive Officer to write to the Department for Planning and Infrastructure Residential Design Codes (R Codes) Review Project Officer, Chairman of the Western Australian Planning Commission, Minister for Planning and Infrastructure and Local MLA, expressing the Council's concerns at the lack of community representation and the large contingent of industry representation on the R Codes Review Committee, and advising how a more balanced make-up of the Committee could provide more sustainable outcomes in the longer term.*

Discussion ensued.

**CARRIED (9-0)**

**COUNCIL DECISION ITEM 11.2**

*That the Council;*

- (i) AUTHORISES the Chief Executive Officer to prepare a review paper on the Residential Design Codes of Western Australia considering their performance and operation in the Town, specifically;*
  - (a) identifying and reporting any problems with the Codes and the accompanying explanatory text; and*
  - (b) suggesting amendments to remedy these problems;*
- (ii) REQUESTS the above report be prepared for Council's consideration no later than May 2004; and*
- (iii) AUTHORISES the Chief Executive Officer to write to the Department for Planning and Infrastructure Residential Design Codes (R Codes) Review Project Officer, Chairman of the Western Australian Planning Commission, Minister for Planning and Infrastructure and Local MLA, expressing the Council's concerns at the lack of community representation and the large contingent of industry representation on the R Codes Review Committee, and advising how a more balanced make-up of the Committee could provide more sustainable outcomes in the longer term.*

**11.3 Notice of Motion – Councillor Helen Doran-Wu - Cash in Lieu Policy - Review**

*That the Council AUTHORISES the Chief Executive Officer to;*

- (i) conduct a review of the cash in lieu provisions in the Policy and the amount charged;*
- (ii) explore the Cash in Lieu policies of other Councils;*
- (iii) include the review as part of the Town's Budget process, as per the Policy; and*
- (iv) prepare a report for the consideration of Council on 8 June 2004.*

---

**COUNCIL DECISION ITEM 11.3**

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

*That the recommendation be adopted.*

**Discussion ensued.**

**CARRIED (9-0)**

---

**12. REPRESENTATION ON STATUTORY AUTHORITIES AND PUBLIC BODIES**

**12.1 WALGA Nominations – Heritage Council of WA; Caravan Parks & Camping Grounds Advisory Committee; Control of Vehicles (Off Road Areas) Act Advisory Committee; Air Quality Coordinating Committee; Library Board of WA, High and Wide Loads (HWL) Steering Committee; HAZMAT Coordinating Committee (Hazardous Materials); WA Local Government Superannuation Board**

<b>Ward:</b>	-	<b>Date:</b>	20 April 2004
<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>	-

**RECOMMENDATION:**

*That;*

- (i) \_\_\_\_\_ *be nominated as WALGA Member – Heritage Council of Western Australia, (Panel of 3 Names), (Approval by Minister);*
- (ii) \_\_\_\_\_ *be nominated as WALGA Metropolitan Member – Caravan Parks & Camping Grounds Advisory Committee (Panel of 3 Names), (Approval by Minister);*
- (iii) \_\_\_\_\_ *be nominated as WALGA Metropolitan Member – Control of Vehicles (Off Road Areas) Act Advisory Committee, (Panel of 4 Names), (Approval by Minister);*
- (iv) \_\_\_\_\_ *be nominated as WALGA Metropolitan Deputy Member – Control of Vehicles (Off Road Areas) Act Advisory Committee, (Panel of 4 Names), (Approval by Minister);*
- (v) \_\_\_\_\_ *and* \_\_\_\_\_ *be nominated as WALGA Member – Air Quality Coordinating Committee, (2 Members (2));*
- (vi) \_\_\_\_\_ *be nominated as WALGA Metropolitan Member – Library Board of W.A., (Panel of 3 Names), (Ministerial Approval);*
- (vii) \_\_\_\_\_ *be nominated as WALGA Member – High and Wide Loads (HWL) Steering Committee, (1 Member (1));*
- (viii) \_\_\_\_\_ *be nominated as WALGA Member – HAZMAT Coordinating Committee (Hazardous Materials), (1 Member (1)); and*
- (ix) \_\_\_\_\_ *be nominated as WALGA Member – WA Local Government Superannuation Board (Officer Position).*

---

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

*That the recommendation be adopted.*

**COUNCIL DECISION ITEM 12.1**

**Moved Cr Cohen, Seconded Cr Farrell**

*That Cr Doran-Wu be nominated as WALGA Member – Heritage Council of Western Australia, (Panel of 3 Names), (Approval by Minister).*

**CARRIED (9-0)**

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**BACKGROUND:**

Please see Appendix 12.1 for details.

**NOMINATIONS CLOSE COB MONDAY 10 MAY 2004.**

**10.4.5 Members Equity Stadium - Legal Documentation and Outstanding Issues - Progress Report**

<b>Ward:</b>	South	<b>Date:</b>	22 April 2004
<b>Precinct:</b>	Beaufort, P13	<b>File Ref:</b>	RES0051/RES0072
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	John Giorgi		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

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

Mayor Catania advised that Cr Franchina had declared a proximity interest in this Item. Cr Franchina departed the Chamber at 8.55pm and did not return to the Meeting. He did not speak or vote on the matter.

Crs Lake and Chester departed the Chamber at 8.55pm.

Mayor Catania welcomed Michael Henderson, Partner and Martin Matthews, Associate, Town's solicitors with Minter Ellison to the Meeting. He advised that the Town's solicitors would be providing legal advice to the Town and recommended that the Council proceed "Behind Closed Doors" to consider the matter.

At 8.56pm Moved Cr Torre, Seconded Cr Doran-Wu

*That the meeting move "Behind Closed Doors" to discuss Item 10.4.5 - Members Equity Stadium - Legal Documentation and Outstanding Issues - Progress Report, as it contains legal advice.*

**CARRIED (6-0)**

(Crs Chester, Franchina and Lake were absent from the Chamber and did not vote).

Journalists Mark Fletcher, Voice News, and Matt Zis, Guardian Express, and two members of the public departed the Chamber.

Council then "proceed behind closed doors".

Cr Doran-Wu departed the Chamber at 8.56pm.

Crs Lake and Chester returned to the Chamber at 8.58pm.

Moved Cr Lake, Seconded Cr Torre

*That the recommendation be adopted.*

**Cr Doran-Wu returned to the Chamber at 8.59pm.**

**Moved by Cr Torre, Seconded by Cr Chester**

*That Standing Orders be suspended to allow discussion on the matter and for the Town's solicitors to provide advice to the Council.*

**CARRIED (8-0)**

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

Mayor Catania requested the Chief Executive Officer to inform the Council of action to date and Chief Executive Officer, John Giorgi, advised as follows;

Following the meeting with Allia Holdings Pty Ltd (Allia)/Perth Glory Soccer Club Pty Ltd (PGSC) on 25/26 March 2003, the Town's solicitors have completed all of the documents and these were issued to Allia/PGSC's lawyers on 22 April 2004. A letter, as shown in Appendix 10.4.5(1), was also issued requesting that payment of outstanding monies be made - as this will be a significant consideration by the Council.

No response to the Town's letter of 22 April 2004 has been received and on 27 April 2004, the CEO requested the Town's solicitors to issue a further letter to Allia/PGSC's lawyers requesting that outstanding monies be paid within the next 48 hours and that a written response be provided to be tabled for the consideration of the Council - see Appendix 10.4.5(2).

At approximately 3pm on 27 April 2004, the Town's solicitors advised that they had received a verbal response from Allia/PGSC's lawyers which is most encouraging and the CEO requested the Town's solicitors to attend the Council meeting to provide information on the latest development and also, the Council's options.

Solicitor, Martin Matthews, advised the Council as follows;

1. That he had a telephone discussion with Tony Di Francesco of Ilberys Lawyers for Allia/PGSC and had advised that a "Deed of Acknowledgement" had been requested. This Deed would acknowledge that the Heads of Agreement became operative on 14 July 2003 (the date of signing) and that Allia/PGSC also requested that it be acknowledged that "they had not breached the Heads of Agreement".
2. In order for this Deed of Acknowledgement to be effected, Allia/PGSC would be required to pay all outstanding monies prior to the deed being signed.
3. That Tony Di Francesco advised that he had not seen the latest drafts of the legal documents as he was away from his practice on Friday, however he would be meeting with Jeff Dennis, CEO of Allia/PGSC this week to finalise the documents.
4. That the documents could be finalised "within a week", however more realistically, it would be two to three weeks, i.e. 18 May 2004.

**Cr Torre departed the Chamber at 9.26pm.**

**Cr Torre returned to the Chamber at 9.29pm.**

Martin Matthews and Michael Henderson answered questions from the Mayor and Councillors relating to the mortgage, outstanding payments, negotiations and the legal documentation.

Michael Henderson advised the Council that in his opinion the prime objective should be to finalise the documentation and ensure payment of outstanding monies, in preference to litigating. He believed that it would be expensive and time consuming to pursue the litigation option at this stage, however he acknowledged that the outstanding monies were a concern to the Council.

The Councillors indicated the following;

1. That no further concessions should be made by the Town with respect to the mortgage document, standard licence, PGSC 20 year licence and the PGSC lease.
2. That concern was expressed about the proposed Deed of Acknowledgement including the words "*Allia has not breached the Heads of Agreement*" and suggested that alternative wording should be inserted in the Deed to reflect the actual events which had transpired.
3. That Allia/PGSC be advised that the Town had been patient in this matter and that it expected the documents and outstanding monies to be finalised by 18 May 2004, otherwise the Council will be forced to institute its legal options.

**At 9.58pm**      **Moved by Cr Torre, Seconded by Cr Chester**

*That Standing Orders be resumed.*

**CARRIED 8-0**

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

**Moved by Cr Chester, Seconded by Cr Torre**

*That a new clause (iii) be added as follows;*

*(iii) REQUESTS the negotiations to continue.*

**AMENDMENT CARRIED 8-0**

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

**CARRIED AS AMENDED (8-0)**

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

**At 10.15pm**      **Moved by Cr Torre, Seconded by Cr Lake**

*That the Council resume an Open Meeting.*

**CARRIED 8-0**

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

---

**COUNCIL DECISION ITEM 10.4.5**

*That the Council;*

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

**FURTHER REPORT AS AT 27 APRIL 2004:**

Following the meeting with Allia Holdings Pty Ltd (Allia)/Perth Glory Soccer Club Pty Ltd (PGSC) on 25/26 March 2003, the Town's solicitors have completed all of the documents and these were issued to Allia/PGSC's lawyers on 22 April 2004. A letter, as shown in Appendix 10.4.5(1), was also issued requesting that payment of outstanding monies be made - as this will be a significant consideration by the Council.

No response to the Town's letter of 22 April 2004 has been received and on 27 April 2004, the CEO requested the Town's solicitors to issue a further letter to Allia/PGSC's lawyers requesting that outstanding monies be paid within the next 48 hours and that a written response be provided to be tabled for the consideration of the Council - see Appendix 10.4.5(2).

Late on 27 April 2004, the Town's solicitors advised that they had received a verbal response from Allia/PGSC's lawyers which is most encouraging. The Town's solicitors have been requested to attend the Council meeting to provide information on the latest development and also, the Council's options.

In view of the legal nature of this advice, it is recommended that the Council proceed "behind Closed Doors" at the end of the Meeting.

---

**BACKGROUND:**

At the Ordinary Meeting of Council held on 13 April 2004, Cr Lake's comments were included in the Council Minutes as follows;

*"Unless a significant progress in payment of outstanding amounts is made by the next Ordinary Meeting of Council, Council must seriously consider taking legal action to enforce the Heads of Agreement."*

The following action was taken, following the Ordinary Meeting of Council held on 13 April 2004;

**1. Legal Agreements**

The progress of these negotiations is as follows;

**1(a) Heads of Agreement (HOA)**

Allia is still holding the view that the HOA have not commenced. They would not discuss why they held this view, despite selling both the Naming Rights and Catering Rights.

1(b) Deed of Covenant

The Town is awaiting Allia's lodgement of the appropriate form with the Australian Securities and Investment Commission.

1(c) Right of Entry Document

No further action is required with this document.

1(d) Licence Agreement - Standard Document

The Town's Solicitor working on the legal document has been unwell and this has delayed the completion of the document. However, this document has been re-drafted and will be presented to Allia for consideration and approval. In view of the substantial changes required following the meetings of 25 and 26 March 2004, it may be necessary to meet Allia to discuss any of the changes.

1(e) PGSC Licence Agreement

The Town's Solicitor working on the legal document has been unwell and this has delayed the completion of the document. This document has been re-drafted and will be presented to Allia for consideration and approval. In view of the substantial changes required following the meetings of 25 and 26 March 2004, it may be necessary to meet Allia to discuss any of the changes.

1(f) PGSC Lease

The Town's Solicitor working on the legal document has been unwell and this has delayed the completion of the document. This document has been re-drafted and will be presented to Allia for consideration and approval. In view of the substantial changes required following the meetings of 25 and 26 March 2004, it may be necessary to meet Allia to discuss any of the changes.

1(g) Mortgage/Guarantee Documents

This document was agreed, except for the definition of "Mortgage Security". Ilberys seek to change the definition from that contained in the Heads of Agreement which covers the loan, any outstanding monies and also for it to be used in the event of non-performance by Allia and limiting it strictly to cover the Town's outstanding loan and \$300,000 for catering equipment.

1(i) Charge over Water Licences

This document was agreed, except for the definition of "Mortgage Security" as per 1(h).

2. Caveat

As directed by the Council on 25 February 2003, the Town's solicitors lodged a caveat on land registered in the name of North East Equity Pty Ltd of 257 Balcatta Road, Balcatta. The land is Lot 41 Beermullah Road West, Wanerie - which is the property nominated by North East Equity Pty Ltd in its own right and as trustee for the Nicola Tana Family Trust No. 20. The Town's solicitors have also written to Bankwest, who currently have a mortgage on the subject land, advising that the Town requires a "first ranking" mortgage. Ilbery Lawyers are objecting to the lodgement of the caveat.

At the time of writing this report, no information has been received from Bankwest.

Allia's lawyer verbally stated that they have had discussions with Bankwest and the Town's 1st ranking mortgage will be provided, subject to all documents being agreed.

Allia's lawyer has requested that the caveat be withdrawn before the mortgage document is finalised.

3. Outstanding Monies

On 19 April 2004 the Town received the following monies (excluding GST);

Allia Holdings Pty Ltd;

50% Contribution of CCTV and Works at Stadium	\$29,481.00
Recoup of Water at Stadium	\$ 1,084.69
<b>Total</b>	<b><u>\$30,565.69</u></b>

Perth Glory Soccer Club Pty Ltd

Recoup of Electricity at Stadium	\$ 2,114.48
Payment for use of Brisbane Street Carpark	\$ 2,571.82
<b>Total</b>	<b><u>\$ 4,686.30</u></b>

**Grand Total** **\$35,251.99**

<u>Allia Holdings Pty Ltd</u>		
	<u>Item</u>	<u>Amount</u> <i>(excl GST)</i>
1.	<b>Contribution to Stadium Capital Reserve Fund - January contribution as per HOA Clause 4.9 - <u>money due 19 February 2004.</u></b>	<b>\$25,000.00</b>
	<u>Action Taken:</u> Invoice sent on 12 February 2004.  Letter of Demand sent on 27 February requiring payment within 30 days, as required by Clause 10.1 of the Heads of Agreement - advising that failure to pay the full debt will result in default of the Heads of Agreement and legal proceedings being commenced.	
2.	<b>Reimbursement of building insurance - as per HOA Clause 6.12 - for period 27 December 2003 - 30 June 2004 - <u>money due 12 February 2004.</u></b>	<b>\$11,506.63</b>
	<u>Action Taken:</u> Invoice sent on 30 January 2004.  Letter of Demand sent on 27 February requiring payment within 30 days, as required by Clause 10.1 of the Heads of Agreement - advising that failure to pay the full debt will result in default of the Heads of Agreement and legal proceedings being commenced.  Allia have queried this matter. The Town provided additional information on 15 March 2004.	

3.	<b>Reimbursement of Public Indemnity Insurance - as per HOA Clause 6.11 - for period 27 December 2003 - 30 June 2004 - <u>money due on 5 March 2004.</u></b>	<b>\$4,542.63</b>
	<u>Action Taken:</u> Invoice sent on 20 February 2004. Awaiting payment. Letter of demand to be issued.	
4.	<b>Recoup of Additional Works at Stadium</b> (Additional signage - \$2,269.30, Replacement of Water Damaged Ceiling Tiles - \$1,166.00, Additional Electrical Works for Chicken Treat Van - \$1,568.60, 4 Extra Chairs in Grandstand - \$407.00, Powerpoint for roof mounted TV Platform - \$1,056.00, 12 Additional Chairs in Grandstand - \$1,219.90)	<b>\$6,988.00</b>
	<u>Action Taken:</u> Invoice sent and payment due on 9 April 2004.	
5	<b>March - Monthly Payment for Use of Stadium - March payment due 19 February 2004</b>	<b>\$33,333.33</b>
	<u>Action Taken:</u> Invoice sent on 5 February 2004.	
6	<b>April - Monthly Payment for Use of Stadium - April payment due 17 March 2004</b>	<b>\$33,333.33</b>
	<u>Action Taken:</u> Invoice sent on 3 March 2004.	
7	<b>May - Monthly Payment for Use of Stadium - May payment due 16 April 2004</b>	<b>\$33,333.33</b>
	<u>Action Taken:</u> Invoice sent on 2 April 2004.	
	<b>Subtotal</b>	<b><u>\$148,037.25</u></b>

<u>Perth Glory Soccer Club Pty Ltd (PGSC)</u>		
	<u>Item</u>	<u>Amount</u> <i>(excl GST)</i>
1.	<b>Stadium office fitout and other works - <u>money due 18 February 2004.</u></b>	<b>\$18,823.00</b>
	<u>Action Taken:</u> Invoice sent on 4 February 2004. Letter of demand sent on 25 February 2004 requesting immediate payment.	
2.	<b>Payment of Perth Oval lease costs 2002/03 Season - <u>well overdue.</u></b>	<b>\$24,927.95</b>

	<p><u>Action Taken:</u></p> <p>Invoices sent in late 2003.</p> <p>Letter of demand sent on 2 March 2004 requesting immediate payment. It should be noted that this money is the subject of dispute between Perth Glory Soccer Club and the Town as detailed in PGSC's letter dated 13 February 2004.</p>	
	<b>Subtotal</b>	<b><u>\$43,750.95</u></b>
	<b>GRAND TOTAL - ALLIA AND PGSC</b>	<b><u>\$191,788.20</u></b>

**CONSULTATION/ADVERTISING:**

N/A.

**LEGAL/POLICY:**

N/A.

**STRATEGIC IMPLICATIONS:**

N/A.

**FINANCIAL/BUDGET IMPLICATIONS:**

The outstanding monies will be pursued through the normal debt recovery process, following receipt of the response to the outstanding issues from Allia.

**COMMENT:**

Positive progress was made to finalise the documents, however due to the Town's Solicitor being unwell, a delay has occurred. It is anticipated that the documents will be presented to Allia/PGSC on 22 April 2004. An amount of \$35,251.99 has been received from Allia and PGSC.

**13. URGENT BUSINESS**

Nil.

**14. CLOSURE**

**The Presiding Member, Mayor Catania JP, declared the meeting closed at 10.15pm with the following persons present:**

Cr Simon Chester	North Ward
Cr Caroline Cohen	South Ward
Cr Helen Doran-Wu	North Ward
Cr Steed Farrell	North Ward
Cr Ian Ker (Deputy Mayor)	South Ward
Cr Sally Lake	South Ward
Cr Maddalena Torre	South Ward
John Giorgi, JP	Chief Executive Officer
Rob Boardman	Executive Manager, Environmental & Development Services
Mike Rootsey	Executive Manager, Corporate Services
Rick Lotznicher	Executive Manager, Technical Services
Nadine Wellington	Executive Secretary (Acting Minutes Secretary)
Michael Henderson	Partner, Minter Ellison Solicitors
Martin Matthews	Associate, Minter Ellison Solicitors

These Minutes were confirmed by the Council as a true and accurate record of the Ordinary Meeting of the Council held on 27 April 2004.

Signed: .....Presiding Member  
Mayor Nick Catania, JP

Dated this ..... day of ..... 2004