

**INDEX
(28 SEPTEMBER 2004)**

ITEM	REPORT DESCRIPTION	PAGE
10.1 ENVIRONMENTAL AND DEVELOPMENT SERVICES		
10.1.1	Further Report - No(s). 57 (Lot(s) 178, 179 & 416) Monmouth Street & Burt Street, Mount Lawley - Proposed Construction of Twelve (12) Two-Storey Single Houses (Revised Plans for the Reconsideration of Finished Floor Levels) (Norfolk Precinct) PRO2387 (00/33/1682)	12
10.1.2	No(s). 476, Unit 6 (Lot 1) Fitzgerald Street (Corner Burt Street), North Perth - Proposed Signage Additions to Existing Showroom (North Perth Precinct) PRO1514 (00/33/2199)	24
10.1.3	No(s). 299 (Lot(s) 100) Charles Street (Corner Albert & Kadina Streets), North Perth - Proposed Alterations and Additions to Signage to Existing Shops (Charles Centre Precinct) PRO1243 (00/33/2314)	101
10.1.4	No(s). 106 (Lot(s) 120) Edinboro Street, Mount Hawthorn - Proposed Pergola, and Alterations and Additions to Existing Single House (Application for Retrospective Approval) (Mt Hawthorn Precinct) PRO2249 (00/33/2374)	27
10.1.5	No(s). 26 (Lot(s) 86) Loch Street/ No.17 Carrington Street, North Perth - Proposed Additional Single-Storey Single House to Existing Single House (North Perth Precinct) PRO2857 (00/33/2320)	31
10.1.6	No(s). 29 (Lot(s) 401) Ellesmere Street, Mount Hawthorn - Proposed Two-Storey Single House (Mt Hawthorn Precinct) PRO2848 (00/33/2349)	104
10.1.7	No(s). 20B (Lot(s) 23, Strata Lot No. 2) Windsor Street, Perth - Proposed Additional Two-Storey Single House to Existing Two (2) Single Houses (Banks Precinct) PRO2400 (00/33/2316)	79
10.1.8	No(s). 331 (Lot(s) 5) Stirling Street, Highgate - Proposed Demolition of Existing Dwelling (Forrest Precinct) PRO1789 (00/33/0630)	95
10.1.9	Tenancy 9, No(s) 375-393 (Lot(s) 500, Strata Lot No. 9) William Street, Corner Forbes Road and Wellman Street, Perth - Proposed Alterations and Additions to Existing Eating House and Change of Use to Unlisted Use Class (Karaoke Bar) (Beaufort Precinct) PRO0825 (00/33/2260)	87
10.1.10	No(s). 210 (Lot(s) 100) Lake Street, Corner Brisbane Street & Amy Street, Perth - Proposed Alterations and Additions to Existing Hotel (Hyde Park Precinct) PRO0696 (00/33/2311)	111
10.1.11	No(s). 128-130 (Lot(s) 28 & 27) Joel Terrace, Mount Lawley - Proposed Three (3) Two-Storey and Four (4) Three-Storey Grouped Dwellings and Survey Strata Subdivision 63-04 (Banks Precinct) PRO2620 (00/33/1980,63-04)	57

10.1.12	No(s). 31 (Lot(s) 22) Camelia Street, North Perth - Alleged Unauthorised Structure (Patio) (Leederville Precinct) PRO0506	8
10.1.13	Pt Lot 1 Corner Summers Street and Joel Terrace, East Perth - Proposed Partial Demolition of and Alterations to, and Stabilisation of Land at the East Perth Power Station-Land within the East Perth Redevelopment Authority (EPRA) Area (ORG0077)	119
10.1.14	Amendment No. 18 to the East Perth Redevelopment Scheme (Beaufort Precinct) PRO1409	123
10.1.15	Further Report – No(s). 11 Egina Street, Mt Hawthorn – Proposed Two-Storey Single House PRO2789 (00/33/2360)	35

10.2 TECHNICAL SERVICES

10.2.1	Traffic Management Request - Palmerston St between Stuart Street and Newcastle Street, Perth (TES0200) Beaufort Precinct	42
10.2.2	2004 Annual Streetlight Audit (TES0175) All Precincts	47
10.2.3	Proposed Taking of Right of Way at the Rear of Waugh Street, North Perth, Properties (TES0543) North Perth Precinct	50

10.3 CORPORATE SERVICES

10.3.1	Financial Statements as at 31 July 2004 (FIN0026)	53
10.3.2	Financial Statements as at 31 August 2004 (FIN0026)	129

10.4 CHIEF EXECUTIVE OFFICER

10.4.1	Community Consultation Policy – Interim Report	132
10.4.2	Information Bulletin	56

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

Nil	149
-----	-----

12. REPRESENTATION ON STATUTORY AUTHORITIES AND PUBLIC BODIES

Nil	149
-----	-----

13. URGENT BUSINESS

- 13.1 Further Report – No (s). 163-171 (Lot(s) 13 and 17) Harold Street, Highgate – Proposed Retaining Walls Additions to Existing Single Residential Vacant Lots – Previously Associated with Sacred Heart Primary School (00/33/2330) PRO2925 99 & 140

14. CLOSURE

149

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 28 September 2004, commencing at 6.03pm.

1. DECLARATION OF OPENING

The Presiding Member, Mayor Nick Catania JP, declared the meeting open at 6.03pm.

2. APOLOGIES/MEMBERS ON APPROVED LEAVE OF ABSENCE

(a) Apologies:

- Cr Ian Ker (Deputy Mayor) - unforeseen work commitments interstate
- John Giorgi, JP - Chief Executive Officer - attending Mainstreet Conference in Melbourne
- Rick Lotznicher, Executive Manager, Technical Services- attending Mainstreet Conference in Melbourne

(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 Basil Franchina	North Ward
Cr Sally Lake	South Ward
Rob Boardman	Acting Chief Executive Officer
Des Abel	Acting Executive Manager, Environmental and Development Services
Craig Wilson	Acting Executive Manager Technical Services
Mike Rootsey	Executive Manager, Corporate Services
Annie Smith	Executive Assistant (Minutes Secretary)
Sarah Jarman	Disability Access Officer (Award Recipient) (until 6.35pm)
Matt Zis	Journalist – Guardian Express (from 6.10pm to 8.00pm)
Mark Fletcher	Journalist – Voice News (until 7.28pm)

Approximately 32 Members of the Public

(c) Members on Leave of Absence:

- Cr Maddalena Torre on approved leave of absence - 28 September 2004 - attending the Mainstreet Conference in Melbourne.
- Cr Steed Farrell - on approved leave of absence - 28 September to 12 October 2004 inclusive - work commitments.

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

1. Dr Katrina Alexander of 124 Joel Terrace, Mt Lawley – Item 10.1.11 – Advised that there had been a meeting of local residents on Sunday and that they strongly support the CEO's and EMEDS' recommendation. Stated that the main reasons that the proposal should not be accepted to be the potential harm to a heritage listed, non-compliance with the R Codes and building guidelines and the amenity of the area. Addressed the concern regarding the Camphor Laurel Tree. Requested that Council reject the proposal.
2. Mr Chin of 23 Cooper Street, Nedlands, owner of 132 Joel Terrace – Item 10.1.11 – Stated that he developed his property ten years ago and could have built four terrace houses but having respect for the neighbours and the streetscape but only built two units. Stated that his major concern is with the three tier parapet wall on their common boundary. Endorsed previous speaker's concerns regarding the tree. Believes there would be parking problems associated with the development. Requested Council to consider his concerns.
3. Mr David Bebee of 124 Joel Terrace, Mt Lawley – Item 10.1.11 – Thanked those Councillors who had given their time to become familiar with the aspects of the proposal and on-site meetings. Advised that the community does not oppose development *per se* for the site, but it is believed that the development should be appropriate and reflect the Town's policy relating to riverside locality. Believes that the construction of Unit 7 would significantly reduce the amenity for adjoining residents. Referred to the proposed bulk masonry walls within 1 metre on the boundary on three sides. Believes there are inaccuracies in the report and referred to these inaccuracies. Requested Council refuse the application.
4. Mr Tom Barry of 132A Joel Terrace, Mt Lawley – Item 10.1.11 – Advised that he is an architect and has been engaged by a number of adjoining land owners. Stated that they support the CEO/EMEDS recommendation for refusal.
5. Mr Kris Kennedy, Town Planning Consultant of Fremantle on behalf of applicant – Item 10.1.11 – Stated that the site can be developed for nine units. Believes that the number of variations sought are counter balanced by the fact that they are only developing seven units. Stated that the design of the development and in particular Unit 7 was made with full consideration to Arborculturalist's viewpoints. Advised that should the Council still see the issue of the tree to be a significant one, requested that the development be approved with a condition requiring the deletion of Unit 7. Requested that Council approve the development.
6. Ms Doreen Sonogo of 120 Joel Terrace, Mt Lawley – Item 10.1.11 – Believes this development would destroy the foreshore beauty as it removes the entire natural "*greenfield*" effect. Further believes that the proposal will cause visual pollution and overshadowing to adjacent neighbours. Stated that the river foreshore parkland should never be considered as a concession to substitute any developers' proposal as part of their landscaping. Believes the proposal should provide adequate setbacks from all boundaries to allow for landscaping. Does not believe the development is environmentally friendly and is not in keeping with the neighbourhood or the "*greenfield*" effect.

7. Mr David Combs of 27 Joel Terrace, Mt Lawley – Item 10.1.11 – Stated that he opposes the development for all of the reasons stated by previous speakers.
8. Mr Ian Youll of 29 Eden Street, North Perth – Item 10.1.7 – Requested that Council consider a 3 metre setback from the street frontage due to the small size of the block, the lack of depth of the block and the north area at the rear of the property is to be used as an open entertainment area. Stated that his next door neighbour has a setback of 3.2 metres.
9. Ms Sarah Arnell of 12 Brookman Street, Perth – Item 10.1.9 – Very concerned with increase noise that will come from a Karaoke Bar. Stated that the site has been an eating house and was a day time activity. Believes the proposed hours of operation are excessive and will have a severe impact on her amenity. Also concerned about parking. Requested Council reject the proposal.
10. Kate Chedid of 2 Brookman Street, Perth – Item 10.1.9 – Begged the Council to look at this proposal seriously. Stated that there are forty children under the age of seven in the two streets surrounding. Also stated that it is a residential area, not a nightclub area. Advised that there are already three other Karaoke Bars operating in the area and are not packed to capacity. Believes the vibrations of these types of places in this heritage precinct will have an effect on their properties as the floors already vibrate with the noise from the Aberdeen Hotel.

There being no further questions from the public, the Presiding Member closed Public Question Time at 6.28pm.

(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 14 September 2004

Moved Cr Lake, Seconded Cr Franchina

That the Minutes of the Ordinary Meeting of Council held on 14 September 2004 be confirmed as a true and correct record.

CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

7. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

7.1 Withdrawal of Agenda Item 10.1.12 - Relating to Alleged Unauthorised Structure (Patio) at No. 31 (Lot 22) Camelia Street, North Perth

This item has been withdrawn as the Town conducted a final inspection of the site on 23 September 2004 and it was established that the unauthorised structure (patio) has now been completely removed, as per the Town's original request to the property owner dated 5 May 2004.

As such it is considered that no further action is required by the Town regarding this matter, and the Council is not required to consider this Item.

7.2 Urgent Business - No(s) 163-171 (Lots 13 and 17) Harold Street, Highgate

At the Ordinary Meeting of Council held on 14 September 2004, a development application relating to No.(s) 163-171 (Lots 13 and 17) Harold Street, Highgate - Proposed Retaining Walls Additions to Existing Single Residential Vacant Lots - previously associated with Sacred Heart Primary School was DEFERRED. This matter will be considered under Urgent Business on tonight's Agenda, as the business cannot await inclusion in the Notice of Paper and Agenda for the next meeting of the Council because of financial implications for the applicant.

7.3 Diversity at Work Award

I am pleased to announce that the Town of Vincent recently received an "Excellence and Leadership" Certificate in the National "Diversity at Work" Awards. The Award recognises those organisations which promote workforce diversity and are leaders for employment and inclusion of people with a disability. This Award received nominations from 460 community organisations, business and government from throughout Australia.

The Town of Vincent was the only Western Australian local government to receive this Award.

On behalf of the Council, may I thank our Disability Services - Community Development Officer, Sarah Jarman, for her excellent work in submitting the nomination for this Award.

7.4 Employee of the Month

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 September 2004, the award is presented to Sarah Jarman the Town's Disability Services - Community Development Officer.

Sarah has been employed with the Town since November 2003 and has been actively carrying out her duties relating to Disability Services. She has been instrumental in reviewing the Town's Disability Services Plan. Sarah has also been instrumental in preparing the nomination for the Diversity at Work Award.

The Employee of the Month award is in recognition of Sarah's tremendous efforts.

Well done Sarah - Keep up the good work!!

7.5 West Australian Football League - Grand Final

On behalf of the Council, I wish to congratulate Subiaco Football Club for their outstanding effort in winning the West Australian Football League Grand Final 2004. This is the Club's first Grand Final whilst being at Leederville Oval. Subiaco Football Club last won a Grand Final in 1988.

Well done Subiaco and we wish them well in the future!

7.6 Premier's Australia Day Active Citizenship Awards - 2005

I would like to draw your attention to the Premier's Australia Day Active Citizenship Awards 2005, which are co-ordinated by the Australia Day Council of Western Australia.

The Awards are a wonderful opportunity to publicly recognise the individuals and groups who make outstanding contributions to the Vincent community through their inspiring actions and dedicated service.

The recognition of these people, who exemplify positive Australian characteristics, is integral in fostering national and community pride.

The well-deserved winner for 2004 was North Perth resident Cosi Schirripa, who is chair and founding member of the North Perth Precinct Group. Cosi was nominated for his outstanding contribution to the community, particularly to the protection of the lifestyle of residents in the Eton locality.

The previous year's winner was Sally Lake, who of course went on to stand in the last local government elections and is now a Councillor for the South Ward.

It is a great honour to be recognised through the Australia Day Citizenship Awards – Cr Lake, I'm sure you would agree. So I would ask you all to start thinking about who should be nominated for a 2005 award. There are nomination forms on the side table near the door, so feel free to take one when you leave. Nominations close on 12 November, so you've got plenty of time to get your forms back. The Award recipients will be announced on Australia Day 2005.

By the way photocopied forms are acceptable, or you can download additional nomination forms from the Australia Day Council of Western Australia website. We've put a link to them on the What's New page of our own website (which is www.vincent.wa.gov.au).

And this year let's also think about the categories for young persons and community groups or events. I know we've got some outstanding young persons and community groups in the Town, so let's also celebrate their achievements!

8. DECLARATION OF INTERESTS

At 6.55pm, at the conclusion of Item 10.1.11, the Acting Chief Executive Officer advised that he had received the following declarations of interest:

- 8.1 Cr Chester declared an interest affecting impartiality in Item 13.1 – Further Report – No(s) 163-171 (Lot(s) 13 and 17) Harold Street, Highgate – Proposed Retaining Walls Additions to Existing Single Residential Vacant Lots – Previously Associated with Sacred Heart Primary School. The nature of his interest being that his son attends Sacred Heart Primary School.
- 8.2 Mayor Catania declared a financial interest in Item 10.1.8 – No(s) 331 (Lot(s) 5) Stirling Street, Highgate – Proposed Demolition of Existing Dwelling. The nature of interest being that the applicant is a relative.

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

Nil.

10. REPORTS

The Acting Chief Executive Officer advised that there would be a late report tabled. The Presiding Member advised that this will be considered under "Urgent Business".

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 10.1.11, 10.1.7 and 10.1.9

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:

Nil.

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 Lake	Items 10.1.3, 10.1.10, 10.1.14, 10.3.2 and 10.4.1
Cr Chester	Items 10.1.6 and 10.1.8
Cr Doran-Wu	Nil
Cr Cohen	Item 10.1.13
Cr Franchina	Nil

Presiding Member, Mayor Nick Catania JP, requested the Acting 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:**

Item 10.1.8

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

Items 10.1.1, 10.1.2, 10.1.4, 10.1.5, 10.1.15, 10.2.1, 10.2.2, 10.2.3, 10.3.1 and 10.4.2

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

Nil.

The Acting 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 10.1.1, 10.1.2, 10.1.4, 10.1.5, 10.1.15, 10.2.1, 10.2.2, 10.2.3, 10.3.1 and 10.4.2

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

Items 10.1.11, 10.1.7 and 10.1.9

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

Moved Cr Lake, Seconded Cr Cohen

That the following unopposed items be moved en bloc;

Items 10.1.1, 10.1.2, 10.1.4, 10.1.5, 10.1.15, 10.2.1, 10.2.2, 10.2.3, 10.3.1 and 10.4.2

CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

**ITEM WITHDRAWN BY THE
ACTING CHIEF EXECUTIVE OFFICER**

10.1.12 No(s). 31 (Lot(s) 22) Camelia Street, North Perth - Alleged Unauthorised Structure (Patio)

Ward:	North Perth	Date:	22 September 2004
Precinct:	Leederville; P3	File Ref:	PRO0506
Attachments:	001		
Reporting Officer(s):	T Zimmermann		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) **RECEIVES** the report relating to the alleged unauthorised structure (patio) at No(s). 31 (Lot(s) 22) Camelia Street, North Perth;
- (ii) **ADVISES** the owner(s)and occupier(s) of No(s)31 (Lot(s)22) Camelia Street, North Perth, that the unauthorised structure (patio) is to be removed from the property within 14 days of the date of notification by the Town; and
- (iii) **AUTHORISES** the Chief Executive Officer to initiate legal proceedings to have the unauthorised structure removed pursuant to Section 10(7)) and Section 10(8)of the Town Planning and Development Act 1928 as well as Section 374 and Section 411of the Local Government (Miscellaneous Provisions) Act 1960, should this request not be complied with.

BACKGROUND:

- 19 April 2004 Complaint received querying a steel structure in rear yard at No. 31 Camelia Street, North Perth.
- 23 April 2004 The Town's Development Liaison Officer attended at No. 31 Camelia Street, North Perth, and observed a patio type, water impermeable roofed steel structure approximately 780 centimetres wide by 480 centimetres long by 340 centimetres high, constructed on six steel posts and covered with a corrugated iron roof.
- 5 May 2004 The Town wrote to the property owner advising that the structure has no Planning Approval or Building Licence granted by the Town, and requested to either remove within 14 days or submit application for retrospective Planning Approval for the structure.
- 7 May 2004 The owner contacted the Town's Development Liaison Officer and advised that an application for retrospective Approval will be submitted.
- 19 May 2004 Application for retrospective Planning Approval submitted by the owner. This application omitted numerous details required by the Town. The Town wrote to the owner advising of required documents for a complete application.

- 24 June 2004 After no further correspondence from the owner, the Town served written direction on the property owner under Section 10(3) of the Town Planning and Development Act 1928, and a Notice pursuant to Section 401(1)(c) of the Local Government (Miscellaneous Provisions) Act 1960, requesting removal of the unauthorised structure.
- 7 July 2004 Delivery confirmation from Australia Post for services of written direction and Notice.
- 9 September 2004 Subsequent site visit confirmed that the unauthorised structure has not been removed.

DETAILS:

A large patio type structure been erected in the rear yard of No.31 Camelia Street, North Perth. The size of the structure has an adverse effect on the immediate amenity and resulted in a complaint being lodged with the Town. The Town attended and ascertained that no Planning Approval or Building Licence has been issued for the structure at the above property. Correspondence was entered into with the owner of the property and although the owner contacted the Town initially, a completed application for retrospective Planning Approval as requested, has never been submitted. The owner was subsequently served with written directions pursuant to Section 10(3) of the Town Planning and Development Act 1928, as well as a Notice pursuant to Section 401(1)(c) of the Local Government (Miscellaneous Provisions) Act 1960. After the expiration of the permissible periods, a subsequent site visit revealed that the structure had not been removed.

CONSULTATION/ADVERTISING:

Consultation is not required in relation to the subject matter.

LEGAL/POLICY:

The unauthorised structure at the above property has a height of approximately 340 centimetres and therefore does not fall within the classification of minor nature development as per the Town's Policy 3.5.1 relating to Minor Nature Development, which stipulates a maximum height of 280 centimetres. As such, a Planning Approval is required for the structure.

Section 10(7) of the Town Planning and Development Act 1928 stipulates;

"(7) A person who —

- (a) fails to comply with a direction given to the person under subsection (2); or*
 - (b) fails to comply with a direction given to the person under subsection (3) or (5) within the time specified in the direction, or within any further time allowed by the responsible authority,*
- commits an offence.*

Penalty: \$50 000 and a daily penalty of \$5 000."

The Town issued a notice and written directions (pursuant to Section 401(1) (c) of the Local Government (Miscellaneous Provisions) Act 1960 and Section 10(3) of the Town Planning and Development Act 1928) on the owner on 7 July 2004 allowing 35 days and 60 days respectively to complete the required works. On 9 September 2004, the Town inspected the property and found the works not completed. As such, the Town may now act pursuant to Section 10(7) above, and Section 10(8) of the Town Planning and Development Act 1928, which states as follows;

"(8) If a person commits an offence under subsection (7) or section 10AA (5) the responsible authority —

- (a) may remove, pull down, take up or alter the development, restore the land as nearly as practicable to its condition immediately before the development started, or execute the work, as it directed that person; and*
- (b) may recover from the person the costs incurred by the responsible authority in so doing as a debt in a court of competent jurisdiction."*

In addition, the Town did not issue to the owner a Building Licence in respect to the unauthorised structure as required by Section 374 (1) of the Local Government (Miscellaneous Provisions) Act 1960 which stipulates;

"(1) No person shall —

- (a) lay out for building, or commence or proceed with a building on, land in a district; or*
- (b) in respect of the structure of a building already erected on land in a district, amend, alter, extend, or enlarge, or commence or proceed with the amendment, alteration, extension, or enlargement of the structure of the building,*

until he has caused to be submitted to the local government, and the local government has approved by the issue to the person of a building licence in the prescribed form and on payment of the prescribed fee, a copy of the specifications of, and a plan showing clearly, the building or the buildings proposed to be built, or the amendment, alteration, extension, or enlargement proposed to be made, as the case may be, and the area of land to be occupied by each building, or by the amendment, alteration, extension or enlargement of the existing buildings, as the case may be, and the position of the privies and drains and unless he complies with the conditions, if any, that are specified in the licence.

Penalty: Maximum penalty of \$5 000 and in addition a maximum daily penalty of \$100 for each day during which the offence continues; minimum penalty of \$200 and in addition a minimum daily penalty of \$20 for each day during which the offence continues."

The Town therefore may also act pursuant to Section 374 above, and Section 411(4) and Section 411(5) of the Local Government (Miscellaneous Provisions) Act 1960, which states as follows;

"(4) If the person on whom the notice is served does not within 14 days of that on which the notice is served upon him comply with the requisition in the notice, a court of petty sessions, on complaint by the local government that he has not complied with the requisitions in the notice and that the requisitions in respect of which the complaint is made are not the subject of appeal under Division 19, may, unless the requisitions are the subject of appeal, make an order authorizing the local government by its agents, servants, and workmen

to enter upon the building and the land on which it stands, and to demolish or alter the building or part of it, so far as it has been adjudged to be in contravention of this Act, and to do whatever is necessary for the purpose of bringing it into conformity with those provisions, and to remove the materials resulting from the demolition or alteration to a convenient place, and if the local government thinks fit, sell the materials in such manner as the local government thinks fit, and an order so made is not subject to appeal.

- (5) *Expenses incurred by the local government in demolishing or altering the building or the part of it, and in doing whatever is necessary for the purpose of bringing it into conformity with the provisions of this Act, together with the costs, or the balance of those expenses and costs, after deducting the proceeds of sale of the materials, if the local government thinks fit to sell them, may be recovered from the person committing the offence in a court of competent jurisdiction."*

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL / BUDGET IMPLICATIONS:

There are costs involved in relation to the contractor and possible legal fees should the property owner not comply and remove the unauthorised structure. The Town's costs can be recovered pursuant to Section 10(8)(b) of the Town Planning and Development Act 1928 and Section 411(5) of the Local Government (Miscellaneous Provisions) Act 1960.

COMMENTS:

The property has been subject of a complaint in relation to an unauthorised patio in the rear yard. The registered owner of the property has initially submitted an incomplete application for retrospective Planning Approval and was advised by the Town of the required information in writing. The owner failed to resubmit a complete application and as such was issued with a written direction and a Notice to remove the structure. After the allowable timeframe, no action was taken by the property owner. The Town has exhausted all mediated remedial avenues regarding this matter and now needs to take firm action to deal with these matters effectively.

10.1.1 Further Report - No(s). 57 (Lot(s) 178, 179 & 416) Monmouth Street & Burt Street, Mount Lawley - Proposed Construction of Twelve (12) Two-Storey Single Houses (Revised Plans for the Reconsideration of Finished Floor Levels)

Ward:	South	Date:	21 September 2004
Precinct:	Norfolk, P10	File Ref:	PRO2387; 00/33/1682
Attachments:	001		
Reporting Officer(s):	T Durward, R Rasiah		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

FURTHER OFFICER RECOMMENDATION:

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by Viking Developments Pty Ltd on behalf of the owner P Foster for proposed construction of twelve (12) two-storey single houses (Revised Plans for the Reconsideration of Finished Floor Levels), at No(s). 57 (Lot(s) 178, 179 & 416) Monmouth Street & Burt Street, Mount Lawley, and as shown on plans stamp-dated 30 July 2004 (units 1-12 floor plans and elevations), 18 August 2004 (site plan and existing survey plan and first floor site plan) and amended plans stamp-dated 2 September 2004 (level comparisons and relative elevations), subject to:

- (i) compliance with all Building, Environmental Health and Engineering requirements;*
- (ii) 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;*
- (iii) 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 AS 2890.1 - "Off Street Parking" ;*
- (iv) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (v) a road and verge security deposit bond and/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;*
- (vi) proposed crossovers shall be positioned in consultation with and as directed by the Town's Technical Services Division;*

- (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) *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;*
- (ix) *subject to first obtaining the consent of the owners of proposed Lot 33 for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing the public open space at proposed Lot 13 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 with all cost associated the removal and replacement shall be borne by the applicant/owner(s);*
- (xi) *prior to the issue of a Building Licence, the subject land shall be subdivided as generally shown on the approved plans on Certificates of Title; OR alternatively, prior to the issue of a Building Licence the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town's solicitors or other solicitors agreed upon by the Town, undertaking to subdivide the subject land as generally shown on the approved plans 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);*
- (xii) *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 Monmouth Street, Burt Street and the proposed new 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;*
- (xiii) *a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Monmouth Street, Burt Street and proposed new road 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);*
- (xiv) *compliance with the Design Guidelines for No. 57 (Lots 178, 179 and 416) Monmouth Street, Mount Lawley, including the use of non-reflective roof materials;*

(xv) *all new crossover/s to allotments are subject to a separate approval by the Town's Technical Services Division and shall be constructed in accordance with the Town's standard Crossover Specification/s which, in particular, specify that the portion of the existing footpath traversing the proposed crossover, subject to the existing footpath being in a good condition as determined by the Town's Technical Services Division, must be retained such that it forms a part of the proposed crossover and the proposed crossover levels shall match the level/s of the existing footpath. Crossovers may be constructed by a private contractor provided they are constructed in accordance with the above specifications and a security bond of \$275 is paid prior to the crossover approval. Application for the refund of bond must be submitted in writing; and*

(xvi) *no further fill is to be added to this site;*

to the satisfaction of the Chief Executive Officer.

COUNCIL DECISION ITEM 10.1.1

Moved Cr Lake, Seconded Cr Cohen

That the recommendation be adopted.

CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

FURTHER REPORT:

The above proposal was considered at the Ordinary Meeting of the Council held on 24 August 2004, where it was deferred pending the following matters numbered (i) to (vi) being clarified:

- "(i) *the process that has been undertaken;*
- (ii) *the finished floor levels are consistent with the fill that has been placed on site;*
- (iii) *the proposed dwellings height in relation to adjacent properties;*
- (iv) *the finished floor levels and the differences that relate to the site plan that was provided showing the original levels of the site;*
- (v) *proposed additional fill (if any); and*
- (vi) *if the application should be considered as retrospective."*

Response to Council Reasons for Deferment

The following information is provided in response to the requests for additional information by the Council at its Ordinary Meeting held on 24 August 2004. The Officer's comments follow the response of the applicant in italics.

(i) The process that has been undertaken.
"After demolition of the Sarah Hardy aged peoples home, excavation work was undertaken to establish sensible and workable floor levels to each block. We believe that the subdivision works have achieved these aims with a difficult site which falls significantly (approx 4 metres diagonally)."

The following is provided to clarify the process so far undertaken:

- 16 June 2003 The Town received a planning application for the demolition of the existing nursing home and the construction of thirteen two-storey single houses.
- 8 July 2003 The Council at its Ordinary Meeting recommended refusal to the Western Australian Planning Approval for the subdivision of the subject site into thirteen (13) lots. Six (6) of the proposed lots front Monmouth Street and the remaining seven (7) lots are serviced by a new dedicated public road off Burt Street.
- 10 September 2003 The Town received a planning application for the demolition of the existing buildings only.
- 4 November 2003 Conditional Planning Approval was granted under delegated authority for the demolition of the existing institutional building (nursing home). The buildings were considered to have little cultural heritage significance.
- 12 November 2003 The Western Australian Planning Commission conditionally approved the subdivision of the land, including proposed Lot 13 being vested in the Crown as a "Reserve for Recreation" free of cost, and the requirement for Detailed Residential Design Guidelines being prepared and approved prior to clearance of the subdivision.
Condition 3 states as follows:
"The land being filled and/or drained at the subdivider's cost to the specification of the Town of Vincent and to the satisfaction of the Western Australian Planning Commission, and any easements and/or reserves necessary for the implementation thereof, being provided free of cost."
- 19 December 2003 Conditional Planning Approval was granted for three single houses on the subject site, to satisfy a condition of Planning Approval issued on 4 November 2003, for the Demolition Licence, therefore allowing the applicant to commence demolition works.
- 13 February 2004 Revised plans were received by the Town, showing compliance with the requirements of the Residential Design Codes and general compliance with the Town's Policies.
- 24 February 2004 Council at its Ordinary Meeting resolved to receive, adopt and advertise a Policy relating to Appendix No. 13 - Design Guidelines for No. 57 (Lots 178, 179 and 416) Monmouth Street, Mount Lawley.
- 9 March 2004 Council at its Ordinary Meeting resolved to conditionally approve twelve (12) two storey single houses at the above site.

- 8 April 2004 The Town's Technical Services approval of subdivision engineering site works.
- April-May 2004 Subdivision site works completed.
- 15 June 2004 Advice given to the applicant by the Town's Officers to submit revised plans showing the accurate finished floor levels for the development.
- 30 July 2004 Confirmation received from the Town's Technical Services that it considered the new finished floor levels (FFLs) to be acceptable.

With regard to the subdivision site works the Town's Officers draw attention to section 20D of the Town Planning and Development Act 1928 (TP&D Act), which states as follows:

"When the Commission has approved under this Act the subdivision of any land to which a town planning scheme relates, subject to-

- (a) *the condition that the applicant for that approval...*
- (iii) *cause to be filled or drained or filled and drained to the satisfaction, and in accordance with the specifications, of the responsible authority the whole or any part of,*

that approval shall be deemed to be approval by the responsible authority under the town planning scheme of the development which is, in the opinion of the commission, necessary or desirable for compliance with the condition or conditions to which first mentioned approval is subject."

In other words, where filling occurs as part of the subdivision process to satisfy a filling subdivision condition, that filling is also deemed to be approved under the Town's Town Planning Scheme No.1.

A following table provides the:

- (a) approved development application finished floor levels (FFLs);
- (b) approved subdivision ground levels without building slab;
- (c) approved subdivision ground levels with typical floor above (100 millimetres(mm) slab);
- (d) proposed development application FFLs; and
- (e) difference between the approved and proposed FFLs.

Lots	21	22	23	24	25	26	27	28	29	30	31	32
(a)	24.4	24.7	25.1	25.4	25.9	26.2	25.5	25.2	24.5	24.2	23.8	23.5
(b)	24.5- 25	25- 25.5	25.5- 26	25.5- 26	26- 26.5	26.5- 27	25.5- 26	25.5- 26	24.5- 25.5	24.5- 25	24- 24.5	24
(c)	24.6- 25.1	25.1- 25.6	25.6- 26.1	25.6- 26.1	26.1- 26.6	26.6- 27.1	25.6- 26.1	25.6- 26.1	24.6- 25.6	24.6- 25.1	24.1- 24.6	24.1
(d)	24.7	25.07	25.49	25.75	26.58	27.06	26.1	25.58	25.03	24.58	24.35	24.06
(e)	+0.3	+0.3 7	+0.3 9	+0.3 5	+0.6 8	+0.8 6	+0.6	+0.3 8	+0.5 3	+0.3 8	+0.5 5	+0.5 6

(d) - (a) = (e)

(b) + 100mm slab = (c)

In order to achieve greater control over the extent of filling undertaken as part of the subdivision process, the Town has applied the following filling condition since 8 September 2004:

"The land being filled and/or drained at the subdivider's cost to the satisfaction of the Town and any easements and/or reserves necessary for the implementation thereof, being provided free of cost. The maximum permitted amount of fill and height of associated retaining walls is 500 millimetres above the existing pre-subdivision ground level, and any greater amount of fill or higher retaining wall requires a separate Planning Approval to be applied to and obtained from the Town of Vincent".

(ii) The finished floor levels are consistent with the fill that has been placed on site.
"The levels that exist on site at present are final and reflect the proposed finished floor levels."

It is noted that as part of the subdivision and demolition site works, including grading the site within the confines of the site to rationalise site levels, the applicant has confirmed that no new fill was brought on site; in fact 442 cubic metres of fill was removed from the above site. Please refer to attached engineering comments provided by the applicant.

(iii) The proposed dwellings height in relation to adjacent properties.
"There is only one existing residence that is in close proximity to the proposed unit 1 Monmouth St and the proposal is at the same approximate floor level. The remaining proposed residences are next to land with no buildings or outhouses sheds etc."

A site inspection by the Town's Officers confirms the above statement and is shown on plans stamp dated 2 September 2004. The relative elevations supplied by the applicant illustrate the impact of the new levels on adjoining properties and the streetscape.

(iv) The finished floor levels and the differences that relate to the site plan that was provided showing the original levels of the site.
"There will be no extra fill brought into the site as it stands at present. The proposed floor levels will reflect the site levels as existing. The new levels compared to the previous are shown on the drawings submitted."

This matter is addressed in the above table and the attached correspondence and plans from the applicant.

(v) Proposed additional fill (if any).
"There will be no additional fill brought in on the site at present."

This matter will be addressed in new clause/condition (xvi) of the Further Officer Recommendation.

(vi) If the application should be considered as retrospective.

In light of the Officer's comments under (i) above, the subject matter is not considered to require an application for retrospective Planning Approval, but rather to update the FFLs that were approved by the previous Planning Approval and to reflect the FFLs that resulted from the subsequent approved subdivision works, so to progress the Building Licence application for the twelve (12) two-storey single houses.

Summary

It is considered that the proposed FFLs will not unduly impact on the streetscape of Monmouth or Burt Streets, but will actually improve the amenity of the area by the creation of driveway and finished floor levels that match the existing streetscape levels.

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

The following is a verbatim copy of the Minutes of the Item placed before the Council at its Ordinary Meeting held on 24 August 2004:

"OFFICER RECOMMENDATION:

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by Viking Developments Pty Ltd on behalf of the owner P Foster for proposed construction of twelve (12) two-storey single houses (Revised Plans for the Reconsideration of Finished Floor Levels), at No(s). 57 (Lot(s) 178, 179 & 416) Monmouth Street & Burt Street, Mount Lawley, and as shown on plans stamp-dated 30 July and 18 August 2004, subject to:

- (i) compliance with all Building, Environmental Health and Engineering requirements;*
- (ii) 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;*
- (iii) 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 AS 2890.1 - "Off Street Parking" ;*
- (iv) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (v) a road and verge security deposit bond and/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;*
- (vi) proposed crossovers shall be positioned in consultation with and as directed by the Town's Technical Services Division;*
- (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) 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;*
- (ix) subject to first obtaining the consent of the owners of proposed Lot 33 for entry onto their land the owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing the public open space at proposed Lot 13 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 with all cost associated the removal and replacement shall be borne by the applicant/owner(s);*
- (xi) *prior to the issue of a Building Licence, the subject land shall be subdivided as generally shown on the approved plans on Certificates of Title; OR alternatively, prior to the issue of a Building Licence the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town's solicitors or other solicitors agreed upon by the Town, undertaking to subdivide the subject land as generally shown on the approved plans 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);*
- (xii) *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 Monmouth Street, Burt Street and the proposed new 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;*
- (xiii) *a detailed landscaping plan, including a schedule of plant species and the landscaping and reticulation of the Monmouth Street, Burt Street and proposed new road 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);*
- (xiv) *compliance with the Design Guidelines for No. 57 (Lots 178, 179 and 416) Monmouth Street, Mount Lawley, including the use of non-reflective roof materials; and*
- (xv) *all new crossover/s to allotments are subject to a separate approval by the Town's Technical Services Division and shall be constructed in accordance with the Town's standard Crossover Specification/s which, in particular, specify that the portion of the existing footpath traversing the proposed crossover, subject to the existing footpath being in a good condition as determined by the Town's Technical Services Division, must be retained such that it forms a part of the proposed crossover and the proposed crossover levels shall match the level/s of the existing footpath. Crossovers may be constructed by a private contractor provided they are constructed in accordance with the above specifications and a security bond of \$275 is paid prior to the crossover approval. Application for the refund of bond must be submitted in writing;*

to the satisfaction of the Chief Executive Officer.

Moved Cr Chester, Seconded Cr Doran-Wu

That the recommendation be adopted.

Debate ensued.

Cr Franchina departed the Chamber at 7.53pm.

Cr Franchina returned to the Chamber at 7.58pm.

Moved Cr Cohen, Seconded Cr Doran-Wu

That a new clause (xvi) be added as follows:

"(xvi) no further fill is to be added to this site."

AMENDMENT CARRIED (8-0)

(Mayor Catania on approved leave of absence).

COUNCIL DECISION ITEM 10.1.9

Moved Cr Chester, Seconded Cr Cohen

That the matter be DEFERRED for further information and clarification from the Town's Officers regarding:

- (i) the process that has been undertaken;*
- (ii) the finished floor levels are consistent with the fill that has been placed on site;*
- (iii) the proposed dwellings height in relation to adjacent properties;*
- (iv) the finished floor levels and the differences that relate to the site plan that was provided showing the original levels of the site;*
- (v) proposed additional fill (if any); and*
- (vi) if the application should be considered as retrospective.*

CARRIED (5-3)

(Mayor Catania on approved leave of absence).

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

<i>Landowner:</i>	<i>P Foster</i>
<i>Applicant:</i>	<i>Viking Developments Pty Ltd</i>
<i>Zoning:</i>	<i>Metropolitan Region Scheme: Urban Town Planning Scheme No.1: Residential R40</i>
<i>Existing Land Use:</i>	<i>Vacant Land</i>
<i>Use Class:</i>	<i>Single House</i>
<i>Use Classification:</i>	<i>"P"</i>
<i>Lot Area:</i>	<i>3442 square metres</i>

COMPLIANCE:

<i>Requirements</i>	<i>Required</i>	<i>Proposed</i>
<i>Town's Policy relating to the Alma Locality</i>	<i>General height limit of two-storeys considered appropriate provided the first floor is setback a minimum of 6 metres.</i>	<i>Unit 12, balcony setback 5 metres from new internal road.</i>
<i>Town's Policy relating to the Alma Locality</i>	<i>Within areas coded R40, a maximum of two dwellings will be permitted per lot.</i>	<i>12 residential lots and 1 lot of public open space proposed on existing single lot. Subdivision approval has been granted although lots have not yet been created.</i>
<i>Density</i>	<i>1 single house (R 40)</i>	<i>1 single house for each of the 12 lots proposed (R45.4, R45.6, R45.5, R45.5, R45.5, R46.7, R48.5, R45.5, R45.5, R48.3, R34.8 and R46.2</i>
<i>Plot Ratio</i>	<i>N/A</i>	<i>N/A</i>

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

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

SITE HISTORY:

- 16 June 2003* *The Town received a planning application for the demolition of the existing nursing home and the construction of thirteen two-storey single houses.*
- 8 July 2003* *The Council at its Ordinary Meeting recommended refusal to the Western Australian Planning Approval for the subdivision of the subject site into thirteen (13) lots. Six (6) of the proposed lots front Monmouth Street and the remaining seven (7) lots are serviced by a new dedicated public road off Burt Street.*
- 10 September 2003* *The Town received a planning application for the demolition of the existing buildings only.*
- 4 November 2003* *Conditional Planning Approval was granted under delegated authority for the demolition of the existing institutional building (nursing home). The buildings were considered to have little cultural heritage significance.*
- 12 November 2003* *The Western Australian Planning Commission conditionally approved the subdivision of the land, including proposed Lot 13 being vested in the Crown as a "Reserve for Recreation" free of cost, and the requirement for Detailed Residential Design Guidelines being prepared and approved prior to clearance of the subdivision.*
- 25 November 2003* *The Town received revised plans in relation to the development application received 16 June 2003. The revised plans indicated the deletion of one of the residential lots, for public open space.*

- 19 December 2003 *Conditional Planning Approval was granted for three single houses on the subject site, to satisfy a condition of Planning Approval issued on 4 November 2003, for the Demolition Licence, therefore allowing the applicant to commence demolition works.*
- 13 February 2004 *Revised plans were received by the Town, showing compliance with the requirements of the Residential Design Codes and general compliance with the Town's Policies.*
- 24 February 2004 *Council at its Ordinary Meeting resolved to receive, adopt and advertise a Policy relating to Appendix No. 13 - Design Guidelines for No. 57 (Lots 178, 179 and 416) Monmouth Street, Mount Lawley.*
- 9 March 2004 *Council at its Ordinary Meeting resolved to conditionally approve twelve (12) two storey single houses at the above site.*

DETAILS:

The current revised plans propose an increase to the finished floor levels (FFL) for the 12 single houses being proposed. No other changes are proposed to the development application approved by the Council at its Ordinary Meeting held on 9 March 2004. The changes to the FFL are as follows:

Lots	21	22	23	24	25	26	27	28	29	30	31	32
Approved FFL	24.4	24.7	25.1	25.4	25.9	26.2	25.5 0	25.2	24.5	24.2	23.8	23.5
Proposed FFL	24.7	25.07	25.49	25.75	26.58	27.06	26.1 0	25.58	25.03	24.58	24.35	24.06
Difference	+0.3	+0.37	+0.39	+0.35	+0.68	+0.86	+0.6 0	+0.38	+0.53	+0.38	+0.55	+0.56

The applicant has advised that the additional fill was needed for the following reasons:

- *Fill has been added onto the subject sites as part of the subdivision works.*
- *This fill has been undertaken to provide improved access to the site and to avoid the need for very steep ramps.*
- *The overall impact on the neighbours has been reduced.*
- *Under the Residential Design Codes (R-Codes), calculations of levels in terms of natural ground levels can be taken from the levels resulting from an approved subdivision, for purposes of height calculation.*
- *Building complies with the R Codes and 6 metres wall height levels.*

CONSULTATION/ADVERTISING:

Clause 2.5.1 of the R Codes states that:

"In the case of a proposed development that:

- i requires the exercise of a discretion by the Council under the Codes or under an adopted Local Planning Policy; and*
- ii may, in the opinion of the Council, adversely affect the amenity of an adjoining property,*

the provisions of 2.5.2 and 2.5.3 apply to provide for affected property owners to view and comment on the proposal.

In any other case the Council, may, at its discretion inform adjoining owners and occupiers of the nature of proposals received."

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 only changes proposed are to the FFLs. The additional fill proposed has already been undertaken as part of the earthworks programme associated with the proposed subdivision and has been cleared by the Town.

Element 6-Site Works of the R Codes states:

"natural ground level, means the level of land before original development occurred or that resulting from pre-existing development".

"In cases where the original subdivision process itself involved changes from the natural levels, the relevant levels to take are those established at subdivision, prior to buildings being erected. These levels are often accompanied by retaining walls at boundaries. Where this occurs, the walls are to be regarded in the same light as natural topographical features. Changes of level at re-subdivision should be treated the same as changes of the level of development".

Element 7-Building Height in the R Codes states in part as follows:

"It has become common practice to provide level sites with boundary retaining walls at subdivision. In these cases, the levels so established at subdivision are deemed to be natural ground levels..... natural ground levels may be taken as levels resulting from development carried out as an approved part of a land subdivision or as the result of a pre-existing development;"

The revised plans stamp-dated 30 July and 18 August 2004 complies with all the other requirements of the R Codes, which includes density, streetscape, open space, car parking, site works, privacy, the Design Guidelines for No. 57 Monmouth Street and the Town's Policies, with the exception of those stated in the Compliance Table.

Town's Policy Relating to the Alma Locality

The proposal generally complies with the Town's Policy relating to the Alma Locality. The proposed 13 lots (one of the thirteen lots, which is Lot 33 is set aside for Public Open Space) have been granted conditional approval by the Western Australian Planning Commission, and are at the stage where Certificate of Titles are currently being issued.

Technical Services

The Town's Technical Services considers the revised FFLs to be acceptable.

Summary

Accordingly, it is recommended that the revised plans dated 30 July and 18 August 2004 be approved, subject to standard and appropriate conditions to address the above matters."

10.1.2 No(s). 476, Unit 6 (Lot 1) Fitzgerald Street (Corner Burt Street), North Perth - Proposed Signage Additions to Existing Showroom

Ward:	North	Date:	17 September 2004
Precinct:	North Perth; P8	File Ref:	PRO1514; 00/33/2199
Attachments:	001		
Reporting Officer(s):	M Bonini		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by Total Sign Company on behalf of the owner M Y Yuen & P Huynh for proposed Signage Additions to Existing Showroom, at No(s). 476, Unit 6 (Lot(s) 1) Fitzgerald Street (Corner Burt Street), North Perth, and as shown on plans stamp-dated 19 April 2004, subject to:

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements, including relevant Australian Standards and Noise Regulations;*
- (ii) 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;*
- (iii) the signage shall not have flashing or intermittent lighting;*
- (iv) all signage shall be subject to a separate Sign Licence application being submitted and approved prior to the erection of the signage;*
- (v) the signage shall be located entirely within the property boundaries; and*
- (vi) all signage shall be kept in a good state of repair, safe, and be non-climbable and free from graffiti for the duration of their display on-site;*

to the satisfaction of the Chief Executive Officer.

COUNCIL DECISION ITEM 10.1.2

Moved Cr Lake, Seconded Cr Cohen

That the recommendation be adopted.

CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

Landowner:	MY Yuen & P Huynh
Applicant:	Total Sign Company
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1: District Centre
Existing Land Use:	Showroom
Use Class:	Showroom
Use Classification:	"P"
Lot Area:	567 square metres

COMPLIANCE:

Requirements	Required	Proposed *
Plot Ratio	N/A	N/A
Illuminated Sign	Minimum clearance of 2.75 metres from finished ground level	2.3 metres
Wall Sign	Minimum clearance of 2.7 metres from finished ground level if placed above door openings.	2.3 metres

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

SITE HISTORY:

The Council at its Ordinary Meeting held on 23 October 2001 resolved to approve an application for proposed demolition of existing vehicle sales premises building and construction of mixed use development (1 x showroom and 5 x Multiple Dwellings).

DETAILS:

The subject application involves proposed signage on Unit 6 at No. 476 Fitzgerald Street. The proposed sign is an illuminated sign stating "HUSS" and has a total signage area of 0.64 square metre.

CONSULTATION/ADVERTISING:

The proposal was advertised for the period of 14 days. No written submissions were received in this period.

LEGAL/POLICY:

Town Planning Scheme No. 1 and associated Policies.

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

Clearance of Sign

The proposed sign achieves a maximum clearance of 2.3 metres from the finished ground level in lieu of 2.75 metres. The sign itself is flat and attached to the wall directly above the entrance portico. The variation is not considered to be excessive and not considered to pose an undue negative impact as a result of its location. The proposed signage is therefore supported in this instance.

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

10.1.4 No(s). 106 (Lot(s) 120) Edinboro Street, Mount Hawthorn - Proposed Pergola, and Alterations and Additions to Existing Single House (Application for Retrospective Approval)

Ward:	North	Date:	20 September 2004
Precinct:	Mt Hawthorn; P1	File Ref:	PRO2249; 00/33/2374
Attachments:	001		
Reporting Officer(s):	L Mach		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owner GGH Orr & IL Bell for proposed Pergola and Alterations and Additions to Existing Single House (Application for Retrospective Approval), at No(s). 106 (Lot(s) 120) Edinboro Street, Mount Hawthorn, and as shown on plans stamp-dated 21 July 2004, subject to:

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements; including Clause 3.7.1.5 of the Building Codes of Australia- Fire Protection of Opening;*
- (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 Edinboro 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) 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;*
- (iv) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (v) 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;*

- (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 all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*
- (vii) *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; and*
- (viii) *to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development the entire length of the pergola on the northern side shall be screened with a permanent obscure material and be non openable to a minimum of 1.6 metres above the respective finished floor levels. A permanent obscure material does not include a self-adhesive material or other material that is easily removed;*

to the satisfaction of the Chief Executive Officer.

COUNCIL DECISION ITEM 10.1.4

Moved Cr Lake, Seconded Cr Cohen

That the recommendation be adopted.

CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

Landowner:	GGH Orr & IL Bell
Applicant:	GGH Orr & IL Bell
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1: Residential R30
Existing Land Use:	Single House
Use Class:	Single House
Use Classification:	"P"
Lot Area:	445 square metres

COMPLIANCE:

Requirements	Required	Proposed *
Plot Ratio	N/A	N/A
Cone of Vision Encroachments:		
Family and meals- southern side	6 metres	3 metres

Requirements	Required	Proposed *
Pergola/ deck area- northern and southern sides	7.5 metres	0.845 metre (north) and 6.5 metres (south)
Study- northern side	6 metres	2.4 metres

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

BACKGROUND:

The Council at its Ordinary Meeting held on 13 April 2004 resolved to conditionally approve an application for a similar proposal on the subject lot. The plans approved at this meeting differ from the current plans in that the northern setback was 1.5 metres, in lieu of the currently proposed 0.845 metre.

SITE HISTORY:

The site is occupied by a single-storey single house. A Town owned right of way exists to the rear of the lot. The right of way is unsealed and has a width of 5.0 metres.

DETAILS:

The applicant seeks approval for pergola and retrospective approval for alterations and additions to the existing single house.

Construction of the previously approved plans, depicting a 1.5 metres northern setback for the existing house and for the proposed addition, has commenced. A site inspection by the Town's Officers indicates that all footings have been laid, the windows and door frames have been installed and the brick work has been constructed to the height of windows.

It has however, since been brought to the Town's attention that the existing house is actually setback 0.845 metre from the northern boundary and the applicant intends to maintain this setback for the proposed addition.

The applicants provide the following information in support of the application:

"...Due to an error by our draftsman, which we did not pick up, the distance between the proposed extension and our fence adjacent to 108 Edinboro Street is shown as 1.5 metres on our plans instead of the correct measurement of 0.845 metres. This was a genuine and unintentional oversight on our part, for which we apologise...."

We have commenced construction of the extension: all footings have been laid, the suspended concrete slab has been laid, window frames and the door frame have been installed, and brick work is completed almost to the full height of the windows. It will be very costly for us to remove the work done so far and to start again.

We wish to seek Council approval to continue building the extension as previously approved; except that:

- the brick wall adjacent to 108 Edinboro Street is only 0.845 metres from the fence; and*
- the exposed wooden eaves matching the original houses to be inside the 0.9 metres distance from the fence as required by Council for combustible materials.*

The plans show the extension walls in line with the existing house (built 1930), which is only 0.845 meters from the fence. We are seeking to maintain this distance from the fence as we wish to incorporate the character of the existing house as much as possible into the extension. For this reason we are also using recycled jarrah floor boards, matching doors, windows and skirting boards, and installing 3 metre high ceilings.

Please also note:

- *the house on 108 Edinboro Street is about 3 metres from our common fence, well outside the combustible materials distance required; and*
- *the areas in the extension adjacent to 108 Edinboro Street are not living areas with only one window in the wall for the laundry...."*

CONSULTATION/ADVERTISING:

The reduced setback was brought to the Town's attentions through the northern affected neighbour. The affected neighbour however, has formally removed his objection to the reduced setback subject to the applicants removing their objections to a future planning application they will be submitting, in regards to a window being unobscured and openable. The applicant has written to the Town stating that they remove their objections relating to the subject window and therefore, it is understood that there are no objections to the northern 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:

Northern Setback

Whilst the proposed northern setback is a deviation from the Residential Design Codes, the proposed variation is considered acceptable in this instance as it is considered to be minor, to be maintaining the setback of the existing house and no objections has been received by the Town.

Related Matters

The other matters relating to the proposal have been addressed in the report, Item 10.1.18 to the Ordinary Meeting of Council held on 13 April 2004, and the Minutes of that meeting.

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

10.1.5 No(s). 26 (Lot(s) 86) Loch Street/ No.17 Carrington Street, North Perth - Proposed Additional Single-Storey Single House to Existing Single House

Ward:	North	Date:	20 September 2004
Precinct:	North Perth; P8	File Ref:	PRO2857; 00/33/2320
Attachments:	001		
Reporting Officer(s):	L Mach		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owner L Maekivi for proposed Additional Single-Storey Single House to Existing Single House, at No(s). 26 (Lot(s) 86) Loch Street/No.17 Carrington Street, North Perth, and as shown on plans stamp-dated 25 June 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 Loch Street and Carrington 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) 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);*
- (iv) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (v) a road and verge security deposit 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;*

- (vi) *all new crossover/s to allotments are subject to a separate approval by the Town's Technical Services Division and shall be constructed in accordance with the Town's standard Crossover Specification/s which, in particular, specify that the portion of the existing footpath traversing the proposed crossover, subject to the existing footpath being in a good condition as determined by the Town's Technical Services Division, must be retained such that it forms a part of the proposed crossover and the proposed crossover levels shall match the level/s of the existing footpath. Crossovers may be constructed by a private contractor provided they are constructed in accordance with the above specifications and a security bond of \$275 is paid prior to the crossover approval. Application for the refund of bond must be submitted in writing;*
- (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) *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) *the applicant/owner(s) shall advise (prospective) purchasers of the proposed dwelling site, that if this development does not proceed any subsequent proposed development shall comply with the relevant development requirements of the Town's Town Planning Scheme No. 1 and the associated Policies and the Residential Design Codes, and it is not to be assumed that the Town will support variations to the requirements; and*
- (x) *detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence application;*

to the satisfaction of the Chief Executive Officer.

COUNCIL DECISION ITEM 10.1.5

Moved Cr Lake, Seconded Cr Cohen

That the recommendation be adopted.

CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

Landowner:	LH Maekivi
Applicant:	LH Maekivi
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1: Residential R20
Existing Land Use:	Single House
Use Class:	Single House
Use Classification:	"P"
Lot Area:	540 square metres

COMPLIANCE:

Requirements	Required	Proposed *
Density	One (1) dwelling at current zoning of R20, however, 2 survey strata title lots were conditionally approved by the Western Australian Planning Commission on 17 February 2003 at R30/40 density.	2 dwellings R 37.7 85 per cent density bonus (refer to comments under "Site History")
Plot Ratio	N/A	N/A
Setbacks		
- Front (North)	6.0 metres	3.42-11.1 metres
- South	1.5 metres	1-3.52 metres

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

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

SITE HISTORY:

The subject site was granted conditional survey strata subdivision approval on 17 February 2003 by the Western Australian Planning Commission. This subdivision has taken place before the change in density codes from R30/40 to R20 through Amendment 11 (Eton Locality).

DETAILS:

The subject lot has dual frontages to Loch Street and Carrington Street. The applicant seeks approval for a single storey-single house with access from Carrington Street.

CONSULTATION/ADVERTISING:

No objections 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:

Whilst the proposed front setback is a deviation from the requirements of the R Codes, this variation can be supported given the size of the block and that the frontage is staggered to lessen the visual impact on the street. The front setback variation can also be supported from a streetscape perspective due to the precedence in the street. The eastern neighbours' house, which is under construction, has Planning Approval for setbacks of 1.0 metre to the garage, 2.0 metres to the porch and 4.0 metres to the main house, for the lower floor. It is further noted that the subject portion of Carrington Street is predominately characterised by garages and rear fences with a nil setback, as illustrated in the attached photographs. Accordingly, the proposed front setback is not considered to have an undue impact on the streetscape and is considered acceptable.

In relation to the southern setback, the proposed variation is considered to be minor, the encroachment wall is 2.9 metres long with no major openings, and is supported in light of no objections being received by the Town.

On the above basis, it is recommended that approval be granted for the proposal, subject to standard conditions.

10.1.15 Further Report - No(s). 11 (Lot(s) 15) Egina Street, Mount Hawthorn - Proposed Two-Storey Single House

Ward:	North	Date:	23 September 2004
Precinct:	Mt Hawthorn; P1	File Ref:	PRO2789; 00/33/2360
Attachments:	001		
Reporting Officer(s):	L Mach		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

FURTHER 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 Philip Cousins Designer Builder on behalf of the owner G, D & D Christou for proposed Two-Storey Single House, at No(s). 11 (Lot(s) 15) Egina Street, Mount Hawthorn, and as shown on amended plans stamp-dated 22 September 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 Egina 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. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (iii) a road and verge security bond or bank guarantee of \$550.00 shall be lodged with the Town prior to the issue of a Building Licence and be held until all building / development works have been completed and/or any disturbance of, or damage to, the Town's infrastructure, including street verge trees, has been repaired / reinstated to the satisfaction of the Town's Technical Services Division. An application for the refund of the security bond or bank guarantee must be made in writing;*
- (iv) 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;*
- (v) no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services Section. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*
- (vi) compliance with all relevant Environmental Health, Engineering and Building requirements;*

- (vii) *all new crossover/s to allotments are subject to a separate approval by the Town's Technical Services Division and shall be constructed in accordance with the Town's standard Crossover Specification/s which, in particular, specify that the portion of the existing footpath traversing the proposed crossover, subject to the existing footpath being in a good condition as determined by the Town's Technical Services Division, must be retained such that it forms a part of the proposed crossover and the proposed crossover levels shall match the level/s of the existing footpath. Crossovers may be constructed by a private contractor provided they are constructed in accordance with the above specifications and a security bond of \$275 is paid prior to the crossover approval. Application for the refund of bond must be submitted in writing;*
- (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) *detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence application;*
- (x) *prior to the issue of a Building Licence, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title or Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town.*
- (xi) *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;*
- (xii) *the alfresco area shall be one hundred (100) per cent open on all sides and at all times, except where it abuts the main dwelling building wall(s); and*
- (xiii) *subject to first obtaining the consent of the owners of No. 13 Egina 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. 13 Egina Street in a good and clean condition;*

to the satisfaction of the Chief Executive Officer.

COUNCIL DECISION ITEM 10.1.15

Moved Cr Lake, Seconded Cr Cohen

That the recommendation be adopted.

CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

FURTHER REPORT:

At the Ordinary Meeting held on 14 September 2004, the Council resolved to defer determination of the application for a proposed two-storey single house at No.11 Egina Street, Mount Hawthorn to allow for further investigation and report.

On 21 September 2004, the Mayor and Town's Executive Manager Environmental and Development Services (EMEDS) met with the applicant and the owner of No.11 Egina Street, Mount Hawthorn to discuss the subject application.

During the meeting, it was agreed that the proposal should be amended to comply with the Residential Design Codes (R-Codes) in terms of the southern setbacks and that justification be provided for the overshadowing variation which affected the adjoining southern property.

Subsequently, revised plans and a letter of justification that addressed the above were submitted to and received by the Town on 22 September 2004.

The amended plans differ from the previous plans presented to the Council on 14 September 2004, in that the kitchen setback is increased from 1.0 metre to 1.1 metres and the laundry/storeroom setback is increased from 1.5 metres to 1.7 metres from the southern boundary. In addition, an alteration has been made to bedroom 1 southern elevation on the upper floor. In light of the changes, the amended plans are compliant with the R- Codes in terms of the southern setbacks.

In relation to the overshadowing, the applicant provides the following information in support of the application:

- *"We are not overshadowing any habitable rooms*
- *By reducing the overshadowing to the required % it would have minimal effect on the existing residence as it would continue to be in the shadow envelope*
- *Existing trees on the southern lot are creating an overshadowing affect on the lot".*

While the Officer Recommendation for refusal remains unchanged from the previous report presented to Council at its Ordinary Meeting on 14 September 2004 for the same reasons stated in that report, the above recommendation reflect discussions which were undertaken at the Ordinary Meeting, where Elected Members were inclined to conditionally approve the subject application subject to the southern setbacks and overshadowing variations being addressed.

The following is a verbatim copy of the Minutes of the Item placed before the Council at its Ordinary Meeting held on 14 September 2004:

" OFFICER RECOMMENDATION:

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council REFUSES the application submitted by Philip Cousins Designer Builder on behalf of the owner G, D & D Christou for proposed Two-Storey Single House, at No(s). 11 (Lot(s) 15) Egina Street, Mount Hawthorn, and as shown on plans stamp-dated 26 July 2004, for the following reasons:

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

- (ii) *the non-compliance with the Town's Policies relating to Vehicular Access; and*
- (iii) *consideration of the objections received.*

COUNCIL DECISION ITEM 10.1.18

Moved Cr Lake, Seconded Cr Cohen

That the recommendation be adopted.

Debate ensued.

Moved Cr Lake, Seconded Cr Cohen

That the Item be DEFERRED to allow for further investigation and report

CARRIED (5-4)
ON THE CASTING VOTE OF THE MAYOR

For

**Mayor Catania
Cr Chester
Cr Cohen
Cr Farrell
Cr Lake*

Against

*Mayor Catania (initial vote)
Cr Doran-Wu
Cr Franchina
Cr Ker*

**Mayor Catania used a casting vote to make the vote (5-4).*

(Cr Torre was an apology for the meeting.)

ADDITIONAL INFORMATION:

Consultation/Advertising

The Town has received a letter from the owner of the northern neighbour (No. 13 Egina Street) on 9 September 2004, stating no objections to the subject proposal.

Setbacks

The first floor setbacks contained in the Compliance Table of the previous Agenda Report includes a typographical error; therefore it should be amended to read as follows:

<i>Requirements</i>	<i>Required</i>	<i>Proposed *</i>
<i>Setbacks:</i>		
<i>1st Floor</i>	<i><u>2.1 metres</u></i>	<i><u>1.2-3.0 metres</u></i>
<i>- South</i>	<i><u>2.4 2.1 metres</u></i>	<i><u>1.5-2.13 1.2-3.0 metres</u></i>
<i>- North</i>	<i><u>2.4 metres</u></i>	<i><u>1.5-2.13 metres</u></i>

<i>Landowner:</i>	<i>G, D & D Christou</i>
<i>Applicant:</i>	<i>Philip Cousins Designer Builder</i>
<i>Zoning:</i>	<i>Metropolitan Region Scheme: Urban Town Planning Scheme No.1: Residential R30</i>
<i>Existing Land Use:</i>	<i>Single House</i>
<i>Use Class:</i>	<i>Single House</i>
<i>Use Classification:</i>	<i>"P"</i>
<i>Lot Area:</i>	<i>425 square metres</i>

COMPLIANCE:

<i>Requirements</i>	<i>Required</i>	<i>Proposed *</i>
<i>Plot Ratio</i>	<i>N/A</i>	<i>N/A</i>
<i>Wall Height</i>	<i>6 metres</i>	<i>5.5-6.5 metres</i>
<i>Vehicular Access</i>	<i>Vehicular access from right of way, where possible</i>	<i>Vehicular access from primary street</i>
<i>Overshadowing</i>	<i>35%</i>	<i>39%</i>
<i>Setbacks:</i>		
<i>Ground floor</i>		
<i>- South (laundry/store)</i>	<i>1.7 metres</i>	<i>1.5-3.0 metres</i>
<i>- South (kitchen)</i>	<i>1.1 metres</i>	<i>1.0 metre</i>
<i>- North (garage)</i>	<i>1.0 metre</i>	<i>Nil</i>
<i>- North (alfresco)</i>	<i>1.5 metres</i>	<i>Nil</i>
<i>- North(main)</i>	<i>1.5 metres</i>	<i>1-1.5 metres</i>
<i>1st Floor</i>	<i>2.1 metres</i>	<i>1.2-3.0 metres</i>
<i>- South</i>	<i>2.4 metres</i>	<i>1.5-2.13 metres</i>
<i>- North</i>		
<i>Fill</i>	<i>0.5 metre</i>	<i>0.66 metre</i>

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

SITE HISTORY:

The site is occupied by a single storey single house. On 28 June 2004, the Town granted conditional approval under delegated authority from the Council for the demolition of existing single house on the subject lot.

There is a 5.03 metres wide unsealed right of way at the rear of the property which is owned by the Town. The Town's Technical Services have advised that the subject right of way is programmed to be sealed in the next financial year (2005/2006).

DETAILS:

The applicant seeks approval for the proposed two-storey single house and garage, which is located at the front of the house and accessed from Egina Street.

The applicant has requested that the application be referred to the Council for consideration of the variations proposed.

CONSULTATION/ADVERTISING:

The proposal has been advertised for 14 days from between 26 August to 9 September 2004. One written submission from the southern neighbour was received by the Town during this time. The submission objected to the wall height, setback, overshadowing variations and the effect it would have on any future proposed development on the southern neighbouring lot.

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:

Vehicular Access

The Town's Policies relating to Vehicular Access require vehicular access to be from the right of way, where there is opportunity to utilise the right of way (ROW). In this case, there is sufficient room for vehicular access and for the garage to be located at the rear of the lot. The intent of the Town's Policies is to maintain the front aspect of the existing house and to preserve the general streetscape, while promoting safety and security via casual surveillance of both the street and the right of way.

It is noted that the Council at its Ordinary Meeting held on 27 April 2004 approved 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 the Policies. The Council Minutes in relation to this matter states the following:

"...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..."*

The variations allowed 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 ROW is available to the property, where certain criteria were met to the satisfaction of the Town. The Town's Technical Services have advised that the subject ROW is programmed to be sealed in the next financial year (2005/2006) and as such, it is considered appropriate that the vehicular access be from the ROW in this instance.

The proposed vehicular access from the primary street is considered to depart from the relevant requirements of the Town's Policies and is therefore not supported, as it would create an undesirable precedent for the Town and would contribute to the Town finding it more difficult to achieve its intended objective of getting vehicles to access off ROW's rather than gaining access off the primary street.

Fill

The variation in relation to fill requirements is considered minor, as the height of the fence would screen any potential overlooking on the southern side. This variation is therefore supported.

Wall Height

Whilst the proposed wall height is a variation from the requirements of the R Codes, the variation in this instance is considered to be minor and in keeping with the character of the surrounding areas. It is also considered not to unduly affect the privacy or the amenity of the adjoining neighbours. It is noted that the height variation is exacerbated due to the slope of the land and that the applicant has demonstrated consideration of the Residential Design Codes (R-Codes) requirements through dropping the finished floor level of the house where the land slopes at the rear. With this in mind, the variation in height is considered acceptable in this instance.

Northern Setbacks

The northern setback variations are considered to be minor and are supported in light of no objections being received by the Town.

Southern Setbacks, Overshadowing and Response to objections

The setback and overshadowing variations, as highlighted in the above Compliance Table may be considered providing the adjoining affected landowner do not object to the particular issues. In this instance, the adjoining landowner has not given their consent and therefore, should Council grant approval, it is recommended that the proposal be amended to comply with the Residential Design Codes setbacks and overshadowing requirements.

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

10.2.1 Traffic Management Request - Palmerston St between Stuart Street and Newcastle Street, Perth

Ward:	South	Date:	21 September 2004
Precinct:	Beaufort P13	File Ref:	TES0200
Attachments:	-		
Reporting Officer(s):	R Lotznicher		
Checked/Endorsed by:	-	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the report on Traffic Management Request for Palmerston Street ;*
- (ii) *REFERS the matter to the Town's Local Area Traffic Management Advisory Group for consideration; and*
- (iii) *RECEIVES a further report once the Town's Local Area Traffic Management Advisory Group has considered the matter.*

COUNCIL DECISION ITEM 10.2.1

Moved Cr Lake, Seconded Cr Cohen

That the recommendation be adopted.

CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

BACKGROUND:

In May 2000, the Council considered a report regarding the upgrading of Palmerston Street where, as a condition of development approval, the developers of the Maltings were required to comply with the following condition:

The installation of new embayed car parking, footpaths, brick paving, kerbing, lighting, lawn, reticulation and mature trees at a minimum height of 3m along the Palmerston and Stuart Street verges, directly adjacent to the subject land, at the full cost to the applicant/landowner. A detailed landscaping plan for the entire site indicating these works and a schedule of plant species shall be submitted for approval prior to the issue of a building license. The landscaping plan shall be installed and maintained thereafter by the landowner/occupiers;

In addition, and as part of the development by the former Fini Group on the eastern side of Palmerston Street, the Council, at its ordinary meeting held on 22 December 1997 passed a similar resolution as outlined above. Both developers subsequently made a considerable financial contribution to enable enhancement works to be implemented.

The Palmerston Street upgrade proposal was prepared in consultation with the Town's Local Area Traffic Management Advisory Group and resulted in the following proposal being developed and implemented.

- Increase the availability of on-road parking.
- Provision of improved traffic management
- Creation of a "pedestrian friendly" environment with the introduction of brick paved footpath
- Palmerston Street being "cyclist friendly" as it comprises part of the Perth Bicycle Network (PBN)
- Mirror the existing streetscape enhancement undertaken on Palmerston Street south of Newcastle Street
- Provision of additional reticulated street trees
- Undergrounding of overhead power lines

In addition, at the time community consultation was undertaken and comments sought from residents, local precinct groups and other interested parties. At the conclusion of the consultation period, a total of eight (8) written submissions were received, resulting in a number of common issues being raised, which were subsequently incorporated into the design.

The proposal provided for a footpath of 3.0m, 2.3m embayed parallel parking, 1.5m (red asphalt typical) cycle lane, 2 x 3.1m traffic lanes, 1.5m cycle lane, 2.3m embayed parallel parking, 1.4m vegetation strip and 1.8m wide footpath.

The proposal incorporated low impact traffic calming measures with a view to creating a pedestrian and cycle friendly environment. These measures included the narrowing of the existing traffic lanes to 3.1m with clearly delineated 1.5m wide dedicated cycling lanes, in red asphalt. It was intended that the trees would form a canopy over the road, further narrowing a driver's perception of the road width. The red asphalt entry statements were installed to alert motorists to the changes in road environment.

The various hard landscaping elements such as paving, street furniture and proposed lighting were in keeping with the Town's overall enhancement scheme successfully used in other streetscape enhancement projects.

DETAILS:

On 6 April 2004 the Town received a petition signed by 35 residents requesting the following:

"We, the undersigned residents of Palmerston Street, seek urgent action from the Town of Vincent to curtail the increasing problem of disruptive car-hooning creating loud speed noise created by traffic ostensibly using Palmerston Street as a quick cut through route between Newcastle and Bulwer Streets, thereby dodging the two sets of traffic lights along Fitzgerald Street between Newcastle and Bulwer Streets.

Not only does the traffic appear to use Palmerston Street as a short cut, but once vehicles turn into Palmerston from Newcastle, they "take off", and the resultant noise can be almost deafening as it "bounces" off between the Rialto buildings opposite to The Maltings buildings.

The traffic calming in Lake Street has apparently proved effective for those residents, and to this end, we would also like to see Palmerston Street discouraged from being used for short cuts by traffic which should be on Fitzgerald Street.

It is apparent that "single-lane slow points" in similar streets (e.g. Clotilde Street, Mt Lawley) have drastically eradicated hooning behaviour and deterred rat-running. We are prepared to be guided by your expert opinion on what traffic calming solution will work best for the residents of Palmerston Street, particularly at the Newcastle Street end."

The matter was investigated by the Town's Officers and the author of the petition advised as follows:

In 2000, the Council resolved to support the introduction of the Statewide 50 kph speed limit on local streets, subject to:

- *The proposed speed limits being designated by appropriate regulatory signage and line marking only, to minimise the requirement for the implementation of traffic calming devices (responsibility of Main Roads WA); and*
- *Enforcement of the proposed lower speed limits being the responsibility of the WA Police Service.*

Vehicle classifiers were recently deployed in Palmerston Street to assess the speed, volume and composition of traffic in the street.

The results of the classifiers indicate the following:

- *Average daily Traffic Volume, 2629 vehicles per day (vpd)*
- *Average vehicles per hour (vph) minimum 3.00am to 4.00am 14 vph and maximum 5.00pm to 6.00pm 225 vph*
- *Average recorded Speed, 36 kph*
- *85% recorded speed, 44kph*
- *% commercial vehicles, 2.5%*

Note: The 85% speed outlined above indicates the speed at which 85% of vehicles travel "less than" and this generally gives a good indication of the speed environment of a road.

Palmerston Street has a legal posted speed limit of 50 kph and is classified as an Access Road in accordance with the Metropolitan Functional Road Hierarchy. An access road should carry no more than 3,000 vpd, have a posted speed limit of 50kph, and provide access predominantly to residential properties.

As can be seen from the above results, Palmerston Street complies with its classification.

In the case of Palmerston Street, the 85% speed is 6 kph below the posted speed. While it is acknowledged that in almost all roads assessed throughout the Town a small percentage of motorists "break the law", this small percentage cannot justify the implementation of intervention measures. Also, the pm peak hourly flow while relatively high is not disproportional to the Average daily traffic recorded. The recorded average daily traffic volumes in Palmerston Street are below the threshold for an access road and given its geographic location within the surrounding road network and the number of properties serviced by the road and the adjoining roads, the higher traffic volumes are to be expected.

Notwithstanding the above, any improvements in amenity can only be achieved with some form of physical intervention which may, in some instances, such as is the case with "speed humps", result in an actual decrease in amenity for adjoining residents.

Therefore, given the results of our investigations, it would be difficult to recommend any additional traffic measures in Palmerston Street at this current time.

A further letter was subsequently received by the author of the petition on 15 September 2004 expressing disappointment that no action was recommended and questioning some of the reasoning behind some of the reasons provided.

A further response was provided by the Town's officers as follows:

The results of the vehicle classifiers deployed in Palmerston Street to assess the speed, volume and composition of traffic in the street, indicate that in accordance with standard Australian Traffic Management practice the street complies with its classification.

The 85% percentile speed indicates the speed environment of a street. In Palmerston Street the recorded 85% percentile speed was less than 50kph.

*ALL streets assessed in the Town (and metropolitan area) record a small number of high speeds. In Palmerston Street over 85% of vehicles travelled between 10 - 50kph; 13% travelled 50 - 60kph and 1% of vehicles travelled 60 - 90kph**

Note: Only 13 vehicles over the seven days, travelled between 60 - 80kph and 6 vehicles over the seven days travelled between 80-90kph. Compare this with over 17,000 vehicles over the seven days that travelled between 10- 60 kph

The above statistics explain my comment (letter of 1 September 2004) where I stated that:

"While it is acknowledged that in almost all roads assessed throughout the Town a small percentage of motorists "break the law", this small percentage cannot justify the implementation of intervention measures."

Also as outlined in my letter of 1 September in 2000, the Council resolved to support the introduction of the statewide 50 kph speed limit on local streets, subject to:

"The proposed speed limits being designated by appropriate regulatory signage and line marking only, to minimise the requirement for the implementation of traffic calming devices (responsibility of Main Roads WA) and enforcement of the proposed lower speed limits being the responsibility of the WA Police Service."

Notwithstanding the above, given the matters raised in your correspondence, I suggest that as a way forward the following be carried out:

- *The Police Service be formally requested to police the street; and*
- *That it be recommended to the Council that the matter be referred to the Town's Local Area Traffic Management Advisory group for further determination. Should this be approved by the Council, you will be invited to attend the meeting*

A letter was subsequently forwarded to the Police Service.

It is recommended that the above matter be referred to the Town's LATM Advisory Group and that a community representative/s be invited to attend the meeting.

CONSULTATION/ADVERTISING:

Once the matter has been considered by the LATM Advisory Group and is considered by the Council, consultation with the wider community may be recommended.

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:

No funds have been allocated for Traffic Management works in Palmerston Street in the 2004/2005 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 Service for enforcement of the legal speed limit.

The location listed in this report requires further investigation to address the residents' continuing concerns.

It is therefore recommended that this matter be referred to the Town's Local Area Traffic Management Advisory Group for their consideration and a further report be considered by the Council once the Town's Local Area Traffic Management Advisory Group have considered the matter.

10.2.2 2004 Annual Streetlight Audit

Ward:	Both	Date:	22 September 2004
Precinct:	All	File Ref:	TES0175
Reporting Officer(s):	C Wilson		
Checked/Endorsed by:	R Lotznicher		
Amended by:			

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the report on the 2004 Streetlight Audit undertaken by the Town's officers;*
- (ii) *NOTES that;*
 - (a) *a further streetlight night audit in 2005; and*
 - (b) *Western Power Corporation will be advised of the results of the 2004 audit; and*
- (iii) *REQUESTS Western Power Corporation to improve monitoring of their network to ensure that the street lighting infrastructure is better maintained.*

COUNCIL DECISION ITEM 10.2.2

Moved Cr Lake, Seconded Cr Cohen

That the recommendation be adopted.

CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

BACKGROUND:

Over the past decades the provision of street lighting has evolved into a core function of Local Government. Whilst the actual installation and maintenance of streetlights is undertaken by Western Power Corporation the initial installation and the annual running costs are borne by Local Government.

Until the late 1990s Western Power personnel regularly inspected the network to ensure a high level of service. However, it appears that Western Power no longer carry out this function and that the onus has been shifted to Local Authorities and the general public to advise Western Power of any faulty streetlights by way of telephone, email or facsimile.

As a result and as widely acknowledged, the level of service has diminished as the public are generally unaware that they are expected to report faulty streetlights in lieu of Western Power actively inspecting the network.

In 2001, in order to determine if there was an excessive number of street lights not working within the Town, the Council endorsed a proposal for Technical Services officers to undertake a streetlight audit on an annual basis.

DETAILS:

Over the past fortnight, officers from Technical Services have undertaken a systematic streetlight audit. The Town was divided into five zones and every streetlight within the Town inspected (under operating/night time conditions). The primary aim of the audit was to identify lights not working, while the secondary aim was to assess the adequacy of the lighting and to make recommendations, where necessary, to install improved or additional lighting.

The annual audit was undertaken July/August to take advantage of the early sunset and thereby ensuring that the officers can finish at a reasonable hour.

The results of the audit and previous years comparisons are as follows:

Year	No. of Lights	No. Not Working	% Not Working
2004	3074	106	3.4
2003	3012	143	4.7
2002	2963	86	2.9
2001	2920	110	3.8

Western Power have been advised in writing of each location and requested to repair/replace the light as soon as practical.

Accounting for the increase in the number of Streetlights

Every year the Town installs additional streetlights, either at the request of residents and businesses, as a result of road safety assessment and/or capital works projects. However, the apparent increase of 154 streetlights over the four (4) year period is not as significant as it appears.

The average increase, for all of the above categories, is approximately 25 units per year. Further, in 2002/03 the Town replaced the non standard streetlights in Plunket Street and Joinery Mews, Highgate, as a means of reducing maintenance, liability and running costs. Non standard lights, as originally installed in the Highgate Village subdivision, are maintained by the Town and attracts a higher operating tariff.

The remainder of the apparent increase, approximately 30%, were faulty boundary road streetlights located on the side of the adjoining local authority, such as Walcott Street, and not previously reported. The decision to include these lights was taken in the public interest as they were unlikely to be reported otherwise.

StreetVision Street Lighting Agreement

The Town, like the majority of Local Authorities, is a party to Western Power's standard StreetVision Street Lighting Agreement. This is the contract whereby Western Power undertakes to maintain the street lighting network for an annual service cost. For the financial year 2004/05 the total cost is \$368,459, GST inclusive.

By way of comparison, in 2003/04 the contract price was \$366,071, representing an annual increase of \$2,388 or 0.7%, which is less than the rise in the Consumer Price Index over the same period.

FINANCIAL/BUDGET IMPLICATIONS:

Approximately \$1,125 for staff overtime and vehicle running costs to undertake the audit. The streetlight installation program and annual running costs are reviewed as part of the budget preparation process.

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 - Traffic and Parking Management. *"r) Continue the street lighting improvement program"*.

COMMENTS:

Having undertaken the audit for the past four (4) years, Western Power's level of service in respect of streetlights appears to fluctuate within a narrow band. Faults peaked in 2003 at 4.7% (of the total number of streetlights) but have since dropped back to 3.4%. Part of this reduction may be attributed to the fact that Council officers now take a more proactive stance in reporting faulty streetlights through out the year. Further, the Town has in the past advertised Western Power's fault reporting freecall 1800 number (1800 622 008), "fax-a-light" service (9427 4379) or e-mail "streetlights@westernpower.com.au" in its quarterly newsletter. Western Power themselves now display these options far more predominately on their website and in the telephone directory.

As an approximate guide only, using Western Power's 2004/05 annual street-lighting charge of \$368,459 and based upon 3.4% of lights not working at any given time, this represents a potential loss of service to the community of approximately \$12,500 per annum.

While the Town does not have grounds to seek a reduction in the streetlight tariff under Western Power's charter based upon the annual streetlight audit data, the annual audit continues to prove useful. The 2004/2005 results, which will be forwarded to Western Power, highlights inadequacies in their systems.

10.2.3 Proposed Taking of Right of Way at the Rear of Waugh Street, North Perth, Properties

Ward:	North	Date:	16/09/02004
Precinct:	North Perth P8	File Ref:	TES0543
Attachments:	001;		
Reporting Officer(s):	A Munyard		
Checked/Endorsed by:	Rick Lotznicher	Amended by:	

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the report on the proposed taking of the right of way bounded by Waugh, Mignonette, Farmer and Fitzgerald Streets, North Perth, as shown on attached Deposited Plans 1306 and 3002(3);*
- (ii) *APPROVES the commencement of the taking process in accordance with section 52 of the Land Administration Act 1997; and*
- (iii) *ADVISES the applicants that they will be required to pay all expenses associated with the taking of the right of way, which are estimated to be in the order of \$200.*

COUNCIL DECISION ITEM 10.2.3

Moved Cr Lake, Seconded Cr Cohen

That the recommendation be adopted.

CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

BACKGROUND:

While investigating possible development options for their property, the owners of Lot 25, No. 5 Waugh Street have discovered that they do not have a right of access from the private right of way (ROW) at the rear of their property. They subsequently approached the Town requesting that the ROW be “taken” and therefore become a public access-way.

DETAILS:

Both the applicants’ property (Lot 25) and the property on their western boundary (Lot 24) have been making use of the ROW to access rear garaging, however, the Town would not be able to approve any future development on any of the three lots to the north of the ROW which necessitated such usage.

The applicants have engaged a specialist consultant to locate the owner of the ROW, so that they may obtain an “expressed right”, or access easement, however they have been advised that searches of the Supreme Court Probate Office and the Battye Library reveal no trace of the owners. As the ROW was acquired in 1908, it can reasonably be assumed that the owners are now deceased.

As it is the Town's policy to progressively acquire and maintain all privately owned ROWs, the acquisition of this ROW would have been undertaken in time. In the past, when the Town has been made aware of irregularities regarding access rights, corrective action has been taken as soon as possible. The implementation of a "taking" order in this case is in line with both policy and previous procedure.

Right of access:

Under section 167A of the Transfer of Land Act only those registered proprietors of the original Lots or Lots subdivided from those original Lots, which were created on the Plan or Diagram of Survey on which the ROW was also created, along with their guests and invitees, have an implied right to upgrade, seal, drain and *use* the ROW for vehicular and pedestrian access.

In most cases, this will include those Lots on either side of the ROW, however, this is not always so. The ROW in question was created on attached Plan 1306. Only those Lots shown on that plan have a legal right of access. The applicants' Lot, Lot 25, and those Lots on either side of it, were created on Plan 3002(3), and have no implied right to the use of the ROW.

There is some argument that where proprietors of Lots have historically used a ROW, though not in possession of an implied or expressed right, they may after many years acquire a common law right of access. Each claim to a right of this nature needs to be tried in the Supreme Court, and is frequently prohibitively expensive for the applicant to prove.

Taking:

"TAKING" is the term used under the Land Administration Act 1997 in lieu of "resumption" or "compulsory acquisition". When a ROW is "taken", it reverts from private land with an access easement conferred on certain parties (those with an implied or expressed right), to Crown Land, vested in the Local Authority for the purposes of access way. The ROW is then available to be used by the public for this purpose, however it differs from being a minor public road in that it is not dedicated. Therefore there is no requirement on the Town to pave, drain, name or provide lighting in the ROW prior to its resumption.

Department of Land Information records indicate that this ROW is held on Title Volume 425 Folio 117 in the names of Abraham Jacob Herman and Isidora Herman. The recent changes to the Land Administration Act now permit taking of a private road by providing written advice to the Minister for Lands that all reasonable steps have been taken to contact the owners. In this case, the title being dated 1908, it is considered reasonable to assume the property now lies in a deceased estate.

CONSULTATION/ADVERTISING:

Should the Council approve the taking of the ROW, the process will be carried out in accordance with the Land Administration Act 1997. Section 52(3) requires the Town to give 30 days notice to all suppliers of public utilities, all adjacent property owners and, if possible, the owner of the freehold of the ROW. Any comments or objections received within that period must be presented to the Minister together with the application to "take".

LEGAL/POLICY

As outlined above.

FINANCIAL/BUDGET IMPLICATIONS:

The costs involved in the "taking" of the ROW are limited to Department of Land Information costs, the requirement to place an advertisement in the *West Australian* having been lifted by the Land Administration Amendment Act 2000. It is estimated that these will be less than \$200.00. The applicants will be asked to pay all costs associated with the "taking".

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. *"c) Review options for a Right of Way management and upgrade strategy."*

COMMENTS:

As it is in line with the Town's acquisition policy, it appears to be a sensible pre-emptive step to proceed with the "taking" of this ROW at this time, and thereby normalise the right of access for all lots which have had historical use.

10.3.1 Financial Statements as at 31 July 2004

Ward:	Both	Date:	16 September 2004
Precinct:	All	File Ref:	FIN0026
Attachments:	001		
Reporting Officer(s):	Bee Choo Tan		
Checked/Endorsed by:	M Rootsey	Amended by:	

OFFICER RECOMMENDATION:

That the Council RECEIVE the Financial Reports for the year ended 31 July 2004 as shown in Appendix 10.3.1.

COUNCIL DECISION ITEM 10.3.1

Moved Cr Lake, Seconded Cr Cohen

That the recommendation be adopted.

CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

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 July 2004.

DETAILS:

The Financial Statements comprise:

- Operating Statement
- Summary of Programmes/Activities
- Capital Works 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 63.6% of the annual Budget estimate.

General Purpose Funding (Page 1)

General Purpose Funding is showing 89.41% of the budget levied to date. This is due to rates being levied for the financial year; the rates revenue represents 98% of the budgeted amount for the rates income.

Law Order & Public Safety (Page 3)

Revenue is showing a favourable variance of 22.3% due to the recoup in advance of employee cost who is Safer Vincent Coordinator on secondment to the Office of Crime Prevention.

Health (Page 4)

Health is showing 59.6%. This is due to the various annual Health Licences being issued.

Recreation & Culture (Page 9)

Recreation and Culture is currently on budget due to Beatty Park meeting target for month of July.

Economic Services (Page 12)

Higher than budgeted revenue due to significant rise in building licences issued for July representing 22% of expected annual revenue.

Operating Expenditure

Operating expenditure in the month of July traditionally runs significantly under budget predictions due to the focus on the year end. At the end of July operating expenditure is running at 5.8% of the annual budget.

Capital Expenditure Summary (Pages 18 to 24)

The Capital Expenditure summary details projects included in the 2004/05 budget and reports the original budget and compares actual expenditure to date against these. Capital works expenditure for July amounts to \$269,372 which is 2% of the total capital budget.

Capital Expenditure Work Schedule Summary 2004/2005

	Budget	Actual to Date	%
Furniture & Equipment	144,560	21,592	15%
Plant & Equipment	1,249,972	0	0%
Land & Building	2,746,610	36,600	1%
Infrastructure	6,997,900	211,181	2%
Total	11,139,042	269,372	2%

**Statement of Financial Position and Changes in Equity and Restricted Cash Reserves
(Not available due to year end 30 June 04 not yet finalised)**

Debtors and Rates Financial Summary

General Debtors (Page 25)

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

Sundry Debtors of \$2,674,060 are outstanding at the end of July. Of this \$2,334,082 (87%) relates to debts outstanding for over 60 days. The majority of the debt is \$1,827,992 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 is either current or 1- 30 Days.

Rate Debtors (Page 26)

The notices for rates and charges levied for 2004/05 were issued on the 3 August 2004.

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

First Instalment	7 September 2004
Second Instalment	8 November 2004
Third Instalment	6 January 2005
Fourth Instalment	8 March 2005

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.

Rates outstanding for July \$13,160,621 representing 96.0%

Beatty Park – Financial Position Report (Page 27)

As at 31 July 2004 the operating surplus for the Centre was \$53,682 in comparison to the budgeted annual deficit of \$612,852.

The cash position showed a current cash surplus of \$81,437 in comparison to the annual budget estimate of a cash deficit of \$157,887. The cash position is calculated by adding back depreciation to the operating position.

10.4.2 Information Bulletin

Ward:	-	Date:	22 September 2004
Precinct:	-	File Ref:	-
Attachments:	001		
Reporting Officer(s):	A Smith		
Checked/Endorsed by:	John Giorgi	Amended by:	-

OFFICER RECOMMENDATION:

That the Information Bulletin dated 28 September 2004 as distributed with the Agenda, be received.

COUNCIL DECISION ITEM 10.4.2

Moved Cr Lake, Seconded Cr Cohen

That the recommendation be adopted.

CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

DETAILS:

The items included in the Information Bulletin dated 28 September 2004 are as follows:

ITEM	DESCRIPTION
IB01	Letter from Town Planning Appeal Tribunal - Appeal No. 276 of 2003 and Appeal No. 106 of 2004 - No. 39 Farmer Street, North Perth - Minute of Consent Orders
IB02	Office of the Minister for Environment - Release of Western Australian Greenhouse Strategy
IB03	Notice of Forum – Tuesday 5 October 2004

10.1.11 No(s). 128-130 (Lot(s) 28 & 27) Joel Terrace, Mount Lawley - Proposed Three (3) Two-Storey and Four (4) Three-Storey Grouped Dwellings and Survey Strata Subdivision 63-04

Ward:	South	Date:	23 September 2004
Precinct:	Banks; P15	File Ref:	PRO2620; 00/33/1980, 63-04
Attachments:	001		
Reporting Officer(s):	R Rasiah		
Checked/Endorsed by:	D Abel	Amended by:	R Boardman, John Giorgi

CEO AND EMEDS RECOMMENDATION:

That the Council;

- (i) *in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council REFUSES the application submitted by Urbanize Architect on behalf of the owners MI Lurie & NJ Aitken as Trustees for the Joel Terrace Trust for proposed Three (3) Two-Storey and Four (4) Three-Storey Grouped Dwellings, at No(s). 128-130 (Lot(s) 28 & 27), Joel Terrace, Mount Lawley, and as shown on plans stamp-dated 27 May 2004 and 28 June 2004 (site plans, elevations, floor plans), 1 September 2004 (screening for Unit 7 living level, garage on adjoining lot to the west and relocation of visitor bay), 6 September 2004(revised plans for the loft to Unit 6, removal of below ground area for reduction in plot ratio), 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 and precinct area;*
 - (b) *the non-compliance with the building setbacks, plot ratio, number of storeys, retaining walls, privacy, number of building walls, stores and building height requirements of the Residential Design Codes, and the requirements of the Banks Precinct and Riverside Locality Plan;*
 - (c) *the Camphor Laurel tree is currently listed on the Town's Trees of Significance Inventory, and the extent of required pruning of this tree to accommodate the proposed development will significantly reduce the value and significance of the tree;*
 - (d) *in the opinion of the Chief Executive Officer and Executive Manager Environmental and Development Services, (having given consideration to the two aboriginalists' report submitted by Charles Aldous-Ball dated 3 December 2003 and John Bank's dated 20 August 2004), the necessary pruning, excavation required and building construction in close proximity to the Significant Tree will result in its disfigurement, a significant loss of its root system and canopy and this will have the potential to compromise the tree's long term stability and cause a corresponding deleterious effect and its possible deterioration;*
 - (e) *the creation of an undesirable precedent in the locality; and*
 - (f) *consideration of the significant number of objections received;*

- (ii) *ADVISES the applicant that it is prepared to consider a new planning application for a revised proposal that reflects no building within the Camphor Laurel tree canopy land area, the significant Camphor Laurel tree being retained in its current form, and the tree canopy land area possibly being set aside as open space with some on-grade open car parking bays for the residents of the grouped dwellings on-site; and*
- (iii) *in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Residential Design Codes, the Council RECOMMENDS REFUSAL to the Western Australian Planning Commission for the proposed Survey Strata Subdivision of Nos. 128-130 (Lots 27 and 28) Joel Terrace, Mount Lawley, and as shown on the plan stamp-dated January 2004 (Survey Strata Subdivision 63-04), 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 and precinct area;*
- (b) *the creation of an undesirable precedent in the locality;*
- (c) *the size and configuration of the proposed lots would most likely result in any reasonable dwelling on the lots not complying with the requirements of the Residential Design Codes and the Town's Town Planning Scheme No. 1 and associated Policies; and*
- (d) *the proposed lots sizes do not reflect the size of the lots proposed in the concurrent development application, considered by Council at its Ordinary Meeting held on 28 September 2004, which range from 169 to 231 square metres;*
- (e) *the proposed measures to identify and protect the Camphor Laurel tree, located on the far south western corner of Lot 28 (proposed Lot 7) and which is listed in the Town's Trees of Significance Inventory, are not to the satisfaction of the Town; and*
- (f) *consideration of the significant number of objections received in relation to the development application for seven (7) grouped dwellings proposed for the above site.*

COUNCIL DECISION ITEM 10.1.11

Moved Cr Cohen, Seconded Cr Lake

That the recommendation be adopted.

Debate ensued.

Moved Cr Franchina, Seconded Cr Lake

That Cr Cohen be permitted to speak for a further 5 minutes.

CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

Debate continued.

MOTION CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

At 6.55pm, the Acting Chief Executive Officer advised that he had received the following declarations of interest:

- Cr Chester declared an interest affecting impartiality in Item 13.1 – Further Report – No(s) 163-171 (Lot(s) 13 and 17) Harold Street, Highgate – Proposed Retaining Walls Additions to Existing Single Residential Vacant Lots – Previously Associated with Sacred Heart Primary School. The nature of his interest being that his son attends Sacred Heart Primary School.
- Mayor Catania declared a financial interest in Item 10.1.8 – No(s) 331 (Lot(s) 5) Stirling Street, Highgate – Proposed Demolition of Existing Dwelling. The nature of interest being that the applicant is a relative.

ADDITIONAL INFORMATION:

The following information is provided in response to queries raised by Councillor Caroline Cohen.

Neighbour Development Adjacent to Unit 7

In the Compliance table on page 60, for Setbacks: Unit 7 - Northern side, in the 'Proposed*' column, the northern wall abuts the neighbour's wall which has a terraced garden, and not the garage wall as stated.

View of Camphor Laurel Tree from Joel Terrace

The statement relating to the view of the Camphor Laurel tree from Joel Terrace in the second paragraph on page 64, that it *'would not be that significant, due to obstruction of houses on Joel Terrace'* should be corrected in that the Camphor Laurel tree will be visible when viewed between the 2 houses along Joel Terrace.

Plot Ratio Area

The area in square metres of the access way to the 2 subject lots is approximately 242 square metres.

Swan River Trust Processing of Application

The Swan River Trust (SRT) have advised that the above proposal was dealt by its sub committee, and not referred to a SRT Board meeting, as only advice was required to be provided to the Town for the above development application by the STR.

It appears that an application is only referred to a SRT Board meeting if the Trust has concerns regarding the application.

No feedback regarding the application was provided to the SRT by the Town, other than formal referral of the application and plans to the SRT for its comments.

Eastern (Riverside) Retaining Walls

The retaining wall along the eastern side of the subject two (2) lots varies between 200 millimetres to a maximum of 1 metre. The fencing above this retaining wall consists of brick piers at 1.7 metres in height, with open wrought iron infill. The brick pier at the highest point on the retaining wall (1 metre plus 1.7 metres) is 2.7 metres in height. The maximum retaining alone proposed in the original set of plans was approximately 1.7 metres at the highest point.

The SRT's previous concerns relating to the original plans submitted for the above development related to bulk and scale, and the detrimental visual impact on the amenity of the riverscape by virtue of its close proximity on the adjacent foreshore and riverine environment.

CEO AND EMEDS REPORT:

The CEO and EMEDS have changed the Officer Recommendation for the following reasons:

1. The development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality and precinct area
2. The non-compliance with the building setbacks, plot ratio, number of storeys, retaining walls, privacy, stores and building height requirements of the Residential Design Codes, and the requirements of the Banks Precinct and Riverside Locality Plan

The existing residential building form within the locality is predominantly detached housing with pitched roof and curtilage around the building.

The Town's Policy relating to the Riverside Locality states as follows:

"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.

Buildings are generally to be setback from all boundaries in landscaped gardens ...

Additionally, priority will be given to ensuring that new infill and group housing developments do not result in an undue loss of privacy or amenity for existing residents."

The proposed development is considered to be in conflict with the above policy provisions, where the number and extent of variations and resultant bulk, scale and nature of the development, particularly the significantly reduced setbacks and increased plot ratio, building height and number of building walls will create considerable undue impact on the amenity of the neighbouring properties and the river-scape.

It is acknowledged that the main justification for the variations is due to the steep slope of the site and the retention of the significant Camphor Laurel tree. However, it is considered that other developments in the locality have generally been designed to be more sensitive to the slope of land and the established character.

3. The Camphor Laurel tree is currently on the Town's Trees of Significance Inventory, and the extent of required pruning of this tree to accommodate the proposed development will significantly reduce the value and significance of the tree

The Camphor Laurel tree is currently on the Town's Trees of Significance Inventory, and the extent of required pruning of this tree to accommodate the proposed development will significantly reduce the value and significance of the tree.

The necessary pruning, excavation required and building construction in close proximity to the Significant Tree will result in its disfigurement, a significant loss of its root system and canopy and this will have the potential to compromise the tree's long term stability and cause a corresponding deleterious effect and its possible deterioration.

The Town is currently finalising the Town's Trees of Significance Inventory. The Town's officers will be recommending that development can generally be located up to the extent of the tree canopy spread. However, in certain circumstances development can be located closer to the trunk of the tree depending on the design of the development and subject to an arboriculturalist assessing the impact of such a development on the tree. Location of development extent may vary from this requirement, as the assessment needs to take into account the following:

- Species
- Topography
- Type of development
- Foundation type
- Building construction
- Soil type

This information is consistent with the advice previously provided by the Town's arboriculturalist consultant. However, in this case there is sufficient information provided to conclude that the extent of excavation and proposed building within the canopy area and in close proximity to the tree, is contrary to good arboricultural practice. It is noted that there appears to be conflicting opinion between the two arboriculturalist reports.

The tree would be significantly covered by the dwellings to be constructed when viewed from the Swan River. Also the tree as a result of the pruning when viewed from Joel Terrace would not be that significant, due to the obstruction of houses along Joel Terrace and also due to the inclination of the land that slopes towards the river, eastern side of the subject site.

4. The creation of an undesirable precedent in the locality

In light of the above comments, the scale, intensity and nature of the proposed development is considered to create an undesirable precedent in the locality, while the significant extent of pruning and disturbance to the significant Camphor Laurel tree to accommodate the proposed development creates an undesirable precedent of preserving the value and significance of a tree on the Town's Trees of Significance Inventory.

5. Consideration of the objections received

Considerable ratepayer and resident objection has been received, comprising a total of 23 individual submissions and including a petition with 102 signatures. This is a clear indicator of the community's non-acceptance of the proposal, and the Council should give due consideration to these objections.

Conclusion

It is acknowledged that the applicant has made considerable effort to amend and modify plans to meet the necessary statutory requirements. However, the Chief Executive Officer and Executive Manager Environmental and Development Services are of the strong opinion that as this is considered a "greenfield site", and full (or greater) compliance can be achieved with the statutory requirements. It can be argued that the significant non-compliances have resulted in a design which is considered unacceptable and therefore non-supportable. Furthermore, the adverse ramifications of the proposed development on the Significant Tree cannot be underestimated.

There are more appropriate alternative design solutions, one of which includes no building within the Camphor Laurel tree canopy land area, the significant Camphor Laurel tree being retained in its current form, and the tree canopy land area possibly being set aside as open space with some on-grade open car parking bays for the residents of the grouped dwellings on-site. In light of the above comments, it is recommended that the Council refuse the proposed development and survey strata subdivision.

OFFICER RECOMMENDATION:

That;

- ~~(i) — in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by Urbanize Architect on behalf of the owners MI Lurie & NJ Aitken as Trustees for the Joel Terrace Trust for proposed Three (3) Two-Storey and Four (4) Three-Storey Grouped Dwellings, at No(s). 128-130 (Lot(s) 28 & 27), Joel Terrace, Mount Lawley, and as shown on plans stamp dated 27 May 2004 and 28 June 2004 (site plans, elevations, floor plans), 1 September 2004 (screening for Unit 7 living level, garage on adjoining lot to the west and relocation of visitor bay), 6 September 2004 (revised plans for the loft to Unit 6, removal of below ground area for reduction in plot ratio), subject to:~~
- ~~(a) — compliance with all relevant Environmental Health, Engineering and Building requirements, including access and carparking;~~
 - ~~(b) — detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building Licence application;~~
 - ~~(c) — to ensure the retention, protection and on-going preservation of the Camphor Laurel tree listed on the Town's Trees of Significance Inventory, the owner/s and/or occupier/s shall implement the following measures to retain, protect and maintain the on-going health of the significant tree:~~

~~(1) — the submission of a tree management plan prepared by an aboriculturalist Charles Aldous Ball or a qualified aboriculturalist commissioned by the Town, which addresses for the works to be carried out during development works and the on-going maintenance. This tree management plan shall be submitted to and approved by the Town prior to the issue of a Building Licence, and all associated works shall be undertaken and maintained thereafter in accordance with the plan to the satisfaction of the Town;~~

~~(2) — aboriculturalist, Charles Aldous Ball or an aboriculturist commissioned by the Town to be on-site during all limb removals process for the Camphor Laurel tree; and~~

~~(3) — the Camphor Laurel tree to be inspected annually by aboriculturalist Charles Aldous Ball or a qualified aboriculturalist commissioned by the Town, and all necessary remedial works to be carried out.~~

~~All cost associated with this condition shall be borne by the owners;~~

~~(d) — 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;~~

~~(e) — to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development:~~

~~(1) — the opening to the entry, "bridge" and roof deck on the northern elevation and the window to the kitchen on the western elevation, on the car parking and loft levels, of Unit 1;~~

~~(2) — the roof deck the on loft level on the western elevations of Unit 7; and~~

~~(3) — the balcony opening on the car parking level on the southern elevation of Unit 6;~~

~~shall be screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the finished floor level. A permanent obscure material does not include a self adhesive material or other material that is easily removed;~~

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

~~(1) — design features being incorporated into the northern elevation wall of Unit 1 to reduce the visual impact of this wall; and~~

~~(2) — stores being a minimum dimension of 1.5 metres.~~

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

~~(g) — prior to the issue of a Building Licence, a Construction Management Plan addressing noise, hours of construction, traffic, dust and any other appropriate matters, shall be submitted to and approved by the Town;~~

- ~~(h) — 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);~~
- ~~(i) — 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;~~
- ~~(j) — prior to the issue of a Building Licence, the subject land shall be amalgamated into one lot on Certificate of Title; OR alternatively, prior to the issue of a Building Licence the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town's solicitors or other solicitors agreed upon by the Town, undertaking to amalgamate the subject land into one lot within 6 months of the issue of the subject Building Licence. All costs associated with this condition shall be borne by the applicant/owner(s);~~
- ~~(k) — prior to the first occupation of the development, the applicant/owner(s) shall, in at least 12-point size writing, advise (prospective) purchasers of the residential units/dwellings that:~~
- ~~"the Town of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the residential units/dwellings. This is because at the time the planning application for the development was submitted to the Town, the developer claimed that the on-site parking provided would adequately meet the current and future parking demands of the development";~~
- ~~(l) — no fence shall exceed a maximum of 1.8 metres above the ground level adjacent to the Swan River Trust Management area;~~
- ~~(m) — a hydrogeological study and report, including a certified Practising Consulting Engineer's certification as to the capability of the subject site and adequacy of the proposed foundations for the development, taking into account the geotechnical and hydrogeological composition and history of the site, shall be submitted and approved prior to the issue of a Building Licence;~~
- ~~(n) — 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;~~
- ~~(o) — 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;~~

- ~~(p) — all new crossover/s to allotments are subject to a separate approval by the Town's Technical Services Division and shall be constructed in accordance with the Town's standard Crossover Specification/s which, in particular, specify that the portion of the existing footpath traversing the proposed crossover, subject to the existing footpath being in a good condition as determined by the Town's Technical Services Division, must be retained such that it forms a part of the proposed crossover and the proposed crossover levels shall match the level/s of the existing footpath. Crossovers may be constructed by a private contractor provided they are constructed in accordance with the above specifications and a security bond of \$275 is paid prior to the crossover approval. Application for the refund of bond must be submitted in writing;~~
- ~~(q) — a 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;~~
- ~~(r) — visitor car bay No.1 shall be clearly marked and sign posted as such on-site;~~
- ~~(s) — 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; and~~
- ~~(t) — compliance with the written approval and conditions of the Swan River Trust for the proposed development;~~
- ~~to the satisfaction of the Chief Executive Officer; and~~
- ~~(ii) — in accordance with the provisions of the Town of Vincent Town Planning Scheme No.1 and the Residential Design Codes, the Council RECOMMENDS APPROVAL to the Western Australian Planning Commission for the proposed Survey Strata Subdivision of Nos. 128-130 (Lots 27 and 28) Joel Terrace, Mount Lawley, and as shown on the plan stamp dated January 2004 (Survey Strata Subdivision 63-04), subject to:~~
- ~~(a) — the land being filled and/or drained at the subdivider's cost to the satisfaction of the Town and any easements and/or reserves necessary for the implementation thereof, being provided free of cost;~~
- ~~(b) — support of the subdivision is not to be construed as support of any development on the proposed lots;~~
- ~~(c) — prior to the clearance of the diagram of survey or the endorsement of an appropriate form for the proposed lots, by the Town, the following criteria shall be met to the satisfaction of the Town of Vincent;~~
- ~~(1) — the Town of Vincent has approved a Planning Approval and/or Building Licence for the development of dwelling(s) on each of the subject lots; and~~

- ~~(2) — the perimeter walls of the approved dwelling(s), including the garage walls and carport walls/pillars, have been constructed to plate height;~~
- ~~(d) — the Camphor Laurel tree, located on the far south-western corner of Lot 28, which is listed in the Town's Trees of Significance Inventory, being retained and measures being taken to ensure its identification and protection to the satisfaction of the Town prior to commencement of site works;~~
- ~~(e) — the proposed lots sizes to be increased to reflect the size of the lots proposed in the concurrent development application, considered by Council on 28 September 2004, which range from 169 to 231 square metres; and~~
- ~~(f) — a Management Statement being prepared and submitted in accordance with section 5C of the Strata Titles Act 1985, to include the following additions to the by-laws contained in Schedules 1 and 2 of the Strata Titles Act:~~
- ~~(1) — development or redevelopment on the survey strata lots must comply with an existing development approval issued by the Town of Vincent, or such alternative development approval as the Council may grant, which complies with the grouped dwelling requirements of the Town of Vincent Town Planning Scheme;~~
- ~~(2) — amendment to or repeal of the above provision cannot be effected without the Commission's agreement;~~
- ~~(3) — to ensure the retention, protection and on-going preservation of the Camphor Laurel tree listed on the Town's Trees of Significance Inventory, the owner/s and/or occupier/s shall implement the following measures to retain, protect and maintain the on-going health of the significant tree:~~
- ~~(i) — the submission of a tree management plan which accounts for the works to be carried out during development works and the on-going maintenance shall be prepared by an aboriculturalist — Charles Aldous Ball or a qualified aboriculturalist commissioned by the Town, prior to the issue of a Building Licence. This tree management plan shall be submitted to and approved by the Town and all associated works shall be undertaken and maintained thereafter in accordance with the plan to the satisfaction of the Town;~~
- ~~(ii) — aboriculturalist, Charles Aldous Ball or an aboriculturalist commissioned by the Town to be on-site during all limb removals process for the Camphor Laurel tree; and~~
- ~~(iii) — the Camphor Laurel tree to be inspected annually by aboriculturalist — Charles Aldous Ball or a qualified aboriculturalist commissioned by the Town, and all necessary remedial works to be carried out.~~

~~All cost associated with the above requirement shall be borne by the owners; and~~

~~to the satisfaction of the Chief Executive Officer.~~

Landowner:	MI Lurie & NJ Aitken as Trustees For Joel Terrace Trust
Applicant:	Urbanize Architect
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1: Residential R60
Existing Land Use:	Vacant Land
Use Class:	Grouped Dwelling
Use Classification:	"P"
Lot Area:	1595 square metres

COMPLIANCE:

Requirements	Required	Proposed*
Plot Ratio	0.65 or 1036 square metres	0.71 or 1332 square metres, due to deletion of lower level theatres and bedroom 3-Plans dated 6 September 2004
Density	R 60 (9 Grouped Dwellings)	R 43.9 (7 Grouped Dwellings)
Setbacks:		
<u>Unit 1- North Side</u> Lower Level- Bedroom Three Car Parking Level	1.5 metres Parapet wall can be two thirds length of common boundary with an average height of 3 metres and a maximum height of 3.5 metres	Nil to 2 metres 3.5 metres average height to 4.7 metres maximum height
Loft Level	1.9 metres	1.365 metres
<u>Unit 6-South Side</u> Loft Level-deck Loft Level- rest room	 4 metres 2.5 metres	 1.3 metres 2.3 metres
<u>Unit 7- Southern Side</u> Loft Level-living room	1.2 metres	1.045 metre
<u>Unit 7- Northern side</u> Car Parking Level-sleeping room	Parapet wall can be two thirds length of common boundary with an average height of 3 metres and a maximum height of 3.5 metres	Length greater than two thirds of the common boundary (as north boundary to Unit 7 is very short, however, this wall abuts neighbours garage wall). Walls on more than one boundary wall.
Loft-Level-living room	1.2 metres	1metre

Requirements	Required	Proposed*
Unit 7- Western side Loft Level-lounge room Loft Level-laundry	1.2 metres 1.1 metres	1.03 metres 1 metre
Retaining Walls	Proposed retaining walls to be setback 1.5 metres from common boundaries.	1 metre to 1.6 metres along east and south elevation (however, it is very difficult to ascertain retaining wall height along southern boundary as there are parapet walls and brick fences, and no retaining walls are clearly depicted).
Privacy: Unit1-Car Parking Level - kitchen Unit 6-Car Parking Level-balcony Unit 7- Loft Level-roof deck	6.0 metres 7.5 metres to decks 7.5 metres	Nil Balcony overlooks Swan River Trust area. 1 to 6.2 metres
Stores	4 square metres in area, with a minimum dimension of 1.5 metres.	Unit 1, Unit 2 and Unit 3- minimum dimension slightly less than 1.5 metres.
Significant Tree	Tree on Trees of Significant Inventory	Significant Tree being retained, subject to pruning and based on comments from Town's aboriculturalist consultant, Charles Aldous-Ball, who is to be on-site during limb removal, as per condition of approval.
Height	Town's Policy relating to the Riverside Locality allows a general height limit of two storeys (including loft), being 6 metres to the eaves and 9 metres to the roof ridge and 7 metres to top of a concealed roof, which is as per the R-Codes.	Unit 1, Unit 2 and Unit 3 = 7 metres to top of roof decks, (two-storey development). Unit 4 and Unit 5 = 7 metres to eaves along river elevation, (three-storey development). Unit 6 = 9.42 metres to roof ridge and 8 metres to eaves. Concealed roof is 8.6 metres on southern side. Unit 7 = 7.2 to eaves, (both Units 6 and 7 are considered as three-storey developments).

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

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

BACKGROUND:

21 June 2004 The Swan River Trust resolved to refuse the original plans for the following reasons:

- *“The proposed development is not consistent with the Swan River Trust Policy (SRT/DE3-development Setbacks) and will have a detrimental impact on the amenity of the adjacent reserve.*
- *The proximity of the proposed development to the Parks and Recreation reservation will result in conflicts between potential purchasers of the dwellings and the public utilising the foreshore path that is proposed between Banks Reserve and Bardon Park Maylands”.*

The Trust's further advice was that the setback should be either 10 metres or 20 per cent of the average depth of the lot.

7 September 2004 The Swan River Trust has written to the Town advising that they have no objection towards to the subject revised proposal subject to its conditions.

SITE HISTORY:

The subject sites are two (2) vacant fee simple green title lots. The driveway access to the sites is via a partly constructed shared access drive. No. 124 Joel Terrace has also access rights via this driveway to their rear garage. The access way width associated with the above two lots is two (2) metres , which forms part of a wider reciprocal access way totalling 7 metres.

Archival Search

An archival search of the City of Perth records have been undertaken, to establish past determinations relating to the subdivision and development approvals of the above sites and surrounding lots.

The subdivision conditional approval issued for the above lots relates to standard conditions relating to battleaxe lots, attached.

In terms of development approvals, development applications were assessed under the provision of the City of Perth Town Planning Scheme 1985 and its Draft Scheme at that point in time. In addition to the above, the City of Perth policy relating to the “GR5” tables of the Uniform Building By-Laws was also used in the development assessment process. Some of the applicable provisions were the plot ratio of 0.7, buildings shall not be erected above a height of 6.1 metres above the level of Joel Terrace, adjacent of the site concerned, and each dwellings to be provided with 2 car spaces, one of which was to be covered.

Under the previous Town Planning Scheme of the City of Perth, Clause 63 for the Joel Terrace Precinct states as follows:

“63 (1) In considering an application for town planning approval in the Joel Terrace Precinct the Council, in addition to any other aim or objective of the Scheme and to any other matter it is required or permitted to consider, shall have regard to the following objectives:

- (a) the encouragement of development which takes advantage of the geographical position of the Precinct;*
- (b) the preservation of the amenity and existing character of the Precinct by ensuring that new development is low in scale;*

- (c) the retention of reasonable levels of vehicular traffic movement and of street car parking in the Precinct.*
- (2) In this precinct:*
- (a) a building shall not exceed a height of 6.1 metres above the highest point of Joel Terrace adjacent to the site of the building;*
- (b) at least two car parking spaces including one covered space shall be provided for each dwelling."*

Around circa 1984, part of the development application process required that development in the above areas to be forwarded to the Metropolitan Region Planning Authority (MRPA) for determination, with the local authority, being the City of Perth providing its comments and recommendations to the MRPA. Some of the residential developments supported by the City of Perth in 1984 included a reduction of 42 units to 34 units for Lots 359-364 Joel Terrace, Mount Lawley and a reduction of 62 units to 49 units for Lots 352 and 353-357 Joel Terrace, Mount Lawley. Other than standard development conditions, the City of Perth also recommended that no hydrogeotechnical problems are to arise from the development, the lots to be amalgamated, and the reduction in the number of units, which involved a larger land area, compared to the current proposal. A hydrogeotechnical report was prepared by the developers at that period of time, however does not cover the above site. Other matters of concern were the stormwater run off, stability of adjoining lots and the number of dwellings being proposed.

DETAILS:

The applicant seeks approval for the proposed seven (7) grouped dwellings at the above site. Units 1, 2 and 3 are considered as two storey developments, with open roofs decks, while Units 4, 5, 6 and 7 are considered as three storey developments, with the bottom floors being partly below ground.

The proposed lot sizes are between 169 to 231 square metres.

The applicant has provided a comprehensive submission (attached) in support of the proposal, including a report from aboriculturist Charles Aldous Ball in relation to the retention of the Camphor Laurel tree, and additional information as follows:

- *"The optional roof decks will be deleted*
- *Modified plans have been received showing screening for unit 7 and a re-located car bay*
- *Screening is required at the western end of the roof deck on unit 1*
- *Plot ratio calculations are to be provided by John Sneddon. The plot ratio of 0.71 with deletion of the below ground areas consisting of a variation of 9% will be supported*
- *The height for units 4 and 5 is slightly over 7m. This is measured from the ground level at the front boundary. Information on the ground level below the riverside walls is to be submitted or alternatively a cross-section provided by John Sneddon*
- *Unit 6 is overheight and this is to be addressed by a re-design by John Sneddon*
- *There are some minor variations but these are supported*
- *The screening will be required to be of a permanent material or fixed obscure material*
- *SRT approval is expected on September 6, 2004 and their comments will be forwarded asap."*

The applicant has advised that they have been in contact with all the major service providers, and have been advised that there is "no problem" in providing the required services. This requirement will also have been undertaken in the survey strata subdivision, where all service providers will be consulted as part of the subdivision process.

Grouped Dwellings Development

Parks Services

In terms of the reports from both arboriculturists', it is clearly evident that John Banks has not received all of the information required to accurately assess the proposal, in his first report. The report is brief, in comparison to Charles Aldous-Ball's and is based on a number of assumptions rather than facts.

However, from the second report from John Banks, it is identified that similar pruning of major leaders is required to allow construction of the development. However, it is difficult to determine whether John Banks is basing his conclusions on similar guidelines or the correct information in respect to the extent and construction techniques being proposed around the tree, as there are no attached photographs. From John Bank's conclusions, it is stating that the tree will be impacted on severely if this development proceeds. Generally, if both arboricultural consultants were provided with the same information, Parks Services Officers could not see why the John Banks and Charles Aldous-Ball reports would differ significantly. A copy of both reports have been "*laid on the table*" and provided to Elected Members.

The report submitted by Charles Aldous-Ball is considered accurate and the pruning that has been identified is required, and should the construction of the development proceed, some pruning is necessary for the long term health and condition of the tree.

Parks Services is also concerned that this Camphor Laurel tree is on the Town's current Trees of Significance Inventory, and following completion of this development, one might argue what "significance" remains, after any required additional pruning has been undertaken and the tree is barely visible other than the upper most branches above the rooftops.

Therefore, to compare one report against another and provide an independent assessment is difficult unless the Town is confident that both arboricultural consultants are assessing the impact on the tree using the same criteria or information provided.

Parks Services are of the view that following perusal of both reports, the current significance of the tree, Parks Services are of the view that it would be in the best interests to redesign the development and delete Unit 7 altogether. A small area of public open space or private garden could be developed around the tree.

The Town's Planning and Building Services are of the view that while the tree is required to be pruned, the severity in the pruning is within marginally acceptable standards, and is therefore acceptable, even though that it may not be ideal. After the required pruning, it has been stated that the top part of the canopy would still be visible. While it is acknowledged that the tree would be significantly covered by the dwellings to be constructed when viewed from the Swan River, the view from Joel Terrace would not be that significant, due to the obstruction of houses along Joel Terrace and also due to the inclination of the land that slopes towards the river, eastern side of the subject site.

Car Parking

Car parking requirements have been calculated using the requirement for grouped dwellings from the Residential Design Codes (R Codes). The development requires 14 car bays, which is based on 2 car bays (garages) and the provision of 1 visitor car bay, which is to be marked and sign posted on-site accordingly. The R Codes state that visitor car parking for grouped dwellings is to be provided at the rate of 1 car bay per four (4) grouped dwellings, or part thereof, in access of four grouped dwellings, served by a common access. The above is interpreted as 1 car bay per four grouped dwellings excluding the first four grouped dwellings. The applicants have also provided advice from their solicitors clarifying the above matter, which has been also been clarified in the Western Australian Planning Commission's R Codes website forum which deals with frequently asked questions (FAQ's) (attached).

The applicants have provided revised drawings, indicating the visitor bay to be adjacent to Unit 1, and not within the common driveway access as previously proposed.

Height Walls on Boundaries

The Town's Policy relating to the Riverside Locality Plan - Building Height permits a maximum height of 2 storeys, including a loft. In this instance, a partly three-storey development with undercroft car parking is proposed. The site slopes significantly from the top of the driveway access towards the river in an easterly direction. The applicant has undertaken to further cut into the site to accommodate the undercroft car park and, which also contributes to the reduction of the overall height of the proposal.

The current height restrictions applying to the site have been complied with as indicated on the elevations. The height restriction on title affects Lot 27 Joel Terrace only. Furthermore there are no rights to views, as claimed in some of the submission received.

Due to the tightness of the site and the location of the Camphor Laurel tree, has resulted in walls on more than one boundary. The walls are all single storey and abut other retaining walls on the adjoining properties, except for the two storey wall on the northern elevation for Unit 1.

To reduce the visual impact of the northern facing two-storey wall of Unit 1, a condition is recommended that design features be incorporated into the northern elevation wall of Unit 1.

The walls are considered acceptable under the above circumstances.

Setbacks

The applicants have sought side setback variations to the northern, southern and western sides. The applicant has altered the plans to address some of the concerns of the neighbours relating to overlooking. The reduced setbacks do not result in any undue overshadowing issues.

In light of the above, the variations are considered acceptable in the context that the significant tree is to be remain, and that there would be some expectation that to develop the property as it is together with the physical and tree constraints would involve some variations to setbacks.

Privacy

To reduce the potential overlooking from the northern elevation on the car parking and loft levels, including the kitchen of Unit 1, it is recommended that fixed obscure screening at 1.6 metres from the individual finished floor levels be imposed.

Objections were raised in terms of potential overlooking from balcony openings on the first and second floors on the western elevations of Unit 7, which are closer than 7.5 metres. To reduce the potential overlooking from the western elevation of the loft level of Unit 7, it is recommended that fixed obscure screening at 1.6 metres from the individual finished floor levels be imposed. Revised plans received on 1 September 2004 indicate timber screening to 1.8 metres high from the finished floor level of the living room level.

Objection was also raised in terms of potential overlooking from deck opening on the loft level (third floor) on the southern elevation of Unit 6, which is closer than 7.5 metres. Screening on the loft level at 1.6 metres from the finished floor level is proposed on the southern elevation of the above deck.

The applicants have indicated fixed obscure screening to 1.6 metres from the finished floor level for Unit 1 (car parking and loft levels) and Unit 7 (living room level), thereby generally complying with the cone of vision requirements of the R Codes. Nevertheless, the above screenings have been imposed as a condition of approval.

Plot Ratio and Bulk and Scale

Under the R60 applying to the sites, for residential development, the plot ratio is 0.65 or 1036 square metres. The plot ratio proposed for the residential development has been reduced from 0.84 or 1339 square metres to 0.71 or 1132 square metres, with the deletion of the below ground areas for Units 1 to 6 as indicated on the plans dated 6 September 2004. Under the R Codes, the plot ratio calculation is over the whole site and is not apportioned. The applicant has advised that they will not be providing the individual plot ratio for each of the lots as it is not required under the R Codes.

The variation to the plot ratio in this instance, which amounts to approximately 9 per cent or 96 square metres is considered supportable.

The bulk and scale of the proposal, while considered generally greater than most residential development, is in this instance taking into consideration the physical site constraints and significant tree location, considered marginally acceptable.

Open Space

The R Codes require each grouped dwellings to be provided with open space of 45 per cent of the individual strata title lot. The open space provided for the whole development is 48.3 per cent, which includes the common driveway. The open space for each individual strata lot is between 48.3 and 84.6 per cent.

Overshadowing

The plans submitted comply with the solar access requirements as indicated in the Residential Design Codes, with most of the shadowing over the lot to the south.

Traffic Impact, Visitor Carbay and Hydrogeotechnical Report

Traffic Impact

The existing drive access way is also to be used as the principal ingress and egress to the site. The proposed development has the potential to produce 56 vehicle movements per day, which is derived from a standard of 8 vehicle trips per day per dwelling. The Town has previously conducted traffic counts for this section of Joel Terrace in August 2004, which determined an average traffic volume of 1594 vehicles per day (VPD). Joel Terrace is classified as an Access Road in the Perth Metropolitan Area Functional Road Hierarchy and under this classification maximum acceptable volume is 3000 VPD. The increase of 56 vehicle movements per day is considered insignificant along Joel Terrace on the above basis. However, there will be a noticeable increase in traffic volume along the shared access road servicing the existing

neighbouring development sites. The existing access carriageway is wider than the 4 metres vehicle access width for grouped dwellings specified in the Town's Policy 3.2.6 relating to Vehicular Access but narrower than the standard width of 5.5 metres in the Australian Standards for safe two way traffic. As such, the access road to the development sites comply with the minimum requirements of the Town's Policy.

Visitors Bay

The proposed visitor car bay is compliant with the Australian Standard AS2890.1, and will fit wholly within the property boundaries, as indicated on the revised plans received by the Town on 1 September 2004, and is therefore considered acceptable.

Hydrogeological Report

The applicants/owners are required to submit a hydrogeological study and report for the above site as required for all sites east of Joel Terrace for the Town approval, prior to issue of a Building Licence.

Health and Building Services

The Town's Health Services have no objection towards the proposed development. Matters relating to building under the Building Code of Australia requirements can be addressed at the Building Licence stage.

Summary

Although a significant amount of setback variations are proposed, most of them are considered minor, and the majority of the variations are considered to adequately address the relevant performance criteria in the R-Codes, except for the height of the proposal and the number of storeys proposed. It should be highlighted that the R-Codes were developed to be performance based, and to allow a flexible approach to development, if the applicants can demonstrate that the proposal meets the relevant performance criteria under each section of the R-Codes. The R-Codes were not developed to restrict development to comply solely with the acceptable development requirements. Due to the location of the significant tree, topographical constraints, restricted driveway access, and proximity of other surrounding developments, there would be some expectation in the relaxation of setbacks and heights of buildings structures appropriately. The main issues raised in terms of privacy have been adequately addressed by way of screening to prevent overlooking.

The proposal is within the generally supportable criteria, as is not considered to unreasonably affect the amenity of the adjacent or surrounding properties. The Town in the above application have an opportunity to retain the tree with an acceptable development proposed, which may be argued may not be the most appropriate or acceptable design, depending on one's view point.

It is therefore recommended that the proposal be approved, subject to standard and appropriate conditions to address the above. It is to be acknowledged however that there are alternative solutions to other designs, one of which may include retaining the tree in its current form and setting aside the area surrounding the tree as open space for the residents of the above grouped dwellings site.

Survey Strata Subdivision 63-04

Details and Comments

The above application is for the amalgamation of Nos.128-130 (Lots 27 and 28) Joel Terrace, Mount Lawley, and the re-subdivision of the above two lots into seven (7) survey strata lots. The lots to be created vary between 163 to 218 square metres each, which slightly differ from the proposed lot sizes indicated in the planning application as above, which range from 169 to 231 square metres.

Clause 3.1.3 A3 iv of the Residential Design Codes states as follows:

" in the case of Grouped Dwellings in areas coded R12.5-R17.5 and R60, the minimum site area shall be as permitted under Table 1 of the Residential Planning Codes, December 1991, where applications are made prior to 31 December 2004."

Table 1 of the Residential Planning Codes, December 1991, prescribes that the minimum area of lot per dwelling for R60 is 166.67 square metres. The Residential Planning Codes did not specify an average site area requirement for grouped dwellings.

Page 15 of the Residential Planning Codes, December 1991, states the following:

"A simple division of the site area by the area of the lot per dwelling set out in Column 3 of Table 1 will yield the permissible number of dwellings of a particular kind for that site."

In light of the above, the subject lot has a permitted density of nine (9) dwellings, and seven (7) dwellings are proposed. Given the above, it is considered that the proposal complies with the density and minimum site area requirements of the Residential Design Codes, however the proposed survey strata lot sizes should reflect the proposed lot sizes indicated in the concurrent planning application, which range from 169 to 231 square metres.

The above consistent interpretation of the R Codes and Residential Planning Codes, December 1991, by the Town's Officers has been confirmed by the Department for Planning and Infrastructure / Western Australian Planning Commission.

The Western Australian Planning Commission (WAPC) in its latest letter to the Town dated 17 August 2004, have advised that the Commission have agreed for the extension of time for the Town to respond to the above survey strata subdivision to no later than 25 September 2004. Further advice is that if a decision is not made by the Town by 25 September 2004, the application will be assessed and determined on the basis of the planning situation and available information at that time. The Town has requested a further extension of the time till after the 28 September 2004 Ordinary Meeting of Council for comments to be provided to the WAPC.

CONSULTATION/ADVERTISING:

The proposal was advertised for a period of 14 days. The revised plans dated 20 May 2004 were also viewed by residents for a further 14 days. A total of 23 individual submissions and including a petition with 102 signatures objecting to the development proposal have been received.

The revised plans were also forwarded to the Swan River Trust for comment and re-consideration under the Metropolitan Region Scheme. The Swan River Trust has written to the Town in a letter dated 7 September 2004 advising that they have no objection towards to the above proposal subject its conditions being imposed (attached).

Summary of objections/comments received

The issues and concerns raised in the objections, which are similar to the issues raised when the proposal was initially advertised are summarised as follows:

Car Parking and Traffic

- Proposal would lead to traffic congestion in the area, and would add further pressure to the already limited off street car parking available along Joel Terrace. This is evident in front of the "Stanford Bay" development further north along Joel Terrace.
- Provision of one visitor car bay instead of two car bays, resulting in the provision of inadequate visitor car parking. Furthermore, the visitor car bay is being provided within the access leg, rather than on-site. The access leg leading to the site is short and narrow to carry proposed traffic. The location of the car bay on the access leg would be challenged in court of law. A covenant affecting the site states that there has to be a 5 metres clear space behind No.124 Joel Terrace.
- It is to be noted that residents at No.124 Joel Terrace also have legal right of access to the access road proposed in the above development.

Bulk and Scale

- Bulk and scale of the building will impact on the amenity of the area, block river and hill views. Most houses in the area have pitch roofs. The proposed development has flat roof, which adds to the visual bulk and mass of the building.
- The proposed lofts would result in an invasion of privacy.

Amenity and Streetscape

- Proposal does not comply with the surrounding streetscape and totally against the expectations of the neighbours.

Significant Tree

- As a result of the retention of Unit 7, the heritage listed Camphor Laurel tree will be severely pruned and may be endangered. If the tree dies, it would pose as a safety hazard for the proposed development. This may open litigation against the Town of Vincent.
- The reports from the arboriculturalist consultant based on the initial plans and the current revised proposal (both attached) stated that to accommodate the development, *"it would be necessary to remove (prune off) 60 to 75 per cent of the canopy,"* based on the proposed structures and distance from the tree trunk. The actions would seriously disfigure the tree, which has a well rounded and attractive form. It would also result in large wounds that would be susceptible to decay. *"In conclusion, and based on the plans which he has shown, it is this consultant's opinion that the actions that would need to be taken (pruning leaders, branches and roots) to undertake the development would result in the tree becoming seriously disfigured, possibly vulnerable to invasion by disease and insects, producing weakly attached water shoots and, depending on the depth of the footings, compromising its stability and further jeopardizing its long term health. Soil fill, depending on its depth and proximity to the trunk, would have the potential to exacerbate the above situation."*
- The development will severely impact on the size, shape and visual appearance of the tree. The design to enclose the tree is considered not an adequate design.
- The design of Unit 7 would affect the visibility of the tree and limiting the enjoyment of residents and the future occupants.
- If the tree were to die, this may affect the structural integrity of the adjoining house which was built in 1902 on brick footings, due to decaying mass of roots beneath the footings of the house.
- The request for numerous variations on the basis of retention of the tree is considered not an adequate justification.
- The arboriculturalist report on the health of the tree is queried.

Setbacks

- Parapet wall along the northern boundary be removed as it gives the *"feeling of living under the shadows of a prison"*. The reduced setback also contributes to loss of privacy, overlooking and visual impacts.
- The boundary walls of Units 6 and 7 will result in shear walls, overshadowing, absorb significant heat in summer, and block prevailing sea breeze direction and lack of privacy to residents at Nos.120 and 124 Joel Terrace. The south side parapet walls vary from 5 metres to 9 metres.

Plot Ratio

- Non-compliance with the plot ratio. The increase in plot ratio is approximately 30 per cent, and there is no reasonable justification given for this increase proposed. This will result in a denser development than the surrounding residences and the river scape.
- The plot ratio is calculated with the inclusion of the access leg. This appears as one of the reasons for the development being bulky and lacking open space.

Heights

- The height of three storey do not comply with the height requirements of two storey as stated in the Towns' Riverside Locality Policy 3.3.30, thereby contributing to bulk, scale, visual amenity and precedent for three storey development in the area.
- The proposal is out of context with the surrounding developments.
- All walls should comply with the 6 metres requirements for two storey developments.

Privacy and Overshadowing

- The proposed setback variations compromise the privacy and enjoyment of the adjoining residents.
- The walls on the southern side would cast an overshadowing effect on the adjoining lot at No.120 Joel Terrace. Once the foreshore land on the adjoining lot is resumed by the Department for Planning and Infrastructure, this will result in the available land on the north side for entertainment being cast in a shadow.
- Overlooking onto No.124 Joel Terrace from courtyard of Unit 7 to the western boundary of the subject site.

General Comments

- If approval was given, that the proposal comply with all requirements of the R Codes and seek advice from an independent arborculturalist.
- The revised plans indicate nominal changes. The applicants were aware when they purchased the site of the requirements of the Town of Vincent, and should not be asking for concessions.
- The computer generated colour image is highly misleading, as Unit 7 has been omitted from this image. The height of Unit 7, which between the upper two lines of the colour image with horizontal height lines being added. The Camphor Laurel tree is illustrated in its present state and not after the development has been constructed, resulting in the image to be misleading in terms of bulk and scale.
- All those who have built in the area complied with the height, setbacks and other buildings requirements associated with the original subdivision of the area.
- The proposal in its current form is unacceptable and would set a dangerous precedent for similar developments in the area. The proposal should be rectified at the source by proper planning.
- The design is distasteful and looks similar to a commercial building.

LEGAL/POLICY:

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

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

OFFICER COMMENTS:

The proposal complies with the relevant lot requirements standards of the 1991 R Codes. On the above basis, the above survey strata subdivision is supported subject to standard and appropriate conditions, to address the above matters.

It is acknowledged that the applicant has made considerable effort to amend and modify plans to meet the necessary statutory requirements. However, the Chief Executive Officer and Executive Manager Environmental and Development Services are of the strong opinion that as this is considered a "*greenfield site*", and full (or greater) compliance can be achieved with the statutory requirements. It can be argued that the significant non-compliances have resulted in a design which is considered unacceptable and therefore non-supportable. Furthermore, the adverse ramifications of the proposed development on the Significant Tree cannot be underestimated.

There are more appropriate alternative design solutions, one of which includes no building within the Camphor Laurel tree canopy land area, the significant Camphor Laurel tree being retained in its current form, and the tree canopy land area possibly being set aside as open space with some on-grade open car parking bays for the residents of the grouped dwellings on-site. In light of the above comments, it is recommended that the Council refuse the proposed development and survey strata subdivision.

CEO AND EMEDS' COMMENTS

It is acknowledged that the applicant has made considerable effort to amend and modify plans to meet the necessary statutory requirements. However, the Chief Executive Officer and Executive Manager Environmental and Development Services are of the strong opinion that as this is considered a "*greenfield site*", and full (or greater) compliance can be achieved with the statutory requirements. It can be argued that the significant non-compliances have resulted in a design which is considered unacceptable and therefore non-supportable. Furthermore, the adverse ramifications of the proposed development on the Significant Tree cannot be underestimated. In light of the above comments, it is recommended that the Council refuse the proposed development and survey strata subdivision.

10.1.7 No(s). 20B (Lot(s) 23, Strata Lot No. 2) Windsor Street, Perth - Proposed Additional Two-Storey Single House to Existing Two (2) Single Houses

Ward:	South	Date:	20 September 2004
Precinct:	Banks; P15	File Ref:	PRO2400; 00/33/2316
Attachments:	001		
Reporting Officer(s):	L Mach		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owner IW Youll for proposed Additional Two-Storey Single House to Existing Two (2) Single Houses, at No(s). 20B (Lot(s) 23, Strata Lot No. 2) Windsor Street, Perth, and as shown on plans stamp-dated 28 June 2004 (upper floor plan), 2 July 2004 (elevations and lower floor plan) and 6 September 2004 (site plan), subject to:

- (i) 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, Residential Design Codes and Australian Standards AS2890.1 – "Off Street Parking";*
- (ii) prior to the issue of a Building Licence, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title or Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town;*
- (iii) a right of way security bond and/or bank guarantee for \$880.00 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;*
- (iv) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (v) a road and verge security bond and /or bank guarantee of \$550.00 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;*

- (vi) *a detailed landscaping plan, including a list of plant species and the landscaping and reticulation of the Windsor 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);*
- (vii) *compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (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 Windsor Street 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) *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;*
- (x) *all new crossover/s to allotments are subject to a separate approval by the Town's Technical Services Division and shall be constructed in accordance with the Town's standard Crossover Specification/s which, in particular, specify that the portion of the existing footpath traversing the proposed crossover, subject to the existing footpath being in a good condition as determined by the Town's Technical Services Division, must be retained such that it forms a part of the proposed crossover and the proposed crossover levels shall match the level/s of the existing footpath. Crossovers may be constructed by a private contractor provided they are constructed in accordance with the above specifications and a security bond of \$275 is paid prior to the crossover approval. Application for the refund of bond must be submitted in writing;*
- (xi) *to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development:*
 - (a) *the north, east, and west sides of the balcony(/verandah) on the upper floor shall be screened with a permanent obscure material and be non-openable to a minimum height 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; and*
 - (b) *the windows to bedrooms 1 and 3 on the western elevation, 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;*

- (xii) *detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building License application;*
- (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; and*
- (xiv) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating:*
- (a) *the house(both ground floor and upper floor) being setback a minimum of 4.0 metres from the front southern boundary, as measured right angled from the street boundary; and*
 - (b) *the southern ground front decking being setback a minimum of 3.0 metres from the front southern boundary, as measured right angled from the street boundary; and the total width of the decking not exceeding twenty(20)per cent of the frontage at any level.*

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.

Moved Cr Lake, Seconded Cr Cohen

That the recommendation be adopted.

Debate ensued.

Moved Cr Lake, Seconded Cr Doran-Wu

That clause (xiv) be deleted.

AMENDMENT CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

MOTION AS AMENDED CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

COUNCIL DECISION ITEM 10.1.7

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owner IW Youll for proposed Additional Two-Storey Single House to Existing Two (2) Single Houses, at No(s). 20B (Lot(s) 23, Strata Lot No. 2) Windsor Street, Perth, and as shown on plans stamp-dated 28 June 2004 (upper floor plan), 2 July 2004 (elevations and lower floor plan) and 6 September 2004 (site plan), subject to:

- (i) *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, Residential Design Codes and Australian Standards AS2890.1 – "Off Street Parking";*
- (ii) *prior to the issue of a Building Licence, where vehicular access to the property is via a right of way and the right of way is not a public road, the applicant/owner(s) shall demonstrate (by submission of copies of the Certificate(s) of Title or Original Plan or Diagram of Survey or other documentation) that the owner(s) and occupier(s) of the property have a legal right to use the right of way, to the satisfaction of the Town;*
- (iii) *a right of way security bond and/or bank guarantee for \$880.00 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;*
- (iv) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (v) *a road and verge security bond and /or bank guarantee of \$550.00 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;*
- (vi) *a detailed landscaping plan, including a list of plant species and the landscaping and reticulation of the Windsor 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);*
- (vii) *compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (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 Windsor Street 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) *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;*

- (x) *all new crossover/s to allotments are subject to a separate approval by the Town's Technical Services Division and shall be constructed in accordance with the Town's standard Crossover Specification/s which, in particular, specify that the portion of the existing footpath traversing the proposed crossover, subject to the existing footpath being in a good condition as determined by the Town's Technical Services Division, must be retained such that it forms a part of the proposed crossover and the proposed crossover levels shall match the level/s of the existing footpath. Crossovers may be constructed by a private contractor provided they are constructed in accordance with the above specifications and a security bond of \$275 is paid prior to the crossover approval. Application for the refund of bond must be submitted in writing;*
- (xi) *to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development:*
- (a) *the north, east, and west sides of the balcony(/verandah) on the upper floor shall be screened with a permanent obscure material and be non-openable to a minimum height 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; and*
- (b) *the windows to bedrooms 1 and 3 on the western elevation, 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;*
- (xii) *detailed plans of site works, including identification of pavement type, drainage and parking shall be submitted with the Building License application; and*
- (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;*

to the satisfaction of the Chief Executive Officer.

Landowner:	IW Youll
Applicant:	IW Youll
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1: Residential R60
Existing Land Use:	Vacant
Use Class:	Single House
Use Classification:	"P"
Lot Area:	Lot 23 - 764 square metres Strata Lot 2 - 200 square metres

COMPLIANCE:

Requirements	Required	Proposed *
Plot Ratio	N/A	N/A
Setbacks: Ground floor - South (front) - West - East(lounge) 1st Floor - South (Front) - West - East (Bed 2)	4.0 metres 1.5 metres 1.5 metres 6.0 metres 3.7 metres 3.3 metres	3.0-5.0 metres to main building and 1.0 metre to deck 0.9-3.0 metres 2.6 metres (includes half the width of the right of way) 3.0-5.0 metres 0.9-3.0 metres 2.6 metres (includes half the width of the right of way)
Privacy-Cone of Vision Encroachment	Bedrooms with major openings are to be setback, in direct line of sight within the cone of vision, from the boundary a minimum of 4.5 metres from the boundary or suitably screened, as per the R Codes requirements Unenclosed outdoor active habitable spaces are to be 7.5 metres from the boundary or suitably screened, as per the R Codes requirements	Bedroom 1 windows are 0.9-3.0 metres (west facing window) and 3.0 metres (north facing window) to the west boundary Bedroom 3 window is 3.0 metres to the west boundary Upper verandah is 6.5 metres to the northern boundary, 0.9-3.0 metres to the western boundary and 4.8 metres to the eastern boundary (includes width of right of way).
Minor Incursions into the Street Setback Area	A porch, balcony, verandah, chimney, or the equivalent may project not more than one metre into the building setback area.	Front decking projects 3 metres into the building setback area.

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

SITE HISTORY:

The subject site is vacant. There is a two storey single house located to the west of the subject site. The surrounding area is characterised by a mixture of single storey and two storey dwellings. The Council at its Ordinary Meeting held on 7 October 2003 refused an application for proposed two-storey single house with basement on the subject site. Subsequent to this, an application for a single storey house with loft was conditionally approved by the Council at its Ordinary Meeting held on 25 May 2004 on the subject site.

There is a 4.0 metres wide, unsealed and Town-owned right of way along the eastern and northern boundaries of the property.

DETAILS:

The applicant is seeking approval for a proposed two- storey single house at the subject site.

CONSULTATION/ADVERTISING:

One submission was received during the advertising period. The submission objected to the loss of privacy and requested that a screen be placed on the west end of the balcony (upper floor verandah).

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:

Privacy

To protect the privacy of the adjoining neighbours, it is recommended that the balcony/verandah and the west facing bedrooms windows on the upper floor be screened in accordance to the Residential Design Codes (R-Codes). Screening to the north facing windows on the upper floor is not considered necessary in this instance, as the cone of vision encroachment will be blocked from the balcony's screening. It is also not considered necessary to the screen the east facing bedroom 2 window on the upper floor as it overlooks the adjoining right of way.

Setbacks

In light of the privacy issue being addressed in the previous paragraph, the proposed eastern and western setbacks in this instance are considered to be minor and not to have an undue impact on the adjacent neighbours. These variations are therefore considered acceptable due to these reasons and no objections being received by the Town.

In relation to the front setbacks and with consideration of the existing streetscape and the surrounding houses' front setbacks, it is considered that there is opportunity for redesign and to bring the building back towards the rear by one metre, so it complies and maintains the continuity of the existing streetscape. It is noted that if this redesign is undertaken, the rear setbacks would still comply with the R-Codes once half the width of the right of way is taken into account.

Although the above redesign will still result in a variation to the upper floor front setbacks of 4.0-6.0 metres in lieu of 6.0 metres, this variation is supported in this instance, based on the lot having an area of 200 square metres with an acute angled street boundary, the adjacent two-storey dwelling at No.20A Windsor Street having a reduced front setback of approximately 3.2 - 5.0 metres, the staggering of the proposals front setback, and it is not considered to unduly adversely affect the amenity of the area.

Minor Incursions into the Street Setback Area

This matter has been conditioned in the Officer Recommendation accordingly.

Summary

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

10.1.9 Tenancy 9, No(s) 375-393 (Lot(s) 500, Strata Lot No. 9) William Street, Corner Forbes Road and Wellman Street, Perth - Proposed Alterations and Additions to Existing Eating House and Change of Use to Unlisted Use Class (Karaoke Bar)

Ward:	South	Date:	20 September 2004
Precinct:	Beaufort; P13	File Ref:	PRO0825; 00/33/2260
Attachments:	001		
Reporting Officer(s):	L Mach		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by JB Chia on behalf of the owner Lukman Enterprises Pty Ltd and Limegrove Pty Ltd for proposed Alterations and Additions to Existing Eating House and Change of Use to Unlisted Use Class (Karaoke Bar), at Tenancy 9, No(s) 375-393 (Lot(s) 500, Strata Lot No. 9) William Street, corner Forbes Road and Wellman Street, Perth, and as shown on plans stamp-dated 2 July 2004, subject to:

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) compliance the Environmental Protection (Noise) Regulations 1997 at all times;*
- (iii) all signage shall be subject to a separate Planning Approval and Sign Licence application being submitted and approved prior to the erection of the signage;*
- (iv) the public floor area of the karaoke bar shall be limited to 153 square metres;*
- (v) a maximum of sixty (60) people, inclusive of staff, are permitted to be at the premises at any one time;*
- (vi) the hours of operation shall be restricted to 8pm to 2am between Sunday and Thursday and between 8pm to 3am on Friday and Saturday, inclusive;*
- (vii) 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;*
- (viii) the recommendations of the acoustic report dated 30 August 2004 prepared by Langford Acoustical Services, shall be implemented prior to the first occupation of the development and thereafter maintained; and*

- (ix) *the management plan entitled "The House Policy of Oriole Karaoke Pty. Ltd." submitted to the Town, addressing responsible service practices, staff training, customer complaints, intoxication and other unacceptable behaviours, juveniles, local amenity and security, shall be implemented as from the first occupation of the development and thereafter maintained;*

to the satisfaction of the Chief Executive Officer.

Moved Cr Chester, Seconded Cr Lake

That the recommendation be adopted subject to clauses (vi) and (viii) being amended to read as follows:

- "(vi) the hours of operation shall be restricted to 8pm to 2am ~~between Sunday and Thursday and between 8pm to 3am on Friday and Saturday, inclusive;~~*
- (viii) the recommendations of the acoustic report dated 30 August 2004 prepared by Langford Acoustical Services, shall be implemented prior to the first occupation of the development and thereafter maintained. The applicant shall arrange a site inspection with the Town's Environmental Health Officers once such works are completed and prior to the first occupation of the development to ensure that all these recommendations have been undertaken; and"*

Debate ensued.

Moved Cr Chester, Seconded Cr Cohen

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

- "(vi) the hours of operation for the proposed Karaoke Bar shall be restricted to 8pm to midnight 2am between Sunday and Thursday and between 8pm to 3am on Friday and Saturday, inclusive and is for a period of (12) months only and should the applicant wish to continue the use after that period, it shall be necessary to reapply to and obtain approval from the Town prior to continuation of the use;"*

Debate ensued.

AMENDMENT CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

MOTION AS AMENDED CARRIED (4-2)

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

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 JB Chia on behalf of the owner Lukman Enterprises Pty Ltd and Limegrove Pty Ltd for proposed Alterations and Additions to Existing Eating House and Change of Use to Unlisted Use Class (Karaoke Bar), at Tenancy 9, No(s) 375-393 (Lot(s) 500, Strata Lot No. 9) William Street, corner Forbes Road and Wellman Street, Perth, and as shown on plans stamp-dated 2 July 2004, subject to:

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) compliance the Environmental Protection (Noise) Regulations 1997 at all times;*
- (iii) all signage shall be subject to a separate Planning Approval and Sign Licence application being submitted and approved prior to the erection of the signage;*
- (iv) the public floor area of the karaoke bar shall be limited to 153 square metres;*
- (v) a maximum of sixty (60) people, inclusive of staff, are permitted to be at the premises at any one time;*
- (vi) the hours of operation for the proposed Karaoke Bar shall be restricted to 8pm to midnight and is for a period of (12) months only and should the applicant wish to continue the use after that period, it shall be necessary to reapply to and obtain approval from the Town prior to continuation of the use;*
- (vii) 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;*
- (viii) the recommendations of the acoustic report dated 30 August 2004 prepared by Langford Acoustical Services, shall be implemented prior to the first occupation of the development and thereafter maintained. The applicant shall arrange a site inspection with the Town's Environmental Health Officers once such works are completed and prior to the first occupation of the development to ensure that all these recommendations have been undertaken; and*
- (ix) the management plan entitled "The House Policy of Oriole Karaoke Pty. Ltd." submitted to the Town, addressing responsible service practices, staff training, customer complaints, intoxication and other unacceptable behaviours, juveniles, local amenity and security, shall be implemented as from the first occupation of the development and thereafter maintained;*

to the satisfaction of the Chief Executive Officer.

Landowner:	Lukman Enterprises Pty Ltd & Limegrove Pty Ltd
Applicant:	JB Chia
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1: Commercial
Existing Land Use:	Eating Houses & Shops
Use Class:	Unlisted use
Use Classification:	"SA"
Lot Area:	4490 square metres

COMPLIANCE:

Requirements	Required	Proposed *
Plot Ratio	N/A	N/A

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

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.
- 8 November 1999 The Council at its Ordinary Meeting conditionally approved an application to establish a sushi and fish processing establishment in Unit 4.
- 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.
- 27 April 2004 The Council at its Ordinary Meeting conditionally approved alterations and additions to existing consulting rooms and eating house and change of use from consulting rooms to eating house at Tenancy 6 and 7.

DETAILS:

The subject tenancy is currently vacant but its most recent use was as an eating house. The applicant proposes to change its use to a Karaoke Bar. The proposal also entails internal alterations including the soundproofing of windows and doors and new acoustic ceilings, in order to accommodate the new business.

The applicant has advised that proposed trading hours are between 8pm to 3am on Friday and Saturday and 8pm to 2am during weekdays, and that they are expecting up to 50 customers per night. This number however is expected to be reduced to 20 customers per night during the weekday.

There are thirteen (13) other tenancies in the complex, including shops, restaurants, and a hair dressing salon.

CONSULTATION/ADVERTISING:

The application was advertised for public comment, as per the requirements for "SA" land uses under the Town of Vincent's Town Planning Scheme No.1 and the Community Consultation Policy. During the comment period, the Town received 2 written submissions and 23 standardised submissions (organised by a member of public) objecting to the proposal and a submission supporting the proposal. The main issues and concerns raised in the submissions relate to the following:

- the increased amount of traffic, parking problems and noise to the surrounding area;
- the increased incidence of criminal activity and disruptive patrons;
- operating times;
- the licensed premise will attract patrons from other venues when they close;

- the proposed change of use being incompatible with the established surrounding residential area and in particular, the Brookman/Moir Streets heritage Precinct;
- lack of information provided by the applicant in relation to the type and quality of soundproofing;
- there are enough karaoke, clubs and hotels being in the district;
- the proposal deterring prospective buyers into the area; and
- the proposal scaring away boobook owls sited in the area.

LEGAL/POLICY:

Town Planning Scheme No. 1 and associated Policies.

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

Use

The use 'karaoke bar' is not a listed use class in the Town's Zone Table. However, it is considered appropriate to assess its land use permissibility to a tavern, which is defined as "*any land or building wherein the primary use is the consumption of beverages and may include an eating house or facilities for entertainment and to which a licence may have been granted under the provisions of the Liquor Licensing Act 1988*". While the proposed use has been classified as a 'tavern' for assessment purposes in this report in terms of land use permissibility and car parking, the 'tavern/bar' aspect is considered to be only an ancillary use to the overall proposal. In accordance with Town's Town Planning Scheme No.1 (TPS No.1), the subject land is zoned 'Commercial'. Under this zone, a tavern is a 'SA' use.

It is envisaged that access to the complex will be predominately from William Street, which has a classification 'Other Regional Road'. It is considered that the proposal will not significantly alter the existing traffic levels in the street, or create an undue impact on the area in relation to this matter.

While it is noted that the proposed hours of operation are extensive during the night and early hours of morning, the hours are considered supportable in an inner urban commercial area given the nature of the business.

The Town's Policy relating to "*Non-Residential Uses In/Or Adjacent To Residential Areas*" allows non-residential development on land which is adjacent to residential land where the nature of the non-residential use will not cause undue conflict through the generation of traffic and parking or the emission of noise or any other form of pollution which may be undesirable on residential areas. In this instance, the proposal is not considered to cause these problems, as discussed in the subsequent section.

On the above basis, the proposed change of use is generally considered to be in accordance with the Beaufort Precinct Policy, subject to careful control over noise and is supportable in this location, subject to conditions relating to hours of operation, noise levels and the number of employees and customers, to ensure there is no undue impact on the surrounding residential areas.

Alteration and Additions to Buildings

There is no major external changes being proposed to the building therefore, the character of the existing streetscape and building will be maintained.

Parking and Access

Car parking requirement (nearest whole number) The proposal requires 40.21 parking bays as per the requirements of 1 space per 3.8 square metres of public floor area for tavern.	107 car bays
Apply the adjustment factors. <ul style="list-style-type: none"> ▪ 0.85 (within 400 metres of a bus stop) ▪ 0.85 (within 400 metres of one or more public car parks in excess of 50 spaces) 	(0.7225) 77.31 carbays
Minus the car parking provided on-site.	78 car bays, as shown on the submitted plans
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.	0.69 car bay

The car parking surplus as represented in the above Table is 0.69 car bay when applying the adjustment factors and accounting for the provided car parking bays on-site. The proposal adequately meets the required car parking requirements and is therefore, considered acceptable.

Response to Objections

At the present time, comments relating to the use being an attraction for criminal activity and anti-social behaviour are considered to be speculative, as there is no evidence to substantiate that the proposed use will result in these outcomes. However, the concerns raised are noted and accordingly, the Town's Health Services requested that a premises management plan be submitted to the Town. The applicant has since undertaken this request and have presented to the Town a management plan, which addresses responsible service practices, staff training, customer complaints, intoxication and other unacceptable behaviours, juveniles, local amenity and security. It has been conditioned in the Officer Recommendation that this plan be implemented at the first occupation of the development.

In relation to concerns regarding noise, sound levels from the proposed development will be required to comply with the Environmental Protection (Noise) Regulations 1997, and will be monitored by the Town's Health Services accordingly in the event that a complaint is received.

With respect to concerns regarding the lack of information provided by the applicant in relation to the type and quality of soundproofing provided, the applicant has since commissioned Langford Acoustical Services to undertake an acoustic assessment of the building for its potential use as a karaoke bar. While the assessment identified a number of acoustic weaknesses which made the premises unsuitable for its intended use as a karaoke bar, the report did note that all the weaknesses were considered to be capable of rectification in a reasonable and practicable manner and that such weaknesses would be rectified in the normal course of renovations to the interior of the tenancy. It has been conditioned in the Officer Recommendation that noise levels maintain compliance with the Environmental Protection (Noise) Regulations 1997 at all times, which require noise levels for the subject residential premises to be around 45 dB(A) after 10pm and around 50 dB (A) between 7pm and 10pm.

Concerns regarding traffic and parking issues has been addressed in earlier sections and is reiterated as follows. As the complex abuts a major transport road/route, it is considered that the impact on traffic will be negligible. The proposed car parking provided on-site is found to be in accordance with the Towns' Parking and Access Policy and is therefore supported. It is further acknowledged that a number of shops are closed during the hours of operation of the proposal and that there is street parking available along William Street. Notwithstanding this, it is noted that objectors of the proposal are concerned that the available parking is currently being occupied by other restaurants customers until at least 10pm each day.

With the noise and traffic issues being addressed above, it is considered that the proposal will have minimal undue impact on any native birds in the area.

In relation to the proposal attracting patrons from other venues when they close because the premises is proposed to be licensed, a condition has been included in the Officer Recommendation to limit the number of customers to prevent this from occurring.

While the comments relating to there being enough karaoke bars, clubs and hotels in the district and that the proposal will deter prospective buyers into the area are acknowledged, these issues are not considered to be major planning issues and therefore has not been taken into account.

The comments relating to the proposal being in incompatible with the established surrounding residential area have been addressed in the previous section.

A number of objections have expressed concerns relating to the noise and disruptive patrons from nearby hotels in their letters. These are considered separate matters and should not be regarded in view of the subject application. It is regarded that the subject application, subject to conditions to address the above concerns, will not exacerbate these issues, which is often experienced in inner urban suburbs.

Summary

It is considered that a 'karaoke bar' is a relatively new use in the Town of Vincent and that it would be unjust to assume that the culture and often-associated problems of uses such as a tavern or nightclub will be the same for the proposed use, at this present stage. It is reiterated that the subject site is in an inner urban area and that while the surrounding residential area should not be unduly impacted on from nearby commercial uses, the same level of amenity in more outer suburbs is not considered realistic in this area.

The nature of the proposal has generated a number of significant objections. These objections received relating to the proposal is acknowledged. Notwithstanding this, the applicant has demonstrated a consideration of the surrounding residential amenity and has taken appropriate measures to address these issues and to minimise the disturbance to the surrounding area.

In light of the above and the impartial consideration of the application, approval is recommended subject to standard and appropriate conditions to address the above matters.

The Acting Chief Executive Officer advised that Mayor Catania had declared a financial interest in the Item. Mayor Catania departed the Chamber at 7.10pm and did not speak or vote on the matter.

Cr Chester assumed the Chair at 7.10pm.

10.1.8 No(s). 331 (Lot(s) 5) Stirling Street, Highgate - Proposed Demolition of Existing Dwelling

Ward:	South	Date:	20 September 2004
Precinct:	Forrest; P14	File Ref:	PRO1789; 00/33/0630
Attachments:	001		
Reporting Officer(s):	H Eames		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by Victor Miraudo on behalf of the owner Miraudo Nominees Pty Ltd for proposed Demolition of Existing Dwelling, at No(s). 331 (Lot(s) 5) Stirling Street, Highgate, and as shown on plans stamp-dated 2 September 2004, subject to:

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

to the satisfaction of the Chief Executive Officer.

Moved Cr Lake, Seconded Cr Doran-Wu

That the recommendation be adopted subject to the existing recommendation being renumbered to clauses (i)(a) to (g) and a new clause (ii) added as follows:

"(ii) the Council NOTES that the approved demolition of the existing dwelling on No 331 (Lot 5) Stirling Street, Highgate gives greater opportunity for the retention and re-use of the existing dwelling on No 327 (Lot Y34) Stirling Street, Highgate."

CARRIED (5-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence. Mayor Catania was absent from the Chamber and did not vote.)

COUNCIL DECISION ITEM 10.1.8

That;

- (i) in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by Victor Miraldo on behalf of the owner Miraldo Nominees Pty Ltd for proposed Demolition of Existing Dwelling, at No(s). 331 (Lot(s) 5) Stirling Street, Highgate, and as shown on plans stamp-dated 2 September 2004, 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 shall be sympathetic to the scale and rhythm of the streetscape in line with the provisions of the Town of Vincent Town Planning Scheme No.1 and associated Policies; and*
 - (g) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- to the satisfaction of the Chief Executive Officer; and*

- (ii) *the Council NOTES that the approved demolition of the existing dwelling on No 331 (Lot 5) Stirling Street, Highgate gives greater opportunity for the retention and re-use of the existing dwelling on No 327 (Lot Y34) Stirling Street, Highgate.*

Landowner:	Miraudo Nominees Pty Ltd
Applicant:	Miraudo Nominees Pty Ltd
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1: Residential R80
Existing Land Use:	Single House
Use Class:	Single House
Use Classification:	"P"
Lot Area:	807 square metres

BACKGROUND:

The applicant submitted a development application for the proposed demolition of the subject property on 25 June 2001. Since that time, a number of meetings and discussions have occurred with the Town's officers regarding possible redevelopment options for the site. These discussions considered aspects of retaining or removing the existing dwelling, density bonus possibilities, access and parking, grouped or multiple dwelling configurations, and considerations relating to the applicant's ownership of adjacent land to the rear of the subject lot along Beaufort Street and to the south at No. 327 (Lot 34) Stirling Street, which was refused demolition by Council at the Ordinary Meeting held on 24 February 2004. The application was subsequently suspended and was reactivated on 2 September 2004.

SITE HISTORY:

The place is occupied by a single brick dwelling constructed circa 1938. Various outbuildings and alterations have occurred since that time.

DETAILS:

Approval is sought for the demolition of the existing single house.

CONSULTATION/ADVERTISING:

Applications for proposed demolition of places not included on the Town's Municipal Heritage Inventory are not required to be advertised.

LEGAL/POLICY:

Town Planning Scheme No. 1 and associated Policies.

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The Heritage Assessment is shown as an attachment to this report.

The place was likely to have been constructed in 1938 and is representative of late Inter-war California bungalow style. The place is a red brick, limestone foundation and tiled residence, with protruding central front gable, side entrance and internal features typical of the geometrical and stylised 1930s era. The place is therefore generally representative of the Inter-war California Bungalow. The place is not considered to have any cultural heritage significance that would meet the threshold for consideration for listing on the Town's Municipal Heritage Inventory.

It is recommended that the place be approved for demolition subject to standard conditions.

13.1 Further Report - No(s). 163-171 (Lot(s) 13 and 17) Harold Street, Highgate - Proposed Retaining Walls Additions to Existing Single Residential Vacant Lots-Previously Associated with Sacred Heart Primary School

Ward:	South	Date:	28 September 2004
Precinct:	Hyde Park; P12	File Ref:	PRO2925; 00/33/2330
Attachments:	001		
Reporting Officer(s):	R Rasiah, M Bonini		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

FURTHER OFFICER RECOMMENDATION:

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by EJC Civil on behalf of the owner Roman Catholic Archbishop for proposed Retaining Walls Additions to Existing Single Residential Vacant Lots-Previously Associated with Sacred Heart Primary School at No(s). 163-171 (Lot(s) 13 and 17) Harold Street, Highgate, and as shown on plans stamp-dated 8 July, 26 August and 1 September 2004, subject to:

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (iii) no additional fill shall be added to the above site, even during construction of any development on-site;*
- (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) no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services Section. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*
- (vi) the existing fill on No. 171 (Lot 17) Harold Street, Highgate shall be reduced to the footpath level directly adjacent to the subject site;*
- (vii) the proposed retaining wall along the eastern boundary of No.171 (Lot 17) Harold Street, Highgate shall be reduced to the same level in Condition (vi) above; and*

(viii) *prior to the Lots 13, 14, 15, 16 and 17 Harold Street, Highgate being sold/disposed, Design Guidelines including the following, but not limited to land use, access, car parking, setbacks, heights, scale, roof, streetscape, amenity, privacy, services/servicing, landscaping, fencing, courtyards and environmental design, shall be prepared by the applicant/owner, and submitted to and approved by the Town. All prospective purchasers of the above Lots 13 to 17 Harold Street, shall also be advised in writing with clause(s) stated in the contract of sale/disposal of the above lots of the above requirements, including the compliance with the Town's Locality Statements and relevant Policies, and the Residential Design Codes;*

to the satisfaction of the Chief Executive Officer.

Mayor Catania returned to the Chamber at 7.12pm and assumed the Chair.

COUNCIL DECISION ITEM 13.1

Moved Cr Chester, Seconded Cr Franchina

That the recommendation be adopted.

Debate ensued.

At 7.28pm **Moved Cr Chester, Seconded Cr Doran-Wu**

That this Item be considered at the conclusion of the remaining items on the Agenda.

CARRIED (5-1)

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

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

Refer to page 140

10.1.3 No(s). 299 (Lot(s) 100) Charles Street (Corner Albert & Kadina Streets), North Perth - Proposed Alterations and Additions to Signage to Existing Shops

Ward:	North	Date:	16 September 2004
Precinct:	Charles Centre; P7	File Ref:	PRO1243; 00/33/2314
Attachments:	001		
Reporting Officer(s):	M Bonini		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by BT Huynh on behalf of the owner Lam Family Investment Pty Ltd for proposed Alterations and Additions to Signage to Existing Shops, at No(s). 299 (Lot(s) 100) Charles Street (Corner Albert & Kadina Streets), North Perth, and as shown on plans stamp-dated 23 June 2004 and 8 July 2004, subject to:

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements, including relevant Australian Standards and Noise Regulations;*
- (ii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division;*
- (iii) prior to the issue of a Sign Licence, revised plans shall be submitted and approved demonstrating Sign B being reduced to a maximum of 6 square metres in total area.
The revised plans shall not result in any greater variation to the requirements of Town's Policies;*
- (iv) the signage shall not have flashing or intermittent lighting;*
- (v) all signage shall be subject to a separate Sign Licence application being submitted and approved prior to the erection of the signage;*
- (vi) the signage shall be located entirely within the property boundaries; and*
- (vii) all signage shall be kept in a good state of repair, safe, and be non-climbable and free from graffiti for the duration of their display on-site;*

to the satisfaction of the Chief Executive Officer.

COUNCIL DECISION ITEM 10.1.3

Moved Cr Lake, Seconded Cr Chester

That the recommendation be adopted subject to the existing recommendation being renumbered to clauses (i)(a) to (g) and a new clause (ii) inserted as follows:

- "(ii) the Council ADVISES the owner and applicant that as the subject signage has already been erected, they are to pay the outstanding fees of \$300 for this planning application for retrospective Planning Approval, within 14 days of the notification by the Town."*

Debate ensued.

LOST ON THE CASTING VOTE OF THE MAYOR (3-4)

<u>For</u>	<u>Against</u>
Cr Chester	Mayor Catania (2 votes)
Cr Cohen	Cr Doran-Wu
Cr Franchina	Cr Lake

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

Reasons:

1. Not in keeping with the Town's policies.
2. Signage is too large.
3. Retrospective application.

Landowner:	Lam Family Investment Pty Ltd
Applicant:	BT Huynh
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1: Residential/Commercial R80
Existing Land Use:	Shop
Use Class:	Shop
Use Classification:	"AA"
Lot Area:	3471 square metres

COMPLIANCE:

Requirements	Required	Proposed *
Plot Ratio	N/A	N/A
Sign B	Total signage area is not to exceed 10 per cent of the total area of the building wall in which that signage is located.	19 per cent
Sign A and Sign B	Not to exceed 10 square metres in area in aggregate on any one wall.	Sign A - 24 square metres Sign B - 11.7 square metres

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

SITE HISTORY:

The subject site is occupied by a row of retail uses. The complex has frontage to Charles Street and Albert Street.

DETAILS:

The application involves wall signs to the south and north elevations of the existing commercial building. Sign A faces Kadina Street and the car park of the complex and Sign B faces Albert Street.

CONSULTATION/ADVERTISING:

The proposal was advertised for the period of 14 days. One written submission was received in this period.

The main points raised in the letter are as follows;

"We confirm that we don't support an increase beyond the standard as the negative impact on the streetscape needs to be considered and hope that the Council will take this into account."

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:

Sign B

The Town's Policy relating to Signs and Advertising states that any sign is not to exceed 10 per cent of the total area of the building wall in which that sign is located. The sign currently occupies 19 per cent of the building wall and is considered to be excessive. The subject sign has been conditioned to be reduced to the requirement as reflected in the above Officer Recommendation. This change will result in compliance.

Sign A

Sign A is located on the frontage of the building and faces the car park and other shops. The subject sign is also considered to be non-compliant with Town's Policies however, there is scope for support to be given in this instance. The sign itself is attached to a considerably large wall and the nature of the sign is considered to be fitting for that elevation. Sign A is therefore supported in this instance.

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

10.1.6 No(s). 29 (Lot(s) 401) Ellesmere Street, Mount Hawthorn - Proposed Two-Storey Single House

Ward:	North	Date:	20 September 2004
Precinct:	Mt Hawthorn; P1	File Ref:	PRO2848; 00/33/2349
Attachments:	001		
Reporting Officer(s):	M Bonini		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by Danmar Homes on behalf of the owner G & L Murphy for proposed Two-Storey Single House, at No(s). 29 (Lot(s) 401) Ellesmere Street, Mount Hawthorn, and as shown on plans stamp-dated 18 August 2004, subject to:

- (i) subject to first obtaining the consent of the owners of No. 101 Fairfield 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. 101 Fairfield Street in a good and clean condition;*
- (ii) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (iii) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the front first floor setback being a minimum of 4 metres from the front boundary.*

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

- (iv) 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;*
- (v) prior to the first occupation of the development, the full length and width of the right of way from Ellesmere Street to the southern most boundary abutting the subject land shall be sealed, drained and paved to the specifications of and supervision under the Town, at the applicant's/owner(s)' full expense;*
- (vi) a bond and/or bank guarantee for \$4200 for the full upgrade of the right of way shall be lodged prior to the issue of a Building Licence;*
- (vii) 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;*

- (viii) *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;*
- (ix) *all pedestrian access and vehicle driveway/crossover levels shall match into existing verge/footpath levels;*
- (x) *standard visual truncations, in accordance with the Town's policy 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;*
- (xi) *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); and*
- (xii) *to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development the windows to bedroom 1 on the eastern elevation and bedroom 2 on the northern elevation, 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;*

to the satisfaction of the Chief Executive Officer.

Moved Cr Chester, Seconded Cr Doran-Wu

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

- "(iii) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating that:*
- (a) the front first floor setback being a minimum of 4 metres from the front boundary;*
- (b) the height of the boundary (parapet) wall on the eastern side boundary being reduced to a maximum height of 3.5 metres with the average wall height being no more than 3 metres; and*
- (c) the first floor being setback a minimum of 1.5 metres from the eastern side boundary.*

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

Debate ensued.

CARRIED (5-1)

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

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

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 Danmar Homes on behalf of the owner G & L Murphy for proposed Two-Storey Single House, at No(s). 29 (Lot(s) 401) Ellesmere Street, Mount Hawthorn, and as shown on plans stamp-dated 18 August 2004, subject to:

- (i) subject to first obtaining the consent of the owners of No. 101 Fairfield 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. 101 Fairfield Street in a good and clean condition;*
- (ii) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (iii) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating that:*
 - (a) the front first floor setback being a minimum of 4 metres from the front boundary;*
 - (b) the height of the boundary (parapet) wall on the eastern side boundary being reduced to a maximum height of 3.5 metres with the average wall height being no more than 3 metres; and*
 - (c) the first floor being setback a minimum of 1.5 metres from the eastern side boundary.*

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

- (iv) *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;*
- (v) *prior to the first occupation of the development, the full length and width of the right of way from Ellesmere Street to the southern most boundary abutting the subject land shall be sealed, drained and paved to the specifications of and supervision under the Town, at the applicant's/owner(s)' full expense;*
- (vi) *a bond and/or bank guarantee for \$4200 for the full upgrade of the right of way shall be lodged prior to the issue of a Building Licence;*
- (vii) *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;*
- (viii) *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;*
- (ix) *all pedestrian access and vehicle driveway/crossover levels shall match into existing verge/footpath levels;*
- (x) *standard visual truncations, in accordance with the Town's policy 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;*
- (xi) *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); and*
- (xii) *to protect the reasonable privacy of the adjacent residents, prior to the first occupation of the development the windows to bedroom 1 on the eastern elevation and bedroom 2 on the northern elevation, 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;*

to the satisfaction of the Chief Executive Officer.

Landowner:	G & L Murphy
Applicant:	Danmar Homes
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1: Residential R30
Existing Land Use:	Vacant
Use Class:	Single House
Use Classification:	"P"
Lot Area:	243 square metres

COMPLIANCE:

Requirements	Required	Proposed *
Plot Ratio	N/A	N/A
Setbacks:		
East - Ground Floor (Alfresco, Family, Kitchen, Meals)	1.5 metres	0 metre to 1.1 metres
East - First Floor	1.5 metres	0 metre to 3.2 metres
Street - North Ground Floor	4 metres	1.87 metres to 3.189 metres
Street - North First Floor	6 metres	3.8 metres
Boundary Wall Development	3 metres average with maximum of 3.5 metres on one side boundary and not to occupy more than 2/3 of boundary length behind the setback line.	1 boundary wall proposed. East wall is 6 metres high
Privacy Assessment:		
Bedroom 1 East Facing Window to East	4.5 metres or privacy screening to Town's requirements	3.2 metres
Bedroom 2 North Facing Window to East	4.5 metres or privacy screening to Town's requirements	1.2 metres
Fill	No more than 0.5 metre above natural ground level	0.6 metre above natural ground level

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

SITE HISTORY:

The subject lot is vacant. The lot abuts a right of way, which is 4.6 metres wide, privately owned and unsealed.

The subdivision of the previous corner property was granted conditional subdivision approval by Western Australian Planning Commission (WAPC) on 11 December 2002. The subject lot was approved at 243 square metres. This is below the R30 minimum lot area requirement for this zoning. Therefore, the resultant density is R41.

On 5 April 2004, the WAPC approved a diagram of survey for the creation of Lot 401.

DETAILS:

The current application involves the construction of a two-storey single house.

CONSULTATION/ADVERTISING:

The proposal has been advertised and no written submissions have been received by the Town in the neighbour consultation period. An objection was received prior to the application being lodged.

The main points raised in the letter are as follows;

"I do not support any variations. Would you please advise me, once the application is lodged, as to whether the plans comply with:

- *The Town of Vincent Residential Planning Codes;*
- *The Town of Vincent Local Planning / Design Guidelines*
- *Any other requirements that the Town of Vincent may have.*

If the plans do not comply, please indicate the features of the plans that do not comply."

LEGAL/POLICY:

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

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

Boundary 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. These requirements relate to Acceptable Development in the R Codes. Boundary walls can also be assessed under Performance Criteria provisions, which allows buildings on boundaries based on the proposal making effective use of space, enhancing privacy, enhancing the amenity of the development, no significant adverse effect on the amenity of the adjoining property, and ensures that direct sun to major openings to habitable rooms and outdoor living areas of adjoining properties is not restricted. In this instance, the proposed development involves a two storey boundary wall on the east boundary. The proposed boundary wall is a deviation from the Acceptable Development requirements in relation to the proposed height. The proposed boundary wall is considered to be acceptable in this instance, as it serves in maximising usable area on the lot. The walls are also considered to achieve the Performance Criteria of the R Codes. The boundary wall is therefore supported in this instance.

Front Setbacks

Front setback variations are proposed for the upper floor and ground floor. The Town's Street Setbacks Policy requires that in the case of a new dwelling at the rear of original corner lots, with frontage to the secondary street, the setback to the main building must be 2.5 metres. This applies to the ground floor. The first floor requires 6 metres, however, in this instance, it is considered appropriate for the front setbacks to be 4 metres and the ground floor to remain as proposed, as it achieves a suitable degree to staggering from the ground floor, and the site has been created from a recent subdivision of a corner lot. This has been represented in a condition in the above Officer Recommendation.

Filling

A small portion along the east elevation proposes fill. The level of fill exceeds the requirement by 0.1 metre. The variation is considered to be minor and does not result in the overall height being affected. The fill is therefore considered acceptable and supported.

Overlooking

Variations are proposed to the east side from proposed windows on the first floor creating the potential for overlooking. These windows pertaining to bedrooms 1 and 2 require privacy screening in order to comply.

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

10.1.10 No(s). 210 (Lot(s) 100) Lake Street, Corner Brisbane Street & Amy Street, Perth - Proposed Alterations and Additions to Existing Hotel

Ward:	South	Date:	22 September 2004
Precinct:	Hyde Park; P12	File Ref:	PRO0696; 00/33/2311
Attachments:	001		
Reporting Officer(s):	R Rasiah		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owner Reef King Pty Ltd for proposed Alterations and Additions to Existing Hotel, at No(s). 210 (Lot(s) 100) Lake Street, Corner Brisbane Street and Amy Street, Perth, and as shown on plans stamp-dated 21 June 2004, subject to:

- (i) 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;*
- (ii) a detailed management plan that addresses the control of noise, traffic, car parking, litter and antisocial behaviour (to reasonable levels) associated with the existing, and proposed development and associated usage of the court yard area shall be submitted and approved prior to the first occupation of the development, and thereafter implemented and maintained. The management plan shall also address that any justifiable noise issues that arise, as a result of works undertaken must be addressed in a timely manner to ensure compliance with the Environmental Protection (Noise) Regulations 1997;*
- (iii) prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the reduction in the overall floor space proposed by 2.56 square metres. The revised plans shall not result in any greater variation to the requirements of the Town Planning Scheme No.1 and the Town's Policies;*
- (iv) the garden courtyard located in the south-eastern corner of the hotel fronting Brisbane Street is to be used as a garden courtyard to the existing restaurant as currently approved and is not to be used as a public bar/drinking area for alcoholic beverages, with appropriate signage to this effect being installed and clearly displayed;*
- (v) no live or amplified entertainment/music/noise shall occur in the courtyard area, at levels unreasonable in accordance with the Environmental Protection (Noise) Regulations 1997;*
- (vi) no increase in the overall maximum accommodation numbers as a result of this approval;*
- (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) *all signage shall be subject to a separate Planning Approval and Sign Licence application being submitted and approved prior to the erection of the signage; and*
- (ix) *prior to the issue of a Building Licence, a Construction Management Plan addressing noise, hours of construction and traffic access via Brisbane Street, Lake Street and Amy Street, dust control and any other potential nuisance, shall be submitted to and approved by the Town, and thereafter implemented;*
- (x) *the construction of the proposed gate opening at the southern end of the existing courtyard shall provide adequate sound attenuation. The recommendations of the acoustic report by Gabriels Environmental Design dated 17 August 2004 is to be developed in consultation with the Town. Details of this acoustic barrier shall be submitted to and approved by the Town, prior to the issue of a Building Licence; and implemented prior to commencement of construction/renovation works or first occupation of the garden courtyard area, whichever occurs first;*
- (xi) *doors and windows and adjacent floor areas fronting Brisbane Street shall maintain an active and interactive relationship with this street;*
- (xii) *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;*
- (xiii) *compliance with all relevant Environmental Health, Engineering and Building requirements, including provision of access, car parking and facilities for people with disabilities; and*
- (xiv) *a road and verge security bond or bank guarantee of \$3300 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.

Moved Cr Lake, Seconded Cr Cohen

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

- "(iv) *the garden courtyard located in the south-eastern corner of the hotel fronting Brisbane Street;*
 - (a) *is to be used only as a garden courtyard to the existing restaurant as currently approved including the consumption of alcoholic beverages while dining in this restaurant garden courtyard;*
 - (b) *is to close at 9 pm daily; and*
 - (c) *is not to be used separately as a public bar/drinking area for alcoholic beverages, and*

- (d) ~~with~~ is to have appropriate signage to this effect being installed and clearly displayed;"*

Debate ensued.

CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

COUNCIL DECISION ITEM 10.1.10

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by the owner Reef King Pty Ltd for proposed Alterations and Additions to Existing Hotel, at No(s). 210 (Lot(s) 100) Lake Street, Corner Brisbane Street and Amy Street, Perth, and as shown on plans stamp-dated 21 June 2004, subject to:

- (i) 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;*
- (ii) a detailed management plan that addresses the control of noise, traffic, car parking, litter and antisocial behaviour (to reasonable levels) associated with the existing, and proposed development and associated usage of the court yard area shall be submitted and approved prior to the first occupation of the development, and thereafter implemented and maintained. The management plan shall also address that any justifiable noise issues that arise, as a result of works undertaken must be addressed in a timely manner to ensure compliance with the Environmental Protection (Noise) Regulations 1997;*
- (iii) prior to the issue of the Building Licence, revised plans shall be submitted and approved demonstrating the reduction in the overall floor space proposed by 2.56 square metres. The revised plans shall not result in any greater variation to the requirements of the Town Planning Scheme No.1 and the Town's Policies;*
- (iv) the garden courtyard located in the south-eastern corner of the hotel fronting Brisbane Street:
 - (a) is to be used only as a garden courtyard to the existing restaurant as currently approved including the consumption of alcoholic beverages while dining in this restaurant garden courtyard;*
 - (b) is to close at 9 pm daily;*
 - (c) is not to be used separately as a public bar/drinking area for alcoholic beverages, and*
 - (d) is to have appropriate signage to this effect being installed and clearly displayed;**

- (v) *no live or amplified entertainment/music/noise shall occur in the courtyard area, at levels unreasonable in accordance with the Environmental Protection (Noise) Regulations 1997;*
- (vi) *no increase in the overall maximum accommodation numbers as a result of this approval;*
- (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) *all signage shall be subject to a separate Planning Approval and Sign Licence application being submitted and approved prior to the erection of the signage; and*
- (ix) *prior to the issue of a Building Licence, a Construction Management Plan addressing noise, hours of construction and traffic access via Brisbane Street, Lake Street and Amy Street, dust control and any other potential nuisance, shall be submitted to and approved by the Town, and thereafter implemented;*
- (x) *the construction of the proposed gate opening at the southern end of the existing courtyard shall provide adequate sound attenuation. The recommendations of the acoustic report by Gabriels Environmental Design dated 17 August 2004 is to be developed in consultation with the Town. Details of this acoustic barrier shall be submitted to and approved by the Town, prior to the issue of a Building Licence; and implemented prior to commencement of construction/renovation works or first occupation of the garden courtyard area, whichever occurs first;*
- (xi) *doors and windows and adjacent floor areas fronting Brisbane Street shall maintain an active and interactive relationship with this street;*
- (xii) *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;*
- (xiii) *compliance with all relevant Environmental Health, Engineering and Building requirements, including provision of access, car parking and facilities for people with disabilities; and*
- (xiv) *a road and verge security bond or bank guarantee of \$3300 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.

ADDITIONAL INFORMATION:

The above amendment is as a result of further clarification provided by the Manager of the Hotel and the Department of Racing, Gaming and Liquor that the garden courtyard area forms part of the area that currently has a Hotel Licence. The subject Hotel Licence states as follows:

'Courtyard

The Garden Courtyard area is to be used as a Dining Area only, closing at 9.00pm daily.'

The above amended clause/condition is to allow the continued serving of alcoholic beverages while dining in this restaurant garden courtyard, and to reflect the current Hotel Licence and time restriction placed on the above approved use by the City of Perth at its Ordinary Meeting held on 15 February 1993.

Landowner:	Reef King Pty Ltd
Applicant:	Reef King
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No.1: Residential R80
Existing Land Use:	Hotel
Use Class:	Hotel
Use Classification:	"SA"
Lot Area:	1658 square metres

COMPLIANCE:

Requirements	Required	Proposed *
Plot Ratio	N/A	N/A

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

BACKGROUND:

The redevelopment of the Northbridge Hotel and its re-emergence as the 'Hotel Northbridge' has been on-going since 1995. The Council has considered a number of applications and matters relating to this site, including the change of the subject courtyard area to public bar/drinking area, which was refused by the Council at its Ordinary Meeting held on 6 November 2001.

The current approved use on file is for the garden courtyard being used only as a restaurant, and closing at 9am.

SITE HISTORY:

15 February 1993 The Perth City Council at its Ordinary Meeting approved a proposed garden courtyard to the existing restaurant, subject to the garden courtyard being used only as a restaurant closing at 9.00 pm and the garden courtyard floor being lowered 600 millimetres.

6 November 2001 The Council at its Ordinary Meeting resolved to refuse the change of use from garden courtyard to public bar/drinking area, for existing hotel, for the following reasons:

1. *The adverse impact which will be created through the intensification of the use of this development.*
2. *The past history of non compliance and complaints from the residents.*
3. *The hotel is considered as a total package and another licence bar does not fit in with this proposal."*

One of the previous conditions for the hotel is for the windows and access to the balconies facing Amy Street being secured and bolted. However, complaints have been received that the balconies facing Amy Street were being used by patrons. The Town's Development Liaison Officer has followed-up these complaints and it was revealed that the above usage of the balconies was as a result of patrons physically breaking the bolts to access the balconies. The hotel management has to-date co-operated and ensured that the bolts were reinstalled as soon as they were notified or became aware of the issue to ensure on-going compliance with the relevant planning condition.

DETAILS:

The current proposal is to reconfigure part of the ground floor area of the Hotel towards the south-east section. It also involves raising the sunken rear courtyard area and toilets by 600 millimetres to be at the same grade of the existing hotel ground floor area, removing some of the walls nearest to the bar area, realigning the bar, and replacing the alsynite roof sheets with new colour bond roof sheets on the existing steel frames.

A pool table and seating are provided in the courtyard area along with window access to the public bar for service. The garden courtyard area is accessed from the public bar and provides a thoroughfare to toilets located at the rear, which is 600 millimetres lower than the level of the rest of the hotel ground floor area.

The reconfiguration of the floor space results in the public area being increased by 2.17 square metres. The applicant has agreed to reduce 2.56 square metres of floor space recalculated on the draft car parking requirements associated with public floor areas (hotel), which has been increased from 1 car bay per 4.5 square metres to 1 car bay per 3.8 square metres of public floor area. As such, the existing car parking provision remains unchanged in terms of the changes proposed.

The applicant has advised the following (attached) in support of the proposal:

- The alterations are to compliment the existing bar area within the hotel complex, which were undertaken in 1997.
- The facade of the building remains unchanged.
- The nature of activities, hours of operation, staff and patron numbers remain unchanged.
- The proposal is minor in nature, more aesthetically pleasing and a better layout for customers to enjoy.

The applicant has also submitted a noise/acoustic consultants report (attached) as requested by Town's staff in relation to the noise implications associated with the increase in levels to the existing sunken courtyard by 600 millimetres, removal of walls and the opening onto Brisbane Street.

The noise/acoustic report prepared by Gabriels Environmental Design Pty Ltd concluded that in comparison with the current eastern courtyard area of the hotel, the proposed alterations would not have a noticeable effect on the amount of noise breakout to surrounding properties.

CONSULTATION/ADVERTISING:

The proposal has been advertised extensively to 61 owners and 112 occupiers of properties along Brisbane, Amy, Ruth and Lake Streets even though the application did not include any variations to development standards, on the basis of the Hotel's proximity to residential properties in the immediate area.

One submission was received the end of the advertising period. The issues and concerns raised are as follows:

"1. Access for building vehicles during renovations

During the previous renovations to the hotel, access from Lake Street to Amy Street was closed off to all traffic and the bollards in the ROW adjacent to my house were removed so that all vehicles – including large construction vehicles - accessed Amy Street via the ROW from Ruth Street. I am seeking assurances that this is not proposed for the current renovations.

2. Existing hotel bin area

The bin area depicted on the plans appears to have a space large enough to accommodate a vehicle, however the existing bin storage area is packed with bins, plastic rubbish bags and a refrigerator for ice. If this area is to be emptied during renovations, it is not appropriate for the bins to be situated in Amy Street. Previously when bins have been left in Amy Street they are routinely placed so that they encroach into the street and cause problems for access/exit to my garage. The bins are only emptied weekly by a truck with lifting equipment so once placed they are not moved again for a week.

3. Laneway bar

The proposal for converting the present laneway bar to an alfresco dining area appears to be a cynical exercise to overcome objections to the current requirement for this bar to be closed at an earlier time from other bars in the hotel because it is not acoustically unsound. There does not appear to be any modification to the wall facing north to Amy Street which would mean that the area will still be acoustically unsound. Widening the entrance, creating a new opening and raising the floor level to the laneway bar would make it part of the floor space of the adjoining rooms. I note that the plans have no doors specified on the openings.

3. Removing fireplace

Is this in keeping with the Heritage status of the hotel?

Also to note that the proposed reconfiguration of the ground floor as outlined in the application by the Hotel Northbridge has licensing implications. Raising the floor area, enlarging the existing door opening and removing the door and installing an additional opening to the laneway bar impacts on the 9 pm closing requirement for the bar.

Any changes and particularly those as major as this proposal by the Hotel Northbridge require approval from the Office of Racing, Gaming and Liquor. My understanding is that no such application has been lodged with that office. "

The above matters in (1) and (2) would be considered and addressed as part of the construction management plan (condition ix), which will involve the Town's Technical Services ensuring that there is not undue hindrance to vehicular traffic flow along the streets surrounding the subject site. Matters raised in (3) were not identified as a noise issue in the acoustic consultants report. However, if noise complaints were to arise in the future, the Town's Health Services will address these matters in accordance with noise legislation, which may require further noise attenuation measures being undertaken by the owners. The owners have advised that the fireplace is being retained.

The Town Health Services have been advised by the General Manager at Northbridge Hotel, that the Department of Racing, Gaming and Liquor will be advised of the proposed refurbishment as a matter of courtesy upon receipt of Council Approval.

LEGAL/POLICY:

Town Planning Scheme No. 1 and associated Policies.

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The courtyard was sunk by 600 millimetres by the previous owners on their own accord and this was imposed as a condition of Planning Approval by the Perth City Council at its Ordinary Meeting held on 15 February 1993 (attached). Council Minutes on 15 February 1993 do not provide any background relating to the lowering of this area by 600 millimetres.

Health Services

It is acknowledged that the current courtyard use has operated without recorded complaint for at least 3 years, and that the focus of the Hotel's clientele and activities have changed from earlier years.

The acoustic report investigated the acoustic implications of raising the existing courtyard floor level by 600 millimetres (which will in turn reduce the height of the boundary wall by the same margin), and of installing a wrought iron gate in the existing solid southern courtyard wall. The report found that raising the existing sunken courtyard floor level by 600 millimetres would have little effect on noise levels received by the neighbouring backpacker premises to the south-east. It also found that the installation of a wrought iron gate at the southern end of the courtyard may result in an increase of noise transmission from patrons into the street to "*some extent*", but that this could be abated by constructing a gate out of 10 millimetres Perspex in a timber perimeter and applying acoustic seals between the gate and gate frame.

The Town's Health Services does not object to the above proposal, subject to ensuring compliance with the following Acoustic Consultant's recommendations:

- (i) The proposed wrought iron gates in the southern wall of the courtyard to be constructed as follows:
 - gates to be greater than 10 millimetres Perspex in a timber perimeter and to be the same height as the existing wall; and
 - with raven RP 120 acoustic seals (or equivalent) to the sides of the gates, and raven RP 74 brush seals to the bottom of the gates.
- (ii) The hotel continues to manage both crowd and music noise levels appropriately to ensure continued compliance with the Environmental Protection (Noise) Regulations 1997.

Heritage

The Northbridge Hotel is listed on the Town's Municipal Heritage Inventory. The proposed alterations and additions to the existing hotel are considered acceptable.

It is therefore recommended that the alterations and additions be approved, subject to standard and appropriate conditions to address the above matters including, conditions relating to noise, and that the area is not to be used for public bar/drinking area (alcoholic beverages), reduction in the floor area by 2.56 square metres, and other relevant conditions. The owners have been advised of the above conditions being recommended and have verbally advised acceptance.

10.1.13 Pt Lot 1 Corner Summers Street and Joel Terrace, East Perth - Proposed Partial Demolition of and Alterations to, and Stabilisation of Land at the East Perth Power Station-Land within the East Perth Redevelopment Authority (EPRA) Area

Ward:	Not Applicable	Date:	20 September 2004
Precinct:	Not Applicable	File Ref:	ORG0077
Attachments:	001		
Reporting Officer(s):	R Rasiah		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That;

the Council ADVISES the East Perth Redevelopment Authority that it has NO OBJECTION to the Proposed Partial Demolition of and Alterations to, and Stabilisation of Land at Pt Lot 1, corner Summers Street and Joel Terrace, East Perth, East Perth Power Station, and as stated in application dated 31 August 2004 , subject to:

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements, to the satisfaction of the East Perth Redevelopment Authority;*
- (ii) a traffic impact study to be completed by the applicant/owner and submitted to and approved by the Town, prior to the commencement of the proposed works. This study is to address any increase in traffic in the local area during the proposed works and address the transport of asbestos through the Town of Vincent, as well as the likely impact of this traffic on local residents, to the satisfaction of the Town. The recommendations of this study are to be implemented by the applicant/owner, to the satisfaction of the Town;*
- (iii) no noise related activities to occur on -site on Sundays and Public Holidays;*
- (iv) all light spillage is to be contained within the development site and not onto nearby residential properties, to the satisfaction of the Town;*
- (v) the proposed works to be in compliance with the requirements of the Heritage Council of Western Australia;*
- (vi) prior to the commencement of the proposed works, contingency plans in the event of an emergency to be submitted to and approved by the Swan River Trust, Town of Vincent and the Department of Environment; and*
- (vii) prior to commencement of and during the proposed works, after-hours contact details of the Project Manager (or Team) should be advertised in the Town's two local newspapers, on-site (signage) and to local residents.*

COUNCIL DECISION ITEM 10.1.13

Moved Cr Cohen, Seconded Cr Doran-Wu

That the recommendation be adopted.

Debate ensued.

CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

BACKGROUND:

The subject site at Pt Lot 1 corner Summer Street and Joel Terrace, East Perth, accommodates a Western Power owned power station which has ceased operation. The subject site is on land under the jurisdiction of East Perth Redevelopment Authority (EPRA).

DETAILS:

Being the adjoining local authority, EPRA has referred the above development application to the Town of Vincent for comment for the stabilisation of land, demolition and other remedial works at the former East Perth Power Station. Details of the above proposal (attached) have been summarised as follows:

- the main building complex is to be retained;
- removal of asbestos sheeting and replacing with approved corrugated metal sheetings;
- repair to areas damaged or degraded concrete;
- clean, paint and refurbish existing window frames;
- reglazing of windows frames;
- weather proof skin to western walls of A and B Stations;
- demolition of metallurgical laboratory, canteen, gate house, time keepers office, blacksmiths shop, lift motor room on B Station roof, Walter Brook Pump House and other works directed by the Superintendent.

A Heritage Impact Statement and an Environmental Review Statement have also been submitted and are "*Laid on the Table*".

CONSULTATION/ADVERTISING:

Nil.

LEGAL/POLICY:

East Perth Redevelopment Act.

STRATEGIC IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The Town's Heritage Officers have advised that the proposal is generally supported, subject to compliance with the requirements of the Heritage Council of Western Australia.

The Town's Environmental Health Services advise as follows:

The intention to *"weather proof, stabilize and prevent further deterioration of the East Perth Power Station"*, is supported. In addition, stage one, *"Forward Works Contract to make safe the site by the removal of some asbestos roof sheeting, the removal of loose concrete from all parapets, corbels, balustrades and the like, the collection and removal of accumulated dust and bird faeces and the demolition of certain buildings,"* would improve the general health status of the property.

Also supported are the details provided in the Environmental Management Plan in particular:

- Upgrading work on storm-water drainage.
- Dust and airborne contaminants - *"appropriate measures will be undertaken during the works to ensure that no visible dust crosses the site boundary."*
- Asbestos - *"the contractor will be in possession of a Class 1 Demolition Licence and will carry out the works in accordance with relevant Western Australian Government legislation, the Health (Asbestos) Regulations 1992, and Worksafe and Occupational Safety and Health Regulations - Part 5: Hazardous Substances - Subdivision 1: Asbestos"* and *"Prior to the removal of the roof from the A & B Station, ERM will undertake baseline asbestos sampling in the vicinity of the works. This programme will be repeated following roof removal to confirm that the works have not resulted in site contamination by asbestos."*
- Noise - *"All contractors working on site will be required to satisfy the requirements of the Environmental Protection (Noise) Regulations. Working hours will be determined in accordance with the above regulations (i.e. between 7am and 7pm)"*.

As such, it is recommended that no noise related activities occur on Sundays and Public Holidays.

- Lighting and prevention of light pollution or spillage - *"The lights will comprise high-level floodlights which will be situated within the confines of the admin building complex area."*

As such it is recommended that light spillage is to be contained within the development site and not onto nearby residential dwellings.

- Prevention of Environmental Pollution and Putting in place Contingency Plan(s) - *"A contingency plan detailing the roles and responsibilities of personnel, the procedures to be followed in the event of an emergency (or unforeseen event) and safety equipment to be worn. In addition, high level floodlights are being provided for security purposes."*
- Community Consultation and Liaison - *"EPRA has retained a community consultation team, and a communications programme has been developed by this team for liaison with the community during the works programme."*

As such, it is recommended (after-hours) contact details of the Project Manager (or Team) should be advertised in the Town's two local newspapers, on-site (signage) and to local residents.

The Town's Building Surveyors' advise that there are no specific building requirements or comments, as the site is on Crown land.

The Town's Technical Services have recommended that a Traffic Impact Study should be completed by the applicant/owner and submitted to and approved by the Town. This should address any increase in traffic in the local area during the subject works and address the transport of asbestos through the Town of Vincent, as well as the likely impact of this traffic on local residents. This is to ensure that Town of Vincent residents are not unduly adversely affected by these works.

It is also recommended the Swan River Trust, Town of Vincent and the Department of Environment be provided with a copy of the proposed contingency plans in the event of an emergency.

On the above basis, it is recommended that the Council advise EPRA it has no objection to the proposed development, subject to standard and appropriate conditions to address the above matters.

10.1.14 Amendment No. 18 to the East Perth Redevelopment Scheme

Ward:	South	Date:	17 September 2004
Precinct:	Beaufort; P13	File Ref:	PRO1409
Attachments:	001		
Reporting Officer(s):	C Mooney		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the letter dated 7 September 2004 and associated documentation in relation to Scheme Amendment No. 18 for the purpose of extending the East Perth Redevelopment Scheme over portion of the land bounded by William Street, Newcastle Street and Money Street, as shown in Attachment 10.1.14;*
- (ii) *ADVISES the East Perth Redevelopment Authority that the Council SUPPORTS IN PRINCIPLE Amendment No.18 to the East Perth Redevelopment Scheme; and*
- (iii) *ADVISES the East Perth Redevelopment Authority that the Council has NO OBJECTION to the East Perth Redevelopment Authority seeking consent from the Minister for Planning and Infrastructure to advertise Amendment No.18 to the East Perth Redevelopment Scheme.*

Moved Cr Lake, **Seconded** Cr Cohen

That the recommendation be adopted.

Debate ensued.

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

That a new clause (iv) be added as follows:

- "(iv) ADVISES the East Perth Redevelopment Authority that the Town:*
- (a) *DESIRES the existing dwelling on No. 186 (Lot 83) Newcastle Street, corner Money Street, Perth to be retained;*
 - (b) *REITERATES the Council's decision of its Ordinary Meeting held on 14 May 2002 where it recommended refusal to the Western Australian Planning Commission for the proposed demolition of the existing dwelling at No. 186 (Lot 83) Newcastle Street, corner Money Street, Perth for the following reasons:*
 - (1) *the place is situated within the Money and Lindsay Streets Precinct; and*
 - (2) *the heritage assessment of the Money and Lindsay Streets Precinct identified the place as a 'Category 3 (Some or Little significance) - encourage retention and conservation of the place'; and*

- (c) *SEEKS reassurance from the East Perth Redevelopment Authority that the existing dwelling on No. 186 (Lot 83) Newcastle Street, corner Money Street, Perth will be retained."*

AMENDMENT CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

MOTION AS AMENDED CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

COUNCIL DECISION ITEM 10.1.14

That the Council;

- (i) *RECEIVES the letter dated 7 September 2004 and associated documentation in relation to Scheme Amendment No. 18 for the purpose of extending the East Perth Redevelopment Scheme over portion of the land bounded by William Street, Newcastle Street and Money Street, as shown in Attachment 10.1.14;*
- (ii) *ADVISES the East Perth Redevelopment Authority that the Council SUPPORTS IN PRINCIPLE Amendment No.18 to the East Perth Redevelopment Scheme;*
- (iii) *ADVISES the East Perth Redevelopment Authority that the Council has NO OBJECTION to the East Perth Redevelopment Authority seeking consent from the Minister for Planning and Infrastructure to advertise Amendment No.18 to the East Perth Redevelopment Scheme; and*
- (iv) *ADVISES the East Perth Redevelopment Authority that the Town:*
- (a) *DESIRES the existing dwelling on No. 186 (Lot 83) Newcastle Street, corner Money Street, Perth to be retained;*
- (b) *REITERATES the Council's decision of its Ordinary Meeting held on 14 May 2002 where it recommended refusal to the Western Australian Planning Commission for the proposed demolition of the existing dwelling at No. 186 (Lot 83) Newcastle Street, corner Money Street, Perth for the following reasons:*
- (1) *the place is situated within the Money and Lindsay Streets Precinct; and*
- (2) *the heritage assessment of the Money and Lindsay Streets Precinct identified the place as a 'Category 3 (Some or Little significance) - encourage retention and conservation of the place'; and*
- (c) *SEEKS reassurance from the East Perth Redevelopment Authority that the existing dwelling on No. 186 (Lot 83) Newcastle Street, corner Money Street, Perth will be retained."*

BACKGROUND:

The Council at its Ordinary Meetings in 2000 and 2001 has considered various matters associated with the Northbridge Urban Renewal Project Area on numerous occasions, which contains land within the East Perth Redevelopment Authority (EPRA) Scheme Amendment No. 18. The Town initiated the request for the EPRA to extend its control over the subject land.

SITE HISTORY:

18 January 2000: The Council at its Ordinary Meeting resolved the following:

“That the Council;

- (i) receives the letter and associated documentation dated 16 December 1999 and received 21 December 1999 advising the Town of Amendment No. 10 to the East Perth Redevelopment Scheme – Proposed extension of the Redevelopment Area from the East Perth Redevelopment Authority; and*
- (ii) advises the East Perth Redevelopment Authority that the Town generally supports Amendment No. 10 to the East Perth Redevelopment Scheme – Proposed extension of the Redevelopment Area, subject to the following comments:*
 - (a) development design guidelines being prepared, developed and adopted by the East Perth Redevelopment Authority, City of Perth and in close liaison with the Town of Vincent and be consistent with the Town’s Town Planning Scheme No. 1 and Policies;*
 - (b) all planning and building applications being referred to the respective Local Authority for its comments and recommendations prior to determination by the East Perth Redevelopment Authority;*
 - (c) an independent report being prepared on the Cultural Heritage Significance of the places within the subject area;*
 - (d) this Heritage Report and its comments and recommendations being part of the development design guidelines for the subject area;*
 - (e) development approval is to be applied for and obtained from the Local Authority for the demolition of the existing buildings as some of the existing buildings appear to have heritage significance that may warrant their retention;*
 - (f) all demolition applications shall be subject to an independent detailed heritage assessment prior to the determination of the demolition application;*

- (g) *lots accommodating buildings which are determined to have heritage significance, a legal agreement should be entered into between the Western Australian Planning Commission and/or the East Perth Redevelopment Authority and the landowner(s) to ensure the retention and protection of these buildings, in collaboration with the Heritage Council of Western Australia. The legal agreement should be secured by a caveat on the relevant certificates of title and all associated costs shall be met by the applicants/owners;*
- (h) *affordable and a wide choice of housing being encouraged within the subject area; and*
- (iii) *write to the East Perth Redevelopment Authority requesting representation on the Board."*

11 September 2001: The Council at its Ordinary Meeting resolved the following:

"That Council authorises the Chief Executive Officer to investigate extending the East Perth Redevelopment Area as defined in Schedule 1 of the East Perth Redevelopment Act 1991 to include the portion of land as defined in Drawing No. A1 (attached as Appendix 11.4) and present a report to Council no later than 9 October 2001. The report is to address;

- (i) *appropriate boundary adjustments within the project area;*
- (ii) *the mechanism and responsibilities for development control;*
- (iii) *the financial impact to the Town;*
- (iv) *the process of hand over and normalisation;*
- (v) *retention of locally significant heritage building stock; and*
- (vi) *any other issue as deemed appropriate by the Chief Executive Officer."*

9 October 2001: The Council at its Ordinary Meeting resolved the following:

" That;

- (i) *the Council receives the Chief Executive Officer's report relating to the extension of the East Perth Redevelopment Authority Area as defined in Schedule 1 of the East Perth Redevelopment Authority Act 1991 as outlined in Diagram 1 of this report; and*
- (ii) *requests the EPRA to extend its control over the land bounded by Newcastle, William, Little Parry and Money Streets, Perth, as shown in Diagram 1, as detailed in this report."*

DETAILS:

The Town has received a letter dated 7 September 2004 and associated documentation advising the EPRA's intention to initiate Amendment No. 18 to the East Perth Redevelopment Scheme for the purposes of extending the Scheme over portion of the land bounded by William Street, Newcastle Street and Money Street, as shown in the attachment.

The EPRA's Board resolved to initiate Amendment No. 18 at its meeting held on 16 August 2002. The EPRA, pursuant to section 29(3) of the Redevelopment Act 1991, is required to consult with and have regard to the views of the Town prior to seeking the Minister's consent to advertise the proposed amendment.

The EPRA Amendment No. 18 - Scheme Report states as follows:

Background

"The East Perth Redevelopment Act 1991 is a ' Footprint Act, such that additions to the redevelopment area may be regulated for land contiguous to the current boundary. . .

The East Perth Redevelopment (Extension of the Redevelopment Area) Regulations, appeared in the Government Gazette on 30 September 2003 following the Minister's Approval to extend the redevelopment area, under section 57 of the East Perth Redevelopment Act 1991. The Gazettal notice formalised the extension of the Authority's redevelopment area boundaries to take in the portion of land bounded by Newcastle Street, William Street, Little Parry Street and Money Street to within The Village Northbridge. . . .

The extension of the redevelopment area does not, of itself, provide the Authority with exclusive development control powers. These can only be conferred by extending the Redevelopment Scheme over the additional area, which will have effect pursuant to Section 5 (2) of the East Perth Redevelopment Act 1991, of repealing the operative planning schemes- in this instance the Metropolitan Region Scheme and the Town of Vincent Town Planning Scheme (in relation to the extended area).

Details

"The proposed extension of the redevelopment area arose out of a formal request from the Town of Vincent for the Authority to include all of the land south of Little Parry Street in the redevelopment area. The Authority subsequently resolved to extend the redevelopment Area over a lesser area, generally in accordance with the land owned by the WA Planning Commission.

The subject lots (Automasters Site) are situated on a key intersection of Newcastle and William Streets where the potential exists to create a significant 'Landmark' development.

It is considered important for the Authority to acquire 'unfettered ' development control powers, as currently exists in the remainder of The Village Northbridge to enable it to undertake the range of planning responsibilities such as subdivision approval processes , development control and policy implementation. As indicated, this can only be achieved through a formal extension of the Redevelopment Scheme (Refer to Attachment 2).

Until such time as the scheme is extended, development applications are required to be considered, by both the Town of Vincent and the Authority.

As an initial stage, it is proposed to extend the Redevelopment Scheme over the extended area to confer those responsibilities already in place. The associated Scheme provisions and precinct Planning Policies for the extended area will be introduced as a separate amendment following completion of more detailed planning over the subject area.

The process for extending the Redevelopment Scheme is set down in the East Perth Redevelopment Act 1991. This requires, among other things, that a scheme extension be referred to the City of Perth, Town of Vincent, and the Environmental Protection Authority (Department of Environment) for consultation and that their views be considered prior to the proposed amendment being submitted to the Minister for consent to advertise .

In the event that the Minister grants consent for the proposed extension to be advertised the Act requires that a period of 42 days be available for the interested parties to lodge submissions on the proposed extension."

CONSULTATION/ADVERTISING:

Nil

LEGAL/POLICY:

Town Planning Scheme No.1 and associated Policies.

STRATEGIC IMPLICATIONS:

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

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The content of the amendment is generally consistent with the Council's previous resolutions and is considered appropriate in terms of the existing and intended planned development within the Town. The implications of this matter were detailed in the report, Item 10.4.3 Late Item - East Perth Redevelopment Area Extension, to the Ordinary Meeting of Council held on 9 October 2001.

As the EPRA is advising the Town of their intention prior to seeking consent of the Minister to formally advertise Scheme Amendment No. 18, there does not appear to be any further significant issues that need to be addressed at this stage.

In light of the above, it is recommended that the Council receives the documentation relating to the Proposed EPRA Scheme Amendment No. 18 and advises the that the Town does not object to the EPRA seeking consent from the Minister to advertise Amendment No.18, in accordance with the Officers Recommendation.

10.3.2 Financial Statements as at 31 August 2004

Ward:	Both	Date:	21 September 2004
Precinct:	All	File Ref:	FIN0026
Attachments:	001		
Reporting Officer(s):	Bee Choo Tan		
Checked/Endorsed by:	M Rootsey	Amended by:	

OFFICER RECOMMENDATION:

That the Council RECEIVE the Financial Reports for the year ended 31 August 2004 as shown in Appendix 10.3.2.

COUNCIL DECISION ITEM 10.3.2

Moved Cr Lake, Seconded Cr Doran-Wu

That the recommendation be adopted.

Debate ensued.

CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

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 August 2004.

DETAILS:

The Financial Statements comprise:

- Operating Statement
- Summary of Programmes/Activities
- Capital Works 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 67.1% of the annual Budget estimate

General Purpose Funding (Page 1)

General Purpose Funding is showing 90.9 % of the budget levied to date. This is due to rates being levied for the financial year; the rates revenue represents 98% of the budgeted amount for the rates income.

Governance (Page 2)

Governance is showing 89.8% of the budget received to date, this is due to advertising rebates and vehicle contributions received.

Law Order & Public Safety (Page 3)

Revenue is showing a favourable variance of 39.15% due to recoup in advance of employee cost that is on secondment and grants received.

Health (Page 4)

Health is showing 80.02%, this is due to 165 Health Licences being issued.

Community Amenities (Page 6)

Community Amenities is 35.51 % of the budget, this is as a result of 148 planning applications have been processed to date.

Recreation & Culture (Page 9)

Recreation and Culture is 12.57% of budget. Beatty Park is also 12 % of budget for the month of August.

Operating Expenditure

Operating expenditure for the month of August is slightly under budget.

Capital Expenditure Summary (Pages 18 to 25)

The Capital Expenditure summary details projects included in the 2004/05 budget and reports the original budget and compares actual expenditure to date against these. Capital works show total expenditure for August an amount of \$1,023,202 which is only 9 % of the budget.

	Budget	Actual to Date	%
Furniture & Equipment	144,560	21,592	15%
Plant & Equipment	1,249,972	80,233	6%
Land & Building	2,746,610	452,551	16%
Infrastructure	6,997,900	468,826	7%
Total	11,139,042	1,023,202	9%

Statement of Financial Position and Changes in Equity and Restricted Cash Reserves (Not available due to year end 30 June 04 not yet finalised)

Debtors and Rates Financial Summary

General Debtors (Page 26)

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

Sundry Debtors of \$2,238,549 are outstanding at the end of August. There is a significant drop due to the payment by WA Treasury of \$657,150. Of the total debt \$1,680,760 (75%) relates to debts outstanding for over 60 days. The majority of the debt is \$1,162,150 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.

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

Rate Debtors (Page 27)

The notices for rates and charges levied for 2004/05 were issued on the 3 August 2004.

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

First Instalment	7 September 2004
Second Instalment	8 November 2004
Third Instalment	6 January 2005
Fourth Instalment	8 March 2005

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.

Rates outstanding is \$9,861,821 which represent 71.9% of the outstanding collectable income.

Beatty Park – Financial Position Report (Page 28)

As at 31 August 2004 the operating deficit for the Centre was \$132,680 in comparison to the budgeted annual deficit of \$636,734.

The cash position showed a current cash deficit of \$60,965 in comparison to the annual budget estimate of a cash deficit of \$181,738. The cash position is calculated by adding back depreciation to the operating position.

10.4.1 Draft Community Consultation Policy - Interim Report

Ward:	-	Date:	22 September 2004
Precinct:	-	File Ref:	
Attachments:	-		
Reporting Officer(s):	D Abel, R Boardman, John Giorgi		
Checked/Endorsed by:	-	Amended by:	-

OFFICER RECOMMENDATION:

That the Council;

- (i) *RECEIVES the Interim Report as at 22 September 2004 relating to the Draft Community Consultation Policy No 4.1.5; and*
- (ii) *NOTES that further report and a draft amended Policy relating to "Community Consultation" will be submitted to the Ordinary Meeting of Council to be held on 26 October 2004.*

Moved Cr Chester, **Seconded** Cr Lake

That the recommendation be adopted subject to:

1. *clause (ii) being amended to read as follows:*

"(ii) NOTES that further report and a draft amended Policy relating to "Community Consultation" together with the Town of Vincent Community Consultation Submission Guidelines - Planning, Building and Heritage Matters will be submitted to the Ordinary Meeting of Council to be held on 26 October 2004; and"

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

"(iii) AUTHORISES the Chief Executive Officer to include a charter under Town Planning, Development and Heritage Matters, that outlines consultees key principles in preparation of their submissions, including the responsibilities of the Town's Officers and Elected Members in processing and considering their submissions."

Debate ensued.

CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

At 8.00pm the Presiding Member called a 5 minute adjournment.

COUNCIL DECISION ITEM 10.4.1

That the Council;

- (i) *RECEIVES the Interim Report as at 22 September 2004 relating to the Draft Community Consultation Policy No 4.1.5; and*
- (ii) *NOTES that further report and a draft amended Policy relating to "Community Consultation" together with the Town of Vincent Community Consultation Submission Guidelines - Planning, Building and Heritage Matters will be submitted to the Ordinary Meeting of Council to be held on 26 October 2004; and*
- (iii) *AUTHORISES the Chief Executive Officer to include a charter under Town Planning, Development and Heritage Matters, that outlines consultees key principles in preparation of their submissions, including the responsibilities of the Town's Officers and Elected Members in processing and considering their submissions.*

BACKGROUND:

The Ordinary Meeting of Council held on 10 August 2004 the Council resolved as follows:

"That the Council;

- (i) *RECEIVES the Interim Report as at 4 August 2004 relating to the Community Consultation Workshop held on 20 May 2004 and review of Policy No 4.1.5 - "Community Consultation";*
- (ii) *APPROVES IN PRINCIPLE the changes to Policy No 4.1.5 - "Community Consultation" as detailed in this Interim Report under the categories of "supported" and "supported in part" by the Chief Executive Officer;*
- (iii) *NOTES that;*
 - (a) *the Policy relating to "Community Consultation" (mainly part 3 - Town Planning, Development and Heritage Matters) is being completely reviewed taking cognisance of the matters raised at the community workshop held on 20 May 2004 and the comments contained in this Interim Report; and*
 - (b) *the draft amended Policy relating to "Community Consultation" will be presented at the Elected Members Forum to be held on 21 September 2004; and*
 - (c) *a further report and a draft amended Policy relating to "Community Consultation" will be submitted to the Ordinary Meeting of Council to be held on 28 September 2004."*

At the Ordinary Meeting of Council held on 23 March 2004, the Council considered this matter and resolved (inter alia) as follows:

"That, to assist in the review of the Town's Community Consultation Policy, the Council APPROVES of the following;

(i) *a Community workshop to be held in mid to late May 2004;*

...; and

(vi) *following the workshop, the Town's Officers to prepare a revised draft policy and report back to Council by the first meeting in August 2004."*

Following the meeting of 10 August 2004, the Draft Policy was prepared with the following significant changes:

1. Additional words, roles, responsibilities, objectives and key principles have been included which support the Town's current philosophy towards community consultation.
2. An index has been inserted - due to the large size of the document.
3. The "Objectives", Section 1, 2, and 3 have been added to include information detailed in (1) above.
4. A new section "Guidelines and Policy Procedures for Community Consultation" has been included.
5. Part 1 - Statutory Community Consultation Local Government Act 1995 and Part 2 - Non-Statutory and General Consultation/Communication - are unchanged from the current policy.
6. Part 3 - Town Planning, Development and Heritage Matters - has been completely rewritten.

A copy of the Draft Policy as discussed at the Elected Member Forum held on 21 September 2004 is "*laid on the table*".

At the Forum, the following comments were made:

Planning Matters

- *Consultation should not occur over the Christmas/New Year period*

The Policy has been amended to prohibit advertising consultation from 18 December to 8 January. However, it should be noted that there will be a delay in processing planning applications.

- *Consultation period, involving public holidays (excluding Christmas/New year period).*

The Policy has been amended to ensure that any public holidays which occur during the advertising period will be added to the advertising period. (This would include long weekends and the Easter Festive Season.) However, it should be acknowledged that there will be a slight delay in processing planning applications.

- *Suggested 14 days advertising is too short – 4 days are weekends – insufficient time to view the plans.*

The Draft Policy currently excludes weekends. There were differing opinions about this matter. The Town's administration will further research the matter and determine the practice of other local governments.

- All demolitions should be advertised for 14 days, with a sign displayed in front of the property.

The Draft Policy has been amended to include this. However, it is recommended that the matter should be reviewed after a 6 or 12 month period.

For information, the following table outlines the number of demolition planning applications received, and determined by the Chief Executive Officer or Executive Manager Environmental and Development Services under delegated authority from the Council:

Description	1995/ 96	1996/ 97	1997/ 98	1998/ 99	1999/ 00	2000/ 01	2001/ 02	2002/ 03	2003/ 04
Demolition Applications Received	43	35	11	27	40	40	62	53	95
Demolition Applications Approved Under Delegated Authority	Data Not Readily Available	4 (10%)	5 (12.5%)	3 (4.8%)	2 (3.79%)	12 (12.63%)			

- Once a matter has been advertised for comment, the Officer report should not be written until the consultation period closes.

Already implemented. The Policy has been amended to specifically reflect this matter.

- Once a matter has been advertised for comment, a decision should not be made until the consultation period closes.

Already implemented. The Policy has been amended to specifically reflect this matter.

- Letters of notification regarding development applications listed in the Council meeting Agenda should be received before the weekend prior to the Council meeting.

Notification letters will be posted on the day following the agenda closing (ie Wednesday), which will in the main ensure letters arrive on the Friday. This has recently been implemented, and the Policy has been amended to specifically reflect this matter.

- Simple English and plain language in letters should be encouraged.

Already implemented. Furthermore, customers are strongly encouraged to contact the Town's Planning and Building Services Officers to clarify any queries regarding planning and building applications, processes, procedures and requirements.

- A booklet, in plain English, explaining the planning process, for both applicants and affected parties should be written.

Already implemented via the Town's Planning and Building Services Information Pack, which has been available to the public for several years. Furthermore, customers are strongly encouraged to contact the Town's Planning and Building Services Officers to clarify any queries regarding planning and building applications, processes, procedures and requirements.

- Prepare a "dummy's guide" for Town Planning".

Already implemented via the Town's Planning and Building Services Information Pack, which has been available to the public for several years. Furthermore, customers are strongly encouraged to contact the Town's Planning and Building Services Officers to clarify any queries regarding planning and building applications, processes, procedures and requirements.

A guide for consultees is currently being prepared and will include details of the consultation process and the matters that could be addressed in submissions. A proforma submission will also be prepared.

- Neighbour consent should be invalidated if plans are subsequently shown to contain errors.

The Policy has been amended to reflect this matter, where formal consultation is still required to be undertaken by the Town regardless whether the neighbours' consent have been obtained by the applicant. However this would be time consuming to check in every occasion and would result in further delays in processing planning applications.

- Conflict between clauses 3.2.1 and 3.4.1.

The Policy has been amended to remove any conflict and ambiguity.

- Change of use in mixed use developments

Already implemented. The Policy has been amended to specifically reflect that where there is more than one owner of units in the development, they will all be consulted.

- For any major projects, plans of a specified minimum size should be made available and sent to precinct groups

Already implemented for non-planning applications plans. The legal implications of providing copies of planning application plans and associated documentation to neighbours and the precinct groups require further investigation. If there are no adverse legal implications on the Town, where possible, A3 size plans and A4 size documentation will be provided to affected neighbours for all planning applications, and also to the precinct groups for large/major developments.

This matter requires further investigation to ensure the Town does not infringe copyright legislation.

- Reconsider the practice of providing details of objectors to applicants.

Already implemented. The Town does not disclose the name and address of the objectors (however, in many cases where it involves adjoining property owners, the applicant sometimes ascertains this information). The Policy has been amended to specifically reflect this matter.

- Wording of letter that goes out to people who have made submission should start with a plain English explanation, rather than the extract from Council minutes.

This is the current practice. However, it should be acknowledged that inclusion of the Council decision is often required. The Council Minutes are in most cases self-explanatory and those who receive such letters are invited to telephone the Town's Officers if they have any queries.

- Consultation adjacent to large developments needs to be wider.

The Policy has been amended.

- Make plans available outside Mon-Fri 8-5.

At present the plans are available at the Customer Service Centre. An additional plan will be requested from the applicant and will be available at the Library. However, the Library staff will not be able to respond to any planning related queries as they do not have the background knowledge and to ensure that the Town does not incur any legal liability claims, a sign to this effect will be displayed with these plans. This matter requires further investigation.

- Display of non-conforming plans in Administration Centre, Library or at Council Meeting be presented a bit better, in the Library - it should be easier to read.

The Policy has been amended to reflect this matter.

- Non-compliances should be assessed against policies, R-codes & TPS.

Currently actioned as each planning application is assessed by the Town's Planning and Building Services Officers on its merit in terms of the Town's Town Planning Scheme No. 1 and associated Policies and the Residential Design Codes.

Non Planning Matters

- Designate a person as a contact for any communication for precinct groups.-A "focal point" - not a new employee - as this will add to rates rise.

Already actioned. The Town's Public Relations Officer will act as a contact for enquiries where a person or Precinct Group needs information. A letter was sent on 27 July 2004 to all Precinct Groups.

- Request that a Precinct map be displayed in the foyer of the administration building.

Already implemented. A plan has been displayed in the Library and Administration Centre foyer.

Other matters raised at the Forum held on 21 September 2004 include:

- A definition of "stakeholders" to be considered under the "Key Principles" category.
- Persons signing pro-forma submissions will not be individually notified (clauses 5B and 6.2). Policy to be clearer.

- A comment that all statutory advertising will also be included on the Town's website, to be included.
- Town Planning Building and Heritage matters
 - Clause 3.3 table - to be made more clear and explained;
 - Clause 3.4.2 - the planning application and building application checklists to be reviewed to include; a footprint of the adjacent house to be shown for adjacent developments; all applications to contain all information prior to be accepted by the Town's administration for processing.
 - Clause 3.5(1) consultation Matrix Subclause 1.6 - Demolition - further explanation required concerning the extent of demolition and that this does not apply to outbuildings and "lean-to" etc - Towns administration to investigate what other procedures occur to prevent vandalism and damage in the interim period prior to demolition, in other local governments where a sign is displayed in front of premises which are proposed to be demolished.
 - Consultation Matrix Notes to include a reference to "offensive trades" and reference to availability of viewing of plans.
 - Clause 3.5.2 - Extent of Consultation Diagrams - to be further investigated as to what is required if a property is on a corner.
 - Diagram 19 - Footnote to be inserted indicating that all units within the complex will be consulted.
 - Clause 3.6 - Readvertising - this to be extensively reviewed and reworded with particular reference to plans of non-compliances.
 - Clause 3.7 – This matter to be further researched and to determine the practice of other local governments.
 - Clause 3.9.5 - Inserting the words "and clearly visible to the public".

Other matters discussed related to:

- a contact person to be indicated to the consultee.
- plans not being available;
- a Guide for Consultee's "Dummy's Guide";
- how to consult where English is not the main language;
- hierarchy of policies to be clearer;
- issue of copyright to be investigated;
- when Agenda is prepared and links are included to the website – this to include plans;
- mediation – do we provide names and addresses of objectors; and
- if consultee wants assistance, they can make an appointment with a Planning Officer.

CONSULTATION/ADVERTISING:

N/A.

LEGAL/POLICY:

Policies are not legally enforceable, they provide guidance to the Town's Administration and Elected Members when considering various matters.

STRATEGIC IMPLICATIONS:

The Community Consultation Policy is in keeping with the Town's Strategic Plan 2003-2008, Key Result Area 2.3 "Ensure effective public relations and communications".

FINANCIAL/BUDGET IMPLICATIONS:

No additional funds have been necessary in developing the draft amended Community Consultation Policy as all work has been carried out *"in-house"*.

COMMENT:

As the Forum revealed that a number of matter require further investigation, it is not possible for this to occur within the timeframe of the previous Council decision. Accordingly, this interim report is submitted. A further report will be submitted to the Ordinary Meeting of Council to be held on 26 October 2004.

Meeting resumed at 8.10pm with the following present:

Mayor Nick Catania JP, Crs Chester, Cohen, Doran-Wu, Franchina and Lake, Rob Boardman, Mike Rootsey, Des Abel, Craig Wilson, Annie Smith and approximately 3 members of the public.

Refer to page 99

At 7.28pm **Moved** Cr Chester, **Seconded** Cr Doran-Wu

That this Item be considered at the conclusion of the remaining items on the Agenda.

CARRIED (5-1)

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

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

Discussion on Item 13.1 resumed.

13.1 Further Report - No(s). 163-171 (Lot(s) 13 and 17) Harold Street, Highgate - Proposed Retaining Walls Additions to Existing Single Residential Vacant Lots-Previously Associated with Sacred Heart Primary School

Ward:	South	Date:	28 September 2004
Precinct:	Hyde Park; P12	File Ref:	PRO2925; 00/33/2330
Attachments:	001		
Reporting Officer(s):	R Rasiah, M Bonini		
Checked/Endorsed by:	D Abel, R Boardman	Amended by:	-

FURTHER OFFICER RECOMMENDATION:

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by EJC Civil on behalf of the owner Roman Catholic Archbishop for proposed Retaining Walls Additions to Existing Single Residential Vacant Lots-Previously Associated with Sacred Heart Primary School at No(s). 163-171 (Lot(s) 13 and 17) Harold Street, Highgate, and as shown on plans stamp-dated 8 July, 26 August and 1 September 2004, subject to:

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*

- (iii) *no additional fill shall be added to the above site, even during construction of any development on-site;*
- (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) *no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services Section. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*
- (vi) *the existing fill on No. 171 (Lot 17) Harold Street, Highgate shall be reduced to the footpath level directly adjacent to the subject site;*
- (vii) *the proposed retaining wall along the eastern boundary of No.171 (Lot 17) Harold Street, Highgate shall be reduced to the same level in Condition (vi) above; and*
- (viii) *prior to the Lots 13, 14, 15, 16 and 17 Harold Street, Highgate being sold/disposed, Design Guidelines including the following, but not limited to land use, access, car parking, setbacks, heights, scale, roof, streetscape, amenity, privacy, services/servicing, landscaping, fencing, courtyards and environmental design, shall be prepared by the applicant/owner, and submitted to and approved by the Town. All prospective purchasers of the above Lots 13 to 17 Harold Street, shall also be advised in writing with clause(s) stated in the contract of sale/disposal of the above lots of the above requirements, including the compliance with the Town's Locality Statements and relevant Policies, and the Residential Design Codes;*

to the satisfaction of the Chief Executive Officer.

Moved Cr Chester, Seconded Cr Franchina

That the recommendation be adopted.

Debate ensued.

Moved Cr Chester, Seconded Cr Doran-Wu

That the existing clause (vi) be deleted and a new clause (vi) be added as follows:

"(vi) the existing fill on Lots 13 to 17 inclusive Harold Street, Highgate shall be reduced to a maximum of 500 millimetres above the footpath level adjacent to the subject lots over the 5 metres front setback area, with the remaining area of the lots to be level with the maximum permitted 500 milimetres fill;"

AMENDMENT CARRIED (5-1)

For

Cr Chester

Cr Cohen

Cr Doran-Wu

Cr Franchina

Cr Lake

Against

Mayor Catania

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

Moved Cr Chester, Seconded Cr Doran-Wu

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

"(vii) the proposed retaining walls ~~along the eastern boundary of No.171 (Lot 17) Harold Street, Highgate~~ over the lots shall be reduced to the same level in Condition (vi) above; and"

Debate ensued.

AMENDMENT CARRIED (4-2)

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

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

Moved Cr Lake, Seconded Cr Cohen

That clause (viii) be deleted.

AMENDMENT CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

MOTION AS AMENDED CARRIED (6-0)

(Cr Ker was an apology for the meeting. Crs Farrell and Torre on approved leave of absence.)

COUNCIL DECISION ITEM 13.1

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 EJC Civil on behalf of the owner Roman Catholic Archbishop for proposed Retaining Walls Additions to Existing Single Residential Vacant Lots-Previously Associated with Sacred Heart Primary School at No(s). 163-171 (Lot(s) 13 and 17) Harold Street, Highgate, and as shown on plans stamp-dated 8 July, 26 August and 1 September 2004, subject to:

- (i) *compliance with all relevant Environmental Health, Engineering and Building requirements;*

- (ii) *all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (iii) *no additional fill shall be added to the above site, even during construction of any development on-site;*
- (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) *no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services Section. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*
- (vi) *the existing fill on Lots 13 to 17 inclusive Harold Street, Highgate shall be reduced to a maximum of 500 millimetres above the footpath level adjacent to the subject lots over the 5 metres front setback area, with the remaining area of the lots to be level with the maximum permitted 500 millimetres fill; and*
- (vii) *the proposed retaining walls over the lots shall be reduced to the same level in Condition (vi) above;*

to the satisfaction of the Chief Executive Officer.

FURTHER REPORT:

The above proposal was considered at the Ordinary Meeting of the Council held on 14 September 2004, where the item was "DEFERRED" to allow further investigation and to include the following matters:

1. *Assess elements of the design, configuration and levels of the land.*
2. *Determine level of the pre-existing school playing fields, and fill on Lot 17.*
3. *Impact of the proposed levels on the bulk and scale of future development, as well as the streetscape.*
4. *Safety and interface issues relating to vehicle access from Harold Street, including driveway gradients."*

Response to Council Reasons for Deferment

The following information is provided in response to the requests for additional information by the Council at its Ordinary Meeting held on 14 September 2004. The applicants have provided the additional information (attached) in relation to Lots 13 to 17 inclusive Harold Street, which is summarised in the below response. The Officer's comments follow the response of the applicant.

1. Assess elements of the design, configuration and levels of the land.

Applicant

The original subdivisions of the lots were approved in 1893, and are of a similar size and configuration of lots on the southern side of Harold Street and both sides of Mary Street. The only change in the lot alignment between Lots 17 and 18 Harold Street is as a result of an adverse possession issue.

Fill was introduced to Lots 13 to 16 Harold Street approximately 70 years ago to create a level playing field. The fill to Lot 17 Harold Street was undertaken approximately 15 years ago, but was terminated and battered a short distance to the west of the eastern boundary. *"The wall along the boundary of Lot 17 is necessary to retain long established fill, and to overcome the prospect of subsidence or flooding which has previously affected the adjoining lot 18."* The owner of adjoining Lot 18 has no objection to the proposed retaining wall.

Officers

The consideration of setback, building and walls heights, overshadowing, and open space will be part of the design assessment of the above site, which is undertaken when a development application is received by the Town.

2. Determine level of the pre-existing school playing fields, and fill on Lot 17.

Applicant

Site levels of Lots 13 to 17 Harold Street are as per the below table:

Site levels

	Before Earth Works			After Earthworks	Reduction in Level
	High	Low	Average		
Lot 13	27.21	26.82	27.00	27.00	0.21 metres
Lot 14	26.90	26.63	26.80`	26.75	0.15 metres
Lot 15	26.81	26.72	26.80	26.50	0.31 metres
Lot 16	26.87	26.55	26.80	26.25	0.62 metres
Lot 17	26.80	25.05	26.50	26.00	0.8 metres

The earthworks were to remove vegetation contained in the imported fill to ensure compaction levels suitable for future residential development. The front five (5) metres of the subject lots have been further graded with falls of between 1 to 1.5 metres over the five (5) metres front setback.

Officers

The details in the last column of the above table has been altered to reflect the difference between the "high-before earthworks" and the "after earthworks levels", which is slightly different to the figures provided by the applicant in the attachments (difference between average "before earth works" and "after earth works").

The above table indicates that the ground levels have been reduced between 0.15 to 0.8 metres. The fill on the above sites have been there for a number of years, and have been accepted by the immediate and surrounding landowners. Similar to any new development, there will be an expectation from the public that any person wanting to build a house on the site would build using the existing levels on-site. If the existing fill were to be excavated to levels 15 to 70 years ago, this would likely result in unduly affecting the built environment and the existing streetscape, which has since developed.

3. Impact of the proposed levels on the bulk and scale of future development, as well as the streetscape.

Applicant

The levels of three of the above lots are below than previously existed. As the owners are not intending to undertake development, they are unable to comment on the bulk and scale of future developments.

However as the site is zoned Residential R80, it could have been developed with up to 16 aged persons dwellings. The owners who have "*being a long term, substantial and continuing stakeholder in the community, is conscious of the need for development to be sympathetic to the existing streetscape.*"

The lots will be sold individually at auction with the anticipation that they be developed with single houses.

Officers

Any future development will be assessed on its individual merits, in accordance with the relevant Town's Policies and the Residential Design Codes, with natural ground level taken for the current levels on site.

4. Safety and interface issues relating to vehicle access from Harold Street, including driveway gradients.

Applicants

The above matter should be addressed at the development application stage, as some owners may wish to build under croft garages. The applicant and owners strongly support the Town's stance in terms of safety and interface issues being addressed and in particular that driveway gradients meet appropriate standards, including the well being of residents and school children is properly recognised.

Officers

The maximum gradient for a driveway is 1 in 5. Fencing if proposed, would have to be open style fencing with a maximum height of 1.2 metres of solid wall. This will ensure adequate sight distances are maintained when vehicles reverse onto the street. The safety issue associated with new driveways is an important issue which is always faced in any new subdivision sites, more so in inner urban areas, however this impact is considered lesser when compared to a non-residential development, at the above site.

Summary

It is considered that the proposed current and existing fill levels on the above site will not unduly impact on the streetscape of Harold Street. Any new residential development will have to comply with the current Policies of the Town and the Residential Design Codes.

Accordingly, the proposal is recommended for approval, subject to standard and appropriate conditions to address the above matters, and additional conditions requested by Councillors Simon Chester and Ian Ker in relation to the previous Officer Recommendation to the Ordinary Meeting of Council held on 14 September 2004.

The following is a verbatim copy of the Minutes of the Item placed before the Council at its Ordinary Meeting held on 14 September 2004:

"OFFICER RECOMMENDATION:

That;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the Council APPROVES the application submitted by EJC Civil on behalf of the owner Roman Catholic Archbishop for proposed Retaining Walls Additions to Existing Single Residential Vacant Lots Previously Associated with Sacred Heart Primary School at No(s). 163-171 (Lot(s) 13 and 17) Harold Street, Highgate, and as shown on plans stamp-dated 8 July, 26 August and 1 September 2004, subject to:

- (i) compliance with all relevant Environmental Health, Engineering and Building requirements;*
- (ii) all stormwater produced on the subject land shall be retained on site to the satisfaction of the Town's Technical Services Division. No further consideration will be given to the disposal of stormwater without the submission of a geotechnical report from a qualified consultant;*
- (iii) no additional fill is to be added to the above site;*
- (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; and*
- (v) no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services Section. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*

to the satisfaction of the Chief Executive Officer.

COUNCIL DECISION ITEM 10.1.7

Moved Cr Ker, Seconded Cr Lake

That the recommendation be adopted.

Cr Chester returned to the Chamber at 7.17pm

Debate ensued.

Cr Doran-Wu departed the Chamber at 7.18pm.

Cr Doran-Wu returned to the Chamber at 7.19pm.

Moved Cr Ker, Seconded Cr Lake

That the Item be DEFERRED to allow further investigation and to include the following matters:

- 1. Assess elements of the design, configuration and levels of the land.*
- 2. Determine level of the pre-existing school playing fields, and fill on Lot 17.*
- 3. Impact of the proposed levels on the bulk and scale of future development, as well as the streetscape.*
- 4. Safety and interface issues relating to vehicle access from Harold Street, including driveway gradients.*

CARRIED (8-0)

(Cr Torre was an apology for the meeting.)

<i>Landowner:</i>	<i>Roman Catholic Archbishop</i>
<i>Applicant:</i>	<i>EJC Civil</i>
<i>Zoning:</i>	<i>Metropolitan Region Scheme: Urban Town Planning Scheme No.1: Residential R80</i>
<i>Existing Land Use:</i>	<i>Educational Establishment - (Newly created vacant residential lots).</i>
<i>Use Class:</i>	<i>Educational Establishment</i>
<i>Use Classification:</i>	<i>"AA"</i>
<i>Lot Area:</i>	<i>8029 square metres</i>

COMPLIANCE:

<i>Requirements</i>	<i>Required</i>	<i>Proposed *</i>
<i>Plot Ratio</i>	<i>N/A</i>	<i>N/A</i>
<i>Fill/Retaining</i>	<i>Fill not to exceed 0.5 metre above natural ground level</i>	<i>Fill proposed between 0.479 to 1.34 metres above natural ground level on Lot 17 Fill proposed at a maximum of 0.694 metre above natural ground level on Lot 13</i>

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

SITE HISTORY:

The subject application relates to the vacant residential lots adjoining the Sacred Heart Primary School site. The subject lots where the fill and retaining is to take place are vacant lots that are in the process of being disposed by the Sacred Heart School.

DETAILS:

The proposed fill and retaining is to occur on the western boundary of Lot 13 and the eastern boundary of Lot 17. The lots were formerly part of the Sacred Heart Primary School, which have been subdivided and are to be sold to the public. The proposed retaining walls are to contain the existing fill levels within the respective lots.

CONSULTATION/ADVERTISING:

The proposal was not advertised as the affected landowner to the eastern side of the retaining wall for Lot 17 Harold Street has signed on the plans and also submitted a letter of non-objection to the proposed retaining wall. No other landowners are affected by the proposed retaining walls.

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:

Fill /Retaining

The proposed fill on Lot 17 ranges from 0.479 to 1.34 metres above natural ground level. The fill proposed will result in a land level closely matching with that of the adjoining lots to the west side of the subject site. The finished ground level will therefore become 26.05 relative level (RL) from the original level of 26.00RL, which has been the natural ground level for the sites. The Town's Policy on retaining restricts fill to a maximum height of 0.5 metre, however, in this instance the extra fill is required to reach a consistent level across Lots 13 to 17. Furthermore, the adjoining affected neighbour has consented to the proposed fill. The proposal is therefore considered to be acceptable and supported.

The fill intended on Lot 13 reaches a maximum of 0.694 metre. The fill exceeds the requirement by 0.194 metre. This is considered to be minimal and is not deemed to cause undue detrimental impact to the adjoining affected lot, which is the playing field for the Sacred Heart Primary School, which also owned by the same organization. The variation is considered to be acceptable and therefore supported.

The Town's Heritage Officers have advised that the proposed retaining walls would not have an impact on the heritage aspect associated with the Sacred Heart Primary School, which is listed in the Town's Municipal Inventory.

It is therefore recommended that the application be approved, subject to standard and appropriate conditions to address the matters discussed above."

11. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

12. REPRESENTATION ON STATUTORY AUTHORITIES AND PUBLIC BODIES

Nil.

14. CLOSURE

The Presiding Member, Mayor Catania JP, declared the meeting closed at 8.28pm with the following persons present:

Cr Simon Chester	North Ward
Cr Caroline Cohen	South Ward
Cr Helen Doran-Wu	North Ward
Cr Basil Franchina	North Ward
Cr Sally Lake	South Ward
Rob Boardman	Acting Chief Executive Officer
Des Abel	Acting Executive Manager, Environmental & Development Services
Mike Rootsey	Executive Manager, Corporate Services
Craig Wilson	Acting Executive Manager, Technical Services
Annie Smith	Executive Assistant (Minutes Secretary)

3 Members of the Public

These Minutes were confirmed by the Council as a true and accurate record of the Ordinary Meeting of the Council held on 28 September 2004.

Signed:Presiding Member
Mayor Nick Catania, JP

Dated this day of 2004