



**TOWN OF VINCENT**

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*"Enhancing and celebrating our diverse community"*

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# **MINUTES**

## **SPECIAL COUNCIL MEETING**

**13 OCTOBER 2009**

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Minutes of the Special Meeting of Council of the Town of Vincent held at the Administration and Civic Centre, 244 Vincent Street, Leederville, on Monday 13 October 2009, commencing at 6.00pm.

**1. DECLARATION OF OPENING**

The Presiding Member, Mayor Nick Catania, declared the meeting open at 6.08pm.

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

**(a) Apologies:**

Cr Izzi Messina – apologies – arriving late due to work commitments.

**(b) Present:**

Mayor Nick Catania, JP	Presiding Member
Cr Anka Burns	South Ward
Cr Doran-Wu	North Ward
Cr Steed Farrell ( <i>Deputy Mayor</i> )	North Ward
Cr Ian Ker	South Ward
Cr Sally Lake	South Ward
Cr Dudley Maier	North Ward
Cr Izzi Messina	South Ward (from 6.32pm)
John Giorgi, JP	Chief Executive Officer
Rob Boardman	Director Development Services
Rick Lotznicker	Director Technical Services
Mike Rootsey	Director Corporate Services
Jeremy van den Bok	Manager Parks and Property Services until approx. 9.06pm

Approximately 25 Members of the Public.

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

Nil.

**(d)** Cr Noel Youngman tendered his resignation as a Councillor at the Town of Vincent effective from Friday 21 August 2009.

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

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

1. Marie Slyth of 89 Carr Street, West Perth – Item 7.3. Spoke against the item. She asked the Council to defer making a decision this evening. Advised since the Town claims it continues to pride itself on it's ratepayer community consultation and notification efforts, believed it must make sure in considering this decision, that it make every effort to notify all landowners in Cleaver Precinct on an individual basis in this crucial matter – not just an advertisement in the local paper. Believed failing to do so would make a mockery of the Town's consultation principles. Stated the Cleaver Precinct community should not have to live in continual fear of unforeseen disruption to their lifestyles because of Council's failure to consult or notify. Believed approving the amendment will make a "*laughing stock*" of the Council given the recent commendation on the Town's effective consultation processes by the Minister of Local Government, the Hon. John Castrilli who believes the Town does thoroughly consult and notify all ratepayers (CEO has a copy of this letter). Stated the last thing the Town needs is to "*sell off*" its ratepayers when the threat of amalgamation by Perth City Council is lying in the offering.

2. Mario D'Alonzo of 158 Palmerston Street, Perth – Item 7.3. Stated he was shocked about the Policy which he only found out about by chance a couple of weeks ago. Advised that he has lived in Palmerston Street for approx. 20 years and he landlord died a few years ago and he went through a protracted process to purchase the property. Stated that during 2008 he went to Council a number of times and asked questions regarding planning and a general impression that if there were any developments where he lived. There was the Hyde Park Heritage rules where certain requirements were required therefore the current rules were applicable. Further found out that his neighbour who faces Bulwer Street was thinking of selling and in March (1 month before settlement) he came back in and spoke to a Planning Officer who was very helpful and queried what could happen with that block but was again left with the impression that there were certain limitations on what they could build there, possibly up to 2-storey. Advised that 2 weeks ago he found out that with these changes it could be built up to 5-storey which is a very big change, however in the numerous visits no one ever gave him any idea that any of this was in the process of being put forward which he is not very happy about. Believed this will affect his property value and amenity and stated he should have been notified in a more thorough way particularly on his visits to Council. Believed the height level to be totally inappropriate for that precinct. Believed the area of Bulwer between Beaufort and Fitzgerald is not a heavy duty high rise development area and is not appropriate to have the 5-storey level so close to Hyde Park. Believed there needs to be more vigorous consultation with the community in the Hyde Park Precinct about the Multiple Dwelling Policy. Urged Council to consider postponing the item.
  
3. Anthony Lepere of 7/167 Carr Place, Leederville – Item 7.1. Asked the following:
  - (i) Is the Council satisfied that the proposal to which Item 7.1 relates will not adversely affect:
    - (a) the privacy of Lot 6, 210 Carr Place; and
    - (b) the amenity of Lot 6, 210 Carr Place, whether in a way that impermissibly infringes the Town Planning Scheme or otherwise.
  - (ii) If the answer to question (i) is yes, is the Council willing to provide detailed reasons in writing for the basis of that satisfaction?
  - (iii) Can the Council confirm that the proposal may not proceed without the consent of each owner of 210 Carr Place? That appears to be the plain reading of Item 5 of the proposal.
  - (iv) If the answer to question (iii) is no, will the Council provide detailed written reasons for the basis for that decision?
  - (v) If the answer to question (i) is yes and the answer the question (iii) is no, that is to say if the Council is against me on each of these points, is there any good reason why the Council will not defer the decision until after the forthcoming Town of Vincent Elections.

**The Presiding Member, Mayor Nick Catania advised that these questions would be taken on Notice.**

4. Elizabeth Angwin of 50 Broadbeach Boulevard, Hillarys – Item 7.1. Stated the proposed building is separated from the rest of the commercial area of the centre of Leederville by two residential properties. Believed it will be subjecting the current residential properties between what the proposed development and what is already there which will be sandwiching two residential properties between this commercial one. Stated Carr Place is a very congested road and although there is adequate parking with the new development there is no allowance for cars to get down that street as a lot of the time, traffic going down the street has to pull to one side and make way for one-way traffic, it is a very narrow road as it is and it is a “Place” not a “thoroughfare”. Concerned that if the zoning of the property is changed, where will

it stop? What other properties are going to change from being purely residential into being multiuse? Believed the Council would have no say in what is actually going to be taking place in the area and although it says redevelop in the area is being looked at, some places are not that old. Stated No. 214 is 25 years old and she can understand that redevelopments are being looked at but would hope that that it is going to stand for another 50 years before it has to be “*bowled*” over. Agrees with some old places being redeveloped but is concerned that the area will no longer just be residential properties there will also be commercial added to it. Concerned about traffic noise, air-conditioning noise etc. as on the plans it says there is going to be outdoor allowances for clothes drying which will also produce noise. Stated the balconies on the west will overlook straight into the courtyard of the front property of No. 214 which will also impede on the sunlight coming into the six properties on the west. Pointed out that on page 2 of the Agenda (x)(a) it says “...*the use of the property may be affected by noise traffic, car parking and other impacts associated with nearby commercial and non residential activities*” which is already an issue.

5. Bradley McGuire of 4/94 Walcott Street, Mt Lawley – Item 7.1 on behalf of Paul Down (1/210 Carr Pl) and Ms J. Radicich (1/218 Carr Pl). Believed the development is proposed in the spirit of the Carr Place Residential Precinct in the Leederville Masterplan however, when considered in terms of the Plan it is going to frustrate the objectives of the Plan. Stated there is a 580m<sup>2</sup> lot between 1,020m<sup>2</sup> and 1,033m<sup>2</sup>, and the purpose of the Plan is to provide density bonus’ for lot amalgamation and if the owners at No. 210 are trying to “*get their act together*” to put a proposal to the owner of No. 212 to perhaps combine the lots with the view of a single R160 under the Masterplan (development for over 1,600m<sup>2</sup>), it would be significantly more profitable to the developers which is obviously a matter for them. Advised if the east and west elevations of the plan are looked at, balconies are seen down the middle, at the rear and front of the lot, although there are no windows. The problem is that in effect the two larger lots on either side are going to suffer all of the burden of the setbacks from the lot therefore, the overall density of the area and profitability of the lots is going to be reduced. Believed there is a lot of merit to the Plan however, the burden it places on the neighbouring lots is inappropriate which is a big issue for the owners of No. 210.
6. Andrew Del Marco of 91 Forrest Street, North Perth – Item 7.4. Urged Council to oppose or modify the recommendation so that Option 2’s do not get supported and the opinions of the experts is “*stuck by*” which was Option 1 – Hyde Park is a beautiful Lake. Stated the fact that the Federal Government is not tackling climate change is laughed at and it is thought that it is going to affect jobs. It’s a hard decision etc. however believes a simple decision needs to be made this evening to move forward and address the restoration of the Park in a forward thinking way rather than going back 100 years. Believed Option 1A is not trying to turn everyone into “*feral greenies*” as some may think, it is about designing a Park that is going to be sustainable for the future given the reduced rainfall. Requested the Lake not be topped up in summer as has been past practice and as the Option suggests, as there is not enough water. Stated tonight Council is considering an option to line the Lake artificially with plastic or clay so it can be topped up in summer. However, this will prevent the recharge over winter so all the water that comes from the streets which is tried to be kept clean which isn’t, is put into the Lake which infiltrates into the ground water and used in summer to water the lovely lawns in the Park. Therefore Council should not go for any Option 2’s as not only is the aquifer not being recharged because the water is going down the drain towards Claise Brook and the Swan River and out to the ocean, but we are trying to put water into a smaller Lake. Stated there is no account of the ongoing electrical cost of pumping the water in which the item says that it complies with the Town’s Sustainability or Environment, which he believes is incorrect. Stated there is no account of the fact that this will reduce recharge into the aquifer or the impact it may have on the tortoises in the

Lake as if it is lined. How does this affect how the tortoises going in and breathe under the clay/soil when it does get dry. Believes it will be one warm algae invested, mosquito ridden summer Lake which it is not supposed to be anymore because the climate has changed. Asked what account it will have on peoples attitudes to water use? Stated he, as a ground water user, will not think twice about putting on the bore as much as he has in the past. Believed Council had a straightforward decision to make and he could put a petition and easily get 240 signatures.

7. Jason Lord of 210 Carr Place, Leederville – Item 7.1. Stated report does not take into account or consider the impact of the adjacent owners of other properties despite the Town’s Guiding Values being “caring and empathy”. Advised that it states that *“the development will not have an unreasonable impact on occupiers of the development”*. Concerned that there is no mention of the owners of adjacent or adjoining properties. Believed such a development will have a major impact such as light, noise, privacy, space, property values and quality of life. Stated that he did not foresee this development when he purchased his property and if it goes ahead it may result in him leaving, despite 15 years of residency in Leederville. Asked if the Council and Planners find that an acceptable impact? If not, urged the Council not to support the changes. Asked if the Town supports the changes, will it compensate him for loss of property value and quality of life? Concerned about the rezoning and removal of all setbacks and boundary heights. Stated the Planners all but omit that removal of setbacks will have adverse affects on surrounding residents – *“adjoining right of way of 5.3m provides some relief to the adjacent landowners”*. Stated that it has omitted that the removal of setbacks and boundary height is of an unacceptable bulk and scale and some relief is required. By omitting the gap by virtue of right of way provides some relief to the north property, however there is no such relief to the east or west. Stated the proposal sits right on the boundary line to adjacent east and west properties. Believed the Council must concede the Planners point that all boundaries require relief. Urged the Council to reject the zoning in honour of the current setbacks. Concerned that the plans and Council Guidelines contradict each other and there is no clear picture of what the developer is allowed to develop i.e. the Planner states *“balconies on the building are of light weight material open on three sides contributing to a sense of openness and reflecting a balance design”*. Although 7.12 states the balconies are screened with permanent obscure glazing or that onsite permanent horizontal screening or equivalent be supplied to stop direct vision to adjoining properties – these are contradictory and as such it should not be possible to rezone while there is an ability to impact on privacy requirements of the Guidelines. Stated that he had more to say however did not have the opportunity.

**The Presiding Member, Mayor Nick Catania advised that there is only three minutes to speak.**

8. Alison Hass of 210 Carr Place, Leederville – Item 7.1. Asked if everyone had received the submissions for feedback and objections which were due in close of business yesterday? Concerned that only 8 hours was given to review the submissions when most people work, as this is going to affect her life. Agreed with previous statements with her biggest concern that in the report, the development is not considered to create an unacceptable bulk and scale but if you live next door to a massive 4-storey building with 13m high walls it is definitely unacceptable bulk and scale and she is unsure as to who was consulted on this, as it is fairly subjective. Objected to the indication that the 13m wall will not create any overshadowing and when she spoke to a builder he found it fairly amusing when he read the report that this could be believed. Advised that the report states that this is consistent with the development the Council wants but zoning needs to be changed for it to go ahead. Advised when she purchased her property, like the previous speaker, they considered what may and may not be built in the street and next door to them which disappoints and upsets them. Stated this has had a massive adverse affect on them over the last 3

weeks even before anything has happened. Concerned about the drop in value of the property and more so with the privacy issue as they love where they live. Stated real estate agents they have spoken to have told them to sell which they don't want to do however, also don't want to see if overdeveloped. Stated they have lived in the street for 9 years and the property they have purchased for 6. Referred to the Council Guiding Values of "caring and empathy" – empathy being putting yourself in someone else's shoes therefore would like that to be done.

9. Jason Puls owner of 219 Brisbane Street, Perth – Item 7.3. Understood that between 250-380m<sup>2</sup> will be available for development however, in his experience of being a resident of Scarborough and seeing the developments of those backyards over the past 10-15 years, he would hate to see that happen in the Town. Stated there are impacts on environment, streetscape and landscape amenity including the intrinsic values of the Town with most blocks being large which makes it more attractive as it is not overdeveloped. Concerned that the quality of development in most cases (as per Scarborough) is quite poor and architecturally not particularly good. Stated many backyards have old established trees that have been there for, i.e. the house next door to him, nearly 100 years and he would hate to see old trees like that including native trees being removed. Believed that backyards are part of heritage and should be protected. Requested the Amendment deferred to seek greater community consultation.

**Cr Messina entered the Chamber at 6.32pm.**

10. Antoinetta Torre, Environment Engineer working on water management for 12 years of 27 Camelia Street, North Perth – Item 7.4. Asked Council to support the original integrated option developed by Syrinx for remediation of the Lakes as well as preparation and implementation of the Catchment Management Plan as an essential component in ensuring the long term health of the Lakes. Stated \$4.5 million of public money will be spent on digging out the sediments of the Lakes but there is currently no plans to address over 100kg per year of nitrogen entering the Lakes from leaf litter, over 600kg from storm water systems as well as phosphorus from fertiliser use on gardens, sediment washed into the storm water system, detergents from car washing etc. Stated she could guarantee that without addressing catchment sources of contaminants, the \$4.5 million will be wasted and it will be the same water quality and amenity issues within a very short timeframe? Advised that the Modified Ornamental Lake Option does not adequately address water quality which is a key issue to improving the health of the Lakes. Stated poor water quality will impact the flora and fauna that live the Lakes, cause amenity issues such as algae blooms, aquatic weeds and odours, cause midge and mosquito population which carry diseases and present a human health risk i.e. dangerous for kids to play near the Lakes. Therefore fixing the catchment should be done before sediments are excavated. Understood that people want the Lakes restored to looked like they did 50-100 years ago but unfortunately this is not achievable because of changes in the catchment and the climate that have occurred over this period i.e. there has been a 40% reduction in rainfall runoff, falling groundwater levels and increasing contaminants from the catchment. Stated if we are to act responsibly and realistically the changes have to be responded to and aim for a new vision of the Lakes that will provide a healthy system that does not impose a large burden on already stressed water resources and does not present high maintenance requirements. Stated most people who signed the petition did not attend the Public Forums and were not fully informed of all issues surrounding the Lakes. Stated the majority of people who did attend supported the integrated option including the Department of Water, Swan River Trust and Heritage Council of WA. Stated the Heritage Council found the integrated option protected important heritage values but also incorporated essential improvements to water quality habitat and water conservation and this balanced approach was supported by the Council. Stated the

new modified ornamental option has not been reviewed by environmental experts or stakeholder organisations nor by members of the public who attended earlier Forums and responded to the original Masterplan. Stated that if the new option is pursued then a technical review by environmental experts is essential with further community workshops. Advised that the preferred option must be backed by good science otherwise it will fail. Stated the modified option, similar to that undertaken by the City of Perth digging out has been done before and look where it is at now. Stated there are other serious questions about costings, environmental issues, acid sulphate soils, water movement through the Lakes etc.

11. Ramdas Sankaran on behalf of the Multicultural Services Centre of 20 View Street, previously known as the North Perth Migrant Resource Centre – Item 8.3. Stated this has come from a proposal from them and they are the largest of their kind in WA and has been located in North Perth since its inception some 30 years ago. Advised that they have been operating the home and Community Care Program from 10 Farmer Street, which is a rather odd place for it to operate from given it's a reserved way so things other than day care services are gently provided from and for the last 10 years they have been looking to find suitable land where they could have appropriate premises for providing such a service. Stated the acquisition of the land will be of significant use to the elderly residents of the area who have been residents for 40, 50 & 60 years in some cases mainly of European background as well as other backgrounds. Advised that the purchase of the property is of symbolic importance as they have operated there since their inception as well as important for business in the area. As the program is well over \$1 million and most of their purchases are from local businesses therefore it would be a true partnership in every sense of the word. Stated a significant proportion of the purchase would be from the State Government because of the service that would be provided. Asked that this be considered favourably and successfully bid for the property.
  
12. Warran McGrath of 4/142 Palmerston Street Perth, Chair of the Claise Brook Catchment Group, Local Environmental Scientist and previously a community representative on the Hyde Park Lakes Restoration Group – Item 7.4. Asked Council to reconsider the proposal as it was not the plan that Council went out to public consultation with, was not the prepared by the Town's Environmental Consultants of the Masterplan and has not been subject to peer review or advice from State Agencies. Stated the proposal is a hybrid to the options developed by Syrx for the Lakes and involves filling in and reducing the size of the Lakes by 25% by packing sediment around the edges to extend the boundaries inwards by up to 5m. Agreed in principle that there are opportunities to modify the originally adopted option based on community feedback. Concerned for the following reasons; the Town went to public consultation with a draft Masterplan incorporating what was referred to as Option 1 – Integrated Wetland Option, which was adopted in principle by Council and increased the ability of the Lake to treat water quality issues and reduce the amount of sediment that would have to be excavated and disposed of. Stated as far as formal submissions go, 12 were received with 9 in favour and 3 partially in favour (of Option 1). Stated a petition submitted during the process is being used as a rationale for the new hybrid Option 2A which says the Lakes be restored to their former beauty and implied that the current plan was to turn them into seasonal wetland, which has never been the case as there has always been a permanent water element in the Masterplan. However does not actually meet what the petition was actually after, as it involves filling part of the Lakes and modifying the islands which he does not believe is the outcome the petition was seeking. Believed staff are highly capable and clearly spent time on the proposal. Unlike Option 1 and 2 it has not been prepared by environmental engineering science consultancies, has not been technically reviewed or reviewed by state agencies and the report indicates a large number of unknowns. Concerned that it involved excavating contaminated sediment from the base of the Lake, drying and packing it

around the edge of the Lake to reduce the size, however this material is known to be high in heavy metals and there is a risk that its disposal method may not be acceptable to the Department of Environment Conservation, who are expecting a remediation plan for the Lakes. Stated the use of the material may reduce disposal costs but he is concerned in relation to no technical advice in regards to the stability of this material and the insurance that heavy metals will not just leak back into the environment. Stated there is no technical advice regarding the stability from acid sulphate soils. Believed examination of the hybrid option (2A) has some merit but will be rusty at this stage as it has not been prepared by environmental engineer consultants who developed the Masterplan and should only be adopted following technical and public review and consultation, as the current adopted Option 1 has been subject to such review and is technically backed up by the Syrinx report prepared for the Town. Suggested that it be more appropriate to submit the Masterplan with Option 1 to the Commonwealth not the hybrid version at this stage for funding. Stated a proposal to fill in the Lakes and reduce the area by 25% is not in keeping with the proposal as presented to the community and should be subject to further consultation.

13. Dan Caddy of 1 Eucla Street, Mt Hawthorn. Asked the following questions:
- (i) Given this unfortunate incident that has come to light, and I refer to the gross breach of protocol as outlined on the front page of the last edition of *The Voice*, has the Town of Vincent taken action to lobby Minister Castrilli, the Minister for Local Government, to strengthen the local government act and associated penalties for breaches of the act, in order to prevent a repeat of such disgusting, disgraceful and unethical conduct occurring in the future?
  - (ii) Does the Council recognise that such disgraceful tactics, as publicly detailing the private life of a candidate's family, whether intentionally or through a gross act of stupidity, will only seek to prevent honest and ethical residents of Vincent, who may actually have much to offer as an elected member, from nominating for Council in the future?
  - (iii) Will the Town of Vincent consider taking the lead in lobbying the Minister to ensure that in the future, any elected member, or candidate, who stoops so low as to engage in derogatory conversations about an opponent's wife and child and then have that conversation delivered to the media, will be able to be summarily dismissed from a Council, or in the case of a candidate, disqualified from the election?
  - (iv) Given that, in this particular instance, the elected member concerned has admitted publically that he breached Council protocol, will the Council be investigating what formal sanction will be appropriate, and do the options being considered include disqualification from being a councillor?
  - (v) Will Council lobby the Minister to ensure that elections of the future are fought on issues only, and that any existing councillor who tries to hide their own inadequacy, and lack of achievement in the community, behind the scheming and nastiness of digging up dirt on an opponent, or his or her family will be disqualified prior to the counting of votes?
  - (vi) Finally, does the Council condone the production and distribution of so called "*dirt sheets*" in elections or will the Council publically condemn the production and distribution of such, given this recent incident?

**The Presiding Member, Mayor Nick Catania advised that these questions would be taken "on Notice", as they do not relate to items on the Agenda for this Special Meeting. A response will be sent.**

14. Jan Adams of 133 Glendower Street, Perth – Item 7.3. Believed all concerns being heard about the Carr Place development is going to be something for the future of all those precincts that will be affected if this Town Planning Scheme is changed to allow multiple dwellings. Advised that she thinks differently about mentioned by a previous speaker as she accepts that she does not have a big backyard as they are on a tiny little narrow block. Stated many houses in the precincts are on very small blocks and to have a multiple dwellings, like a little tower, in the property beside you is going to create enormous shade issues. Believed if the Council does not want meetings clogged up with protests like being heard tonight, Council should think very seriously about allowing this going through.
15. Gordon Crowler of 12 Randall Street, Perth – Item 7.3. Stated that he is in favour of the Amendment and the sooner it happens the better because 95% of his street is already under that conditional planning from when it was the City of Perth and people live quite happily there. Did not understand why people are concerned about their small properties being overrun by buildings that are going to suddenly appear. Believed maybe the car parking in the street and get it in under the developments. Urged the Council to approve the item.
16. Sue Carland of 37 Ruth Street, Perth – Item 7.3. Stated her street is a lovely old street with beautiful old houses and she finds the thought of modern development intruding on the street abhorrent. Concerned at the lack of consultation as she only found out about this proposed change to the Town Planning purely by chance yesterday. Understood in the past the Town to be very considerate and consultative with their residents however this proposed change has completely changed her opinion of that as there has been no consultation with residents at all. Asked that any further consideration of this be deferred until the residents have been consulted about their concerns on the impact this will have.

There being no further speakers, public question time finished at approx. 6.52pm.

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

Nil.

**4. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil.

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

**5.1 Appreciation to Councillor Helen Doran-Wu**

On behalf of the Council, I wish to express appreciation to Councillor Helen Doran-Wu for her services to the Town of Vincent as a Councillor over the last eight and a half years.

Cr Doran-Wu has been active in a number of the Town's Statutory Committees and Working Groups over the past years, more recently as Chair of the Safer Vincent Crime Prevention Partnership, Heritage and Seniors Advisory Groups and a member of the Sustainability Advisory Group.

Helen has also been an active participant in the Hawthorn House Community Advisory Committee and Metropolitan Regional Recreation Advisory Committee (NMRRAC).

Cr Doran-Wu has decided to retire from the Council and I wish her and her family all the very best for the future.

On behalf of the Council, I am pleased to provide you with a Certificate of Appreciation for your services.

Cr Helen Doran-Wu responded as follows:

*“Thank you I was not excepting this.*

*It has certainly been a major part of my life for a very long time now and I can wholeheartedly recommend it to anybody who wishes to aspire to participating in the community because you have the wonderful challenge of meeting members of the community, talking to them and ensuring their needs are met but also working with a great bunch of people as Councillors and Officers. I think from my experience here where there’s a will there’s a why.*

*I think what the Town has achieved over the time that I have been hear and beyond is amazing and there is no such thing as a Council that can’t if it has the appropriate will and the fantastic team that we are very fortunate to have here and I think between the intelligence, the drive and the passion that is exhibited around this room this evening is certainly a major testament to what has been achieved throughout all level of the Town so whether it is through affordable housing, through to the Vision, through to Stadium development, through to encouragement of major players being apart of this Town as well as knowing the importance of the individual voice is quite impressive.*

*Good luck to my fellow Councillors, it has been wonderful knowing you all and to the Officers obviously.*

*Thank you for a wonderful ride.”*

**Received with Acclamation!**

## 5.2 Special Meeting of Council

It is advised that a Special Meeting of Council will be held on Tuesday 20 October 2009 commencing at 5.30pm.

The purpose of the Special Meeting is to:

1. Swear in the new Council Members
2. Elect a new Deputy Mayor

## 5.3 Best Wishes

On behalf of the Council, Chief Executive Officer and Staff, may I extend my best wishes to Councillors Ker, Maier and Messina in the forthcoming election.

## 6. DECLARATIONS OF INTERESTS

6.1 Mayor Catania declared an interest affecting Impartiality in Item 7.1 – No. 212 (Lot: Y72) Carr Place, Leederville - Proposed Demolition of Existing Single House and Construction of Four-Storey Mixed Use Development Comprising Five (5) Offices, Eight (8) Multiple Dwellings and Associated Basement Car Parking. The extent of his interest being that his son-in-law is acting as a consultant to provide building advice to the Application for this development application. It may be suggested that he also has a Financial interest in the matter. The extent of his interest being:

- earlier this year, his son-in-law and his family relocated from Victoria, where they have been living for several years. Their residence in the Town is currently leased. He and his family are temporarily renting a property owned by one of his companies;
- they are current paying market rent and are not receiving any financial benefit from renting the property;
- they will be vacating the property in November 2009;
- he does not owe his son-in-law any money and he is not involved in any partnership or business arrangement with him, concerning this development; and
- his spouse or children living with him do not own him any money and are not involved in any partnership or business arrangement with him.

It could be argued that there is a financial link between he and his son-in-law, albeit a very minor or insignificant one, because he and his family are renting a property owned by one of his companies. To avoid any ambiguity, he is therefore making this disclosure.

He is of the opinion that his financial interest (if any) in this matter is so insignificant that it will not influence his conduct in relation to this matter. He requested, pursuant to Section 5.68(1) of the Local Government Act 1995 that the Council grant me approval to vote in this matter only.

If the Council approves of my request, I will leave the chamber and will ask the Deputy Mayor to act as Presiding Member during consider of this matter.

**Mayor Catania departed the Chamber at 7.04pm whilst his declaration of interest was being considered.**

**Deputy Mayor, Cr Steed Farrell assumed the chair at 7.04pm.**

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

*That Mayor Catania's request to vote on Item 7.1 – No. 212 (Lot: Y72) Carr Place, Leederville - Proposed Demolition of Existing Single House and Construction of Four-Storey Mixed Use Development Comprising Five (5) Offices, Eight (8) Multiple Dwellings and Associated Basement Car Parking, be approved.*

**CARRIED (6-1)**

**For:** Cr Burns, Cr Doran-Wu, Cr Farrell, Cr Ker, Cr Lake, Cr Messina

**Against:** Cr Maier

**(Mayor Catania was absent from the Chamber and did not vote on this matter.)**

**Mayor Catania returned to the Chamber at 7.06pm and was advised of the decision.**

**Mayor Catania, assumed the Chair.**

- 6.2 The Chief Executive Officer declared a Financial interest in Item 8.1 – City of Perth Superannuation Fund. The extent of his interest being that he is a member of the City of Perth Superannuation Fund. For information, he has had no input into the preparation of Item 8.1 and his involvement in the item has been limited to the usual vetting of the Officers final report, in his role as Chief Executive Officer, whilst finalising the Agenda for the Council Meeting.
- 6.3 The Chief Executive Officer declared a Financial interest in Item 8.2 – Chief Executive Officer's Annual Performance Review 2009 and Deed of Contract of Employment. The extent of his interest being that this matter relates to his Contract of Employment.
- 6.4 The Director Development Services declared a Financial interest in Item 8.1 – City of Perth Superannuation Fund. The extent of his interest being that he is a member of the City of Perth Superannuation Fund.
- 6.5 The Manager Parks and Property Services declared a Financial interest in Item 8.1 – City of Perth Superannuation Fund. The extent of his interest being that he is a member of the City of Perth Superannuation Fund.

**7.3 Proposed Amendment No. 25 to the Town's Town Planning Scheme No.1 - Clause 20 (4) Relating to No Multiple Dwellings**

<b>Ward:</b>	Both Wards	<b>Date:</b>	5 October 2009
<b>Precinct:</b>	Cleaver P5; Smith's Lake P6; Hyde Park P12; Banks P15; Norfolk P10	<b>File Ref:</b>	PLA 0192
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	T Woodhouse		
<b>Checked/Endorsed by:</b>	H Smith, R Boardman	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the progress report relating to Proposed Amendment No. 25 to the Town's Town Planning Scheme No.1 - Clause 20 (4) Relating to No Multiple Dwellings;*
- (ii) *ADVISES the Department of Planning that the Council SUPPORTS IN PRINCIPLE the proposed recommendation by the Department of Planning that Clauses 20 (4) (a) (i), 20 (4) (b), 20 (4) (e) (i), 20 (4) (g) (i), and 20(4) (d) (i) are removed from the Scheme altogether; and*
- (iii) *ADVISES the Department of Planning that the Town of Vincent has followed due process in advertising the proposed amendment in accordance with the Town Planning Regulations 1967, and that no further advertising should be required.*

**COUNCIL DECISION ITEM 7.3**

**Moved Cr Farrell, Seconded Cr Ker**

*That the recommendation be adopted.*

Debate ensued.

**PROPOSED AMENDMENT**

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

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

*“(ii) ADVISES the Department of Planning that the Council DOES NOT SUPPORTS IN PRINCIPLE the proposed recommendation by the Department of Planning that Clauses 20 (4) (a) (i), 20 (4) (b), 20 (4) (e) (i), 20 (4) (g) (i), and 20(4) (d) (i) are removed from the Scheme altogether; and”*

*And a new clause (iv) be inserted as follows:*

*“(iv) ADVISES the Department of Planning for the reasons for not supporting the proposed recommendation to remove Clause 20 from the Scheme, as put forward during discussion of this Item.”*

The Presiding Member, Mayor Nick Catania stated he would not accept the amendment, as it a direct negative to the Officer Recommendation.

Debate ensued.

#### PROCEDURAL MOTION

Moved Cr Ker, Seconded Cr Farrell

*That the item be DEFERRED for further consideration and a request to the WA Planning Commission to defer consideration of the matter.*

#### MOTION PUT AND CARRIED (7-1)

For: Mayor Catania, Cr Burns, Cr Farrell, Cr Ker, Cr Lake, Cr Maier, Cr Messina  
Against: Cr Doran-Wu

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#### PURPOSE OF REPORT:

The purpose of this report is to provide an update on the progression of the proposed amendment No. 25 to the Town's Town Planning Scheme No. 1 - Clause 20 (4) relating to No Multiple Dwellings.

#### BACKGROUND:

27 May 2008 At its Ordinary Meeting, the Council resolved to initiate Scheme Amendment No. 25 as follows:

*"That the Council;*

(i) *pursuant to Section 75 of the Planning and Development Act 2005, RESOLVES TO INITIATE AN AMENDMENT to the Town of Vincent Town Planning Scheme No. 1 by modifying the Scheme Text as follows:*

(a) *Replace clause 20 (4) (a) (i) –*

*“(a) Cleaver Precinct P5,*

*(i) Multiple dwellings are not permitted in this Precinct;”*

*with new clause 20 (4) (a) (i) –*

*“(a) Cleaver Precinct P5,*

*(i) Multiple dwellings will only be permitted in this precinct–where the Council is satisfied that the development is consistent with the Town of Vincent Policy relating to Multiple Dwellings;”;*

(b) *Replace clause 20 (4) (b) –*

*“(b) Smith’s Lake Precinct P6,*

*In the area along Charles Street, between  
Emmerson and Albert Streets, coded R60,  
multiple dwellings are not permitted.”*

*with new clause 20 (4) (b) –*

*“(b) Smith’s Lake Precinct P6,*

*In the area along Charles Street, between  
Emmerson and Albert Streets, coded R60,  
multiple dwellings will only be permitted in  
this precinct where the Council is satisfied  
that the development is consistent with the  
Town of Vincent Policy relating to Multiple  
Dwellings.”;*

(c) *Replace clause 20 (4) (e) (i) –*

*“(e) Hyde Park Precinct P12,*

*(i) Multiple dwellings are not permitted  
in this precinct;”*

*with new clause 20 (4) (e) (i) -*

*“(e) Hyde Park Precinct P12,*

*(i) Multiple dwellings will only be  
permitted in this precinct where the  
Council is satisfied that the  
development is consistent with the  
Town of Vincent Policy relating to  
Multiple Dwellings;”;*

(d) *Replace clause 20 (4) (g) (i) –*

*“(g) Banks Precinct P15,*

*(i) Multiple dwellings are not permitted  
in this precinct ;”*

*with new clause 20 (4) (g) (i) -*

*“(g) Banks Precinct P15,*

*(i) Multiple dwellings will only be  
permitted in this precinct where the  
Council is satisfied that the  
development is consistent with the  
Town of Vincent Policy relating to  
Multiple Dwellings;”;*

- (e) *Replace clause 20 (4) (d) (i) –*
- “(d) *Norfolk Precinct P10,*
- (i) *Multiple dwellings are not permitted in areas coded R40;”*
- with new clause 20 (4) (d) (i) -*
- “(d) *Norfolk Precinct P10,*
- (i) *Multiple dwellings will only be permitted in areas coded R40 where the Council is satisfied that the development is consistent with the Town of Vincent Policy relating to Multiple Dwellings;”*
- 16 June 2008 The Western Australian Planning Commission (WAPC) and the Environmental Protection Authority (EPA) were advised of the resolution to initiate Scheme Amendment No. 25.
- 25 June 2008 The WAPC advised the Town that consent to advertise has been granted.
- 9 July 2008 Servicing authorities, affected Government authorities, local authorities and Precinct Groups were sent a notice of the Amendment.
- 14 July 2008 Correspondence received from the EPA stating that the proposed amendment does not require an environmental assessment.
- 15 July 2008 Amendment advertised in the *'The Guardian'* newspaper.
- 26 August 2008 Advertising period completed. Eight (8) submissions received by the Town.
- 28 October 2008 At its Ordinary Meeting, the Council resolved as follows:
- “That the Council;*
- (i) *RESOLVES:*
- (a) *pursuant to Town Planning Regulation Section 17 (1) to RECEIVE and consider the 8 submissions and Schedule of Submissions as attached at Appendix 7.5; and*
- (b) *pursuant to Town Planning Regulation 17 (2), that Amendment No. 25 to the Town of Vincent Town Planning Scheme No. 1 BE ADOPTED FOR FINAL APPROVAL, without modification;*

- (ii) *AUTHORISES the Mayor and Chief Executive Officer to execute and affix the Town of Vincent Common Seal to Amendment No. 25 to the Town of Vincent Town Planning Scheme No. 1 documents reflecting the Council's endorsement of final approval;*
- (iii) *FORWARDS the relevant executed documents to and REQUESTS the Honourable Minister for Planning and Western Australian Planning Commission to adopt for final approval and gazettal, without modification, Amendment No. 25 to the Town of Vincent Town Planning Scheme No. 1;*
- (iv) *ADVISES the Environmental Protection Authority and those who made submissions of clauses (i), (ii), (iii) and (iv) above; and*
- (v) *REQUESTS the Minister for Planning and the Western Australian Planning Commission to deal with Amendment No. 25 as a matter of urgency."*

22 September 2009 An email was received from the Department of Planning (DOP) advising that following the assessment of the Amendment, the DOP have questioned the Town's proposal to link the permissibility of the use to built form outcomes by stating, '*multiple dwellings will only be permitted where Council is satisfied that the development is consistent with the Town of Vincent Policy relating to Multiple Dwellings*'. As such, the DOP have requested the Town provide comment as to whether it would object to a modification to the Amendment which would remove Clauses 20 (4) (a) (i), 20 (4) (b), 20 (4) (e) (i), 20 (4) (g) (i), and 20(4) (d) (i) from the Town's Town Planning Scheme altogether.

30 September 2009 The Town's Officers were provided verbal advice from the DOP that apart from clarification of the above, the progression to determine the proposed Scheme Amendment is almost complete, and is likely to be presented to the Minister for Planning on 27 October 2009, with a recommendation to support the Scheme Amendment with the above modification.

#### **DETAILS:**

Since the initiation of the Scheme Amendment in May 2008, the Town's Officers have been in regular contact with the Department of Planning regarding the progress of the matter, and at no stage, up until the email dated 22 September 2009, has there been mention of the proposed modification to the Amendment detailed above.

The DOP's rationale for the modification to the Amendment was outlined as follows; '*the requirement for consistency with the Multiple Dwellings Policy seems superfluous as Clause 38 (5) of the Town's Town Planning Scheme No.1 states that Council in considering a development application is to have regard to, amongst others, any relevant planning policy*'.

In the email correspondence dated 22 September 2009 outlined above, the DOP requested the Town to forward comments regarding the proposed modifications to the DOP prior to a recommendation being made to the Minister for Planning.

Verbal advice from the DOP on 29 September 2009 indicated to the Town's Officers that if the Town were inclined to support the proposed modifications to the Amendment, then a case could be forwarded to the Minister for Planning that the proposed modification to the Amendment would not require a further initiation of the Scheme Amendment, or further advertising.

It is considered that the Town's Multiple Dwellings Policy No. 3.4.8, adopted pursuant to Clause 47 of the Town's Town Planning Scheme No.1 on 11 August 2009, is a robust planning tool that will serve to both facilitate the development of medium-high density multiple dwellings within identified Town Centres and along Major Roads, whilst also controlling the design and location of proposed multiple dwellings, so as not to unduly impact on existing residential amenity.

In light of the above, it is considered that the existing Clause 38 (5) (b) of the Town's Town Planning Scheme No.1, is suffice in linking the Scheme to the Town's Multiple Dwellings Policy No. 3.4.8, and that the proposed modification to the Amendment, recommended by the DOP, to remove Clauses 20 (4) (a) (i), 20 (4) (b), 20 (4) (e) (i), 20 (4) (g) (i), and 20(4) (d) (i) from the Scheme altogether, is supported.

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

The proposed Scheme Amendment was advertised in the local newspaper (*The Guardian*), in accordance with the Town Planning Scheme Regulations 1967. A summary of the submissions received were presented to the Special Meeting of Council held on 28 October 2008, and were forwarded to the Western Australian Planning Commission on 19 November 2008.

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

Town Planning Scheme No.1;  
Planning and Development Act 2005; and  
Town Planning Regulations 1967.

#### **STRATEGIC IMPLICATIONS:**

Strategic Plan 2006-2011 - Key Result Area One: Natural and Built Environment:

*"1.1 Improve and maintain environment and infrastructure. . .*

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

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

The current 2009/2010 Budget lists \$66,000 for Town Planning Scheme Amendments and Policies.

#### **SUSTAINABILITY IMPLICATIONS:**

The principles of Scheme Amendment No. 25 are in line with those outlined in the State Government's *Network City* strategy and *Directions 2031 - Draft Spatial Framework for Perth and Peel*, which promote a sustainable future for Perth and Peel.

**COMMENTS:**

As detailed in the report, the proposed Scheme Amendment No. 25 has progressed slowly since it was first initiated on 27 May 2008. Given the considerable delays that have already occurred in reaching a determination on this matter, and the expectation from the Town, Council Members, community and stakeholders, it is considered paramount that the Western Australian Planning Commission considers the proposed Scheme Amendment No. 25 as a matter of urgency.

In light of the above, it is recommended that the Council supports the Officer Recommendation to advise the DOP of its support to the proposed modification to the amendment to remove Clauses 20(4)(a)(i), 20(4)(b), 20(4)(e)(i), 20(4)(g)(i), and 20(4)(d)(i) from the Scheme altogether, and to note that the Town has followed due process in terms of appropriate advertising of the proposed amendment in accordance with the Town Planning Regulations 1967.

**7.1 No. 212 (Lot: Y72) Carr Place, Leederville - Proposed Demolition of Existing Single House and Construction of Four-Storey Mixed Use Development Comprising Five (5) Offices, Eight (8) Multiple Dwellings and Associated Basement Car Parking**

<b>Ward:</b>	South	<b>Date:</b>	8 October 2009
<b>Precinct:</b>	Oxford Centre; P04	<b>File Ref:</b>	PRO4728; 5.2009.370.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	R Narroo		
<b>Checked/Endorsed by:</b>	H Smith, R Boardman	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

*in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES BY AN ABSOLUTE MAJORITY the application submitted by the owner Walter Nardi for proposed Demolition of Existing Single House and Construction of Four-Storey Mixed Use Development Comprising Five (5) Offices, Eight (8) Multiple Dwellings and associated basement car parking, at No. 212 (Lot: Y72) Carr Place, Leederville and as shown on plans stamp-dated 1 October 2009, subject to the following conditions:*

- (i) *all external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive;*
- (ii) *a detailed landscaping plan, including a list of plants and the landscaping and reticulation of the Carr Place verge adjacent to the subject property, shall be submitted and approved prior to the issue of a Building Licence. The landscaping of the verges shall include details of the proposed watering system to ensure the establishment of species and their survival during the hot, dry summer months. The Council encourages landscaping methods which do not rely on reticulation. All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);*
- (iii) *the owner(s), or the applicant on behalf of the owner(s), shall comply with the Town of Vincent Percent for Public Art Policy No. 3.5.13 and the Percent for Public Art Guidelines for Developers, including:*
  - (a) *within twenty eight (28) days of the issue date of this 'Approval to Commence Development', elect to either obtain approval from the Town for an Artist to undertake a Public Art Project (Option 1) or pay the Cash-in-Lieu Percent for Public Art Contribution, of \$40,000 (Option 2), for the equivalent value of one per cent (1%) of the estimated total cost of the development (\$ 4,000,000); and*
  - (b) *in conjunction with the above chosen option;*
    - (1) *Option 1 –  
prior to the approval and subsequent issue of a Building Licence for the development, obtain approval for the Public Art Project and associated Artist; and  
prior to the first occupation of the development, install the approved public art project, and thereafter maintain the art work;*

**OR**

- (2) **Option 2 –**  
**prior to the approval and subsequent issue of a Building Licence for the development or prior to the due date specified in the invoice issued by the Town for the payment (whichever occurs first), pay the above cash-in-lieu contribution amount;**
- (iv) **a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted and approved prior to the issue of a Building Licence;**
- (v) **first obtaining the consent of the owners of No.210 and No. 214 Carr Place for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing No.210 and No. 214 Carr Place in a good and clean condition;**
- (vi) **all signage that does not comply with the Town's Policy relating to Signs and Advertising shall be subject to a separate Planning Application, and all signage shall be subject to a separate Sign Licence application, being submitted and approved prior to the erection of the signage;**
- (vii) **prior to the issue of a Building Licence, a Construction Management Plan addressing noise, hours of construction, parking of trade person vehicles, footpath access, traffic and heavy vehicle access via the Rights of Way and Carr Place, dust and any other appropriate matters (such as notifying all affected landowners/occupiers of the commencement of construction works), shall be submitted to and approved by the Town;**
- (viii) **prior to the first occupation of the development, three (3) class one or two, bicycle parking facilities, shall be provided at a location convenient to the entrance and within the development. Details of the design and layout of the bicycle parking facilities shall be submitted and approved prior to the installation of such facilities;**
- (ix) **the on-site car parking area for the non-residential component shall be available for the occupiers of the residential component outside normal business hours;**
- (x) **prior to the issue of a Building Licence, the owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the property of the following:**
- (a) **the use or enjoyment of the property may be affected by noise, traffic, car parking and other impacts associated with nearby commercial and non-residential activities; and**
- (b) **the Town of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the residential units or office. This is because at the time the planning application for the development was submitted to the Town, the developer claimed that the on-site parking provided would adequately meet the current and future parking demands of the development.**

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

- (xi) *prior to the issue of a Building Licence, an acoustic report prepared in accordance with the Town's Policy relating to Sound Attenuation shall be submitted and approved by the Town. The recommended measures of the acoustic report shall be implemented and certification from an acoustic consultant that the measures have been undertaken, prior to the first occupation of the development, and the applicant/owners shall submit a further report from an acoustic consultant 6 months from first occupation of the development certifying that the development is continuing to comply with the measures of the subject acoustic report;*
- (xii) *doors, windows and adjacent floor areas of the office component on the ground floor fronting Carr Place shall maintain an active and interactive relationship with this street;*
- (xiii) *prior to the first occupation of the development, 16 car parking spaces for the residential component of the development shall be clearly marked and signposted for the exclusive use of the residents of the development;*
- (xiv) *the car parking area(s) on the subject land shall be sealed, drained, paved and line marked in accordance with the approved plans prior to the first occupation of the development and maintained thereafter by the owner(s)/occupier(s) to the satisfaction of the Town;*
- (xv) *no street verge tree(s) shall be removed unless written approval has been received from the Town's Parks Services. Should such an approval be granted all cost associated with the removal and replacement shall be borne by the applicant/owner(s);*
- (xvi) *the maximum gross floor area of the non-residential component shall be limited to 594 square metres of offices, and further increase or decrease in the number of office tenancies is allowed. Any increase in floor space or change of use for the subject land shall require Planning Approval to be applied to and obtained from the Town;*
- (xvii) *the car parking area for the office components shall be shown as 'common property' on any strata or survey strata subdivision plan for the property;*
- (xviii) *any new street wall, fence and gate within the Carr Place setback area, including along the side boundaries within this street setback area, shall comply with the Town's Policy provisions relating to Street Walls and Fences;*
- (xix) *prior to the first occupation of the development, each multiple dwelling shall be provided with a screened outdoor area for clothes drying or clothes tumbler dryer;*
- (xx) *archival documented record of the place (including photographs, floor plans and elevations) for the Town's Historical Archive Collection shall be submitted and approved prior to the issue of a Demolition Licence;*
- (xxi) *a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on the site;*
- (xxii) *prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the following:*
  - (a) (1) *balcony to office 2 behind the front setback of the adjoining western property) on the western elevation;*

- (2) *balcony to office 4 on the western elevation;*
- (3) *balconies to offices 5 and 6 on the eastern, western and northern elevations;*
- (4) *balconies to apartments 1,4,5 and 8 (second and third floors)(behind the front setbacks of adjoining eastern and western properties); and*
- (5) *balconies to apartments 2,3,6 and 7 on the eastern, western and northern elevations;*

*within the cone of vision of 7.5 metres (balconies) respectively to the lot boundaries, being screened with a permanent obscure glazing and be non-openable to a minimum of 1.6 metres above the respective finished floor levels; OR alternatively, the provision of on-site effective permanent horizontal screening or equivalent preventing direct sight within the cone of vision to ground level of adjoining properties. A permanent obscure material does not include a self-adhesive material or other material that is easily removed. The whole windows can be top hinged and the obscure portion of the windows openable to a maximum of 20 degrees; OR prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject walls, so that they are not considered to be major openings as defined in the Residential Design Codes 2008. Alternatively, prior to the issue of a Building Licence, these revised plans are not required if the Town receives written consent from the affected owners of properties along eastern, western and northern sides, respectively, stating no objections to the respective proposed privacy encroachment;*

- (b) *the proposed awning over Carr Place being a minimum height of 2.75 metres from the footpath level to the underside of the awning and a minimum of 500 millimetres from the kerb line of Carr Place; and*
- (c) *the minimum dimension of the balconies is to be 2.4 metres in length.*

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

- (xxiii) *the car park shall be used only by employees, tenants, and visitors directly associated with the development;*
- (xxiv) *the undergrounding of powerlines for the subject development site along Carr Place at the applicant's/owner's cost;*
- (xxv) *prior to the first occupation of the development, the unsealed section of the right of way from the north eastern boundary of the subject land abutting the right of way shall be sealed, drained and paved to the specifications of and supervision under the Town, at the applicant's/owner(s)' full expense;*
- (xxvi) *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;*

(xxvii) *the home office to apartments 1,2,3,4,5,6,7 and 8 shall comply with the definition of home occupation as specified in Town's Policy No.3.5.1 –Minor Nature Development; and*

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

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The Chief Executive Officer advised that Mayor Catania had disclosed an impartiality and financial interest in this Item. Council has given Mayor Catania approval to vote on this matter only. Mayor Catania departed the Chamber at 7.50pm. He did not speak or vote on this matter.

Deputy Mayor, Cr Steed Farrell assumed the chair at 7.50pm.

#### COUNCIL DECISION ITEM 7.1

Moved Cr Ker, Seconded Cr Messina

*That the recommendation be adopted.*

Debate ensued.

#### AMENDMENT

Moved Cr Messina, Seconded Cr Burns

*That a new clause (xxix) be inserted as follows:*

*“(xxix) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating a minimum of two (2) appropriate significant design features using colour and/or relief being incorporated on the visible portions of the western elevation to reduce the visual impact of that western and eastern walls. The revised plans shall not result in any greater variation to the requirements of the Residential Design Codes and the Town's Policies.”*

#### AMENDMENT PUT AND CARRIED (7-0)

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

Debate ensued.

Mayor Catania returned to the Chamber at 8.01pm.

#### MOTION FAILS FOR LACK OF AN ABSOLUTE MAJORITY VOTE (4-4)

For: Mayor Catania, Cr Farrell, Cr Doran-Wu, Cr Messina

Against: Cr Burns, Cr Ker, Cr Lake, Cr Maier

Mayor Catania assumed the Chair at 8.02pm.

**ADDITIONAL INFORMATION:**

**Updated Consultation Submissions Table**

<b>Consultation Submissions</b>		
Advertising of the proposal, in accordance with the Town's Community Consultation Policy, was for a period of 21 days with the closing date for submissions being 12 October 2009. In the event further submissions are received, an updated consultation table will be circulated to Council Members, prior to the Council Meeting to be held on 13 October 2009.		
Support	Nil	Noted.
Objections (14)	Parking - The proposal will have an adverse impact on parking and traffic in the surrounding area.	Not supported- The proposal complies with the Town's parking requirements.
	Density - The area is supposed to accommodate low density development. The proposal will wedge the adjoining property between commercial properties, which will make them unattractive as residential properties.	Not supported - The area is undergoing redevelopment, and the increase in density is considered consistent with the intent of the Leederville Masterplan and the Built Form Guidelines.
	Use - The office and multiple dwellings could be used for other purposes.	Not supported- The comment is not substantiated. Moreover, the development has not been constructed.
	Noise - The development will cause an increase in the level of noise in the area.	Not supported- The development will be required to comply with the relevant noise regulations.
	Overshadowing- Reduction in sunlight to adjacent properties.	Not supported- The proposal complies with the overshadowing requirements.
	Height -The proposed building is too high for this area.	Not supported- The building height is consistent with the type and form of development suitable for lots in the transitional zone of Carr Place, as outlined in the Built Form Guidelines.
	Query- why this application is to be considered at a special meeting?	Not supported – The Special Meeting will consider other matters, in particular the Hyde Park Lakes Project, in addition to other planning/development applications. Advertising of the proposal closed on 12 October 2009.

	Privacy- Loss of privacy	Supported- Refer to Assessment Table.
	Setbacks-With no setbacks at all, the building will block off a corridor for light, breeze, views and will impact on the streetscape. The boundary walls are completely out of place between two residential lots of no more than two storeys.	Not supported- Refer to Assessment Table.
	Right-of-Way- the developer should be requested to upgrade the right of way at the rear of No.212.	Supported- An appropriate condition is proposed for upgrading the unsealed section of the right of way.
	Rezoning- <i>“the proposed rezoning changes to support construction of a 4 storey (5 including basement) building at 212 Carr Place, defeats all planning and research that we did when choosing a property to purchase in the area.”</i>	Not supported- The Leederville Masterplan was advertised and underwent extensive community consultation. The proposed development is consistent with the objectives of the Leederville Masterplan.
	<i>“if a similar building were to be constructed on the adjacent lots, the balconies on both buildings would abut each other, or a wall. No such building would be approved for construction.”</i>	Not supported- open balconies or walls can be constructed on the adjacent lots, abutting each other; however, external openings (doors and windows) are not permitted under the deemed - to - satisfy provisions of the Building Code of Australia.
	The development will contribute to the devaluation of the adjoining properties.	Not supported- The devaluation of properties is not a planning issue.
	Such a large boundary wall will become a further magnet to graffiti artists in the area.	Not supported- It is the responsibility of the owner to prevent walls being painted with graffiti.
	Building not in keeping with the area/neighbours.	Not supported- The proposed development is consistent with the Leederville Masterplan.
	Security- the large walls will make it much more difficult to see into the complexes at No.210 and No.214 Carr Place from the street. Given the shadow which will be created by this building, this can lead to criminal activity on the subject site, which will impact on the neighbouring properties.	Not supported- This development will not prevent viewing of No. 210 and No. 214 Carr Place from the street. Criminal activity is a Police matter.

	Rubbish and Safety- The future users of the subject site may dispose of rubbish by throwing it over their balcony into adjoining properties.	Not supported- The future occupiers of the development will be required to comply with the Towns' requirements relating to the disposal of rubbish.
	Loss of Trees- the proposed building does not provide for any greenery as compared to other existing buildings in the area.	Supported- A landscaping plan is required to be submitted prior to the issue of a Building Licence.
	Access- There is no need for two driveways, one in the front and the other one at rear. They will create more safety concerns for pedestrians and vehicle users.	Not supported- The Town's Technical Services support the two driveways.
	Bicycle Parking- bicycle parking is not provided for the development	Not supported- The plans submitted on 1 October 2009 provide for bicycle parking on the ground floor.
Comments	<p>Strategic Implications- The Masterplan has been used a basis for approval but has not yet been approved by the WA State Planning Commission. It may never be approved in its current form. It is a mistake to allow decisions to be made on the basis of assumptions about future regulations. This is not orderly and proper planning.</p> <p>The idea of a "transitional" zone in Carr Place is sound, but the location of the proposed development is clearly in the residential zone in terms of actual existing structures. There are low-rise residential buildings on each side.</p>	<p>Noted- The Leederville Masterplan Built Form Guidelines dated October 2008 were formally adopted at the Special Meeting of Council held on 16 March 2009, subject to a series of amendments. The Built Form Guidelines are a local planning policy which is adopted pursuant to the Town's Town Planning Scheme No.1 and not determined by the Western Australian Planning Commission. Extensive advertising of the Built Form Guidelines was undertaken and the amendments to the Guidelines stemmed largely from the input received during the community consultation.</p> <p>One of the key amendments to the Built Form Guidelines, adopted by the Council at its Special Meeting held on 16 March 2009, was to create a transitional zone</p>

	<p>Interpretation of Built Form Guidelines-</p> <p><i>“Overall, the vision for the Carr Place Residential Precinct is to promote the demolition of older buildings and their replacement with new higher quality, higher density structures, on larger lots that result from amalgamation of exiting lots.</i></p> <p>....</p> <p><i>The subject property is at the very lower end of the scale of lot sizes for which density bonuses are proposed</i></p> <p>....</p> <p><i>Thus, although the proposal maximizes the density of the subject property, these particular design components unduly impact the possible density in any redevelopment of neighbouring lots, reducing overall density of the area around the subject property and undermining the overall objective of the Masterplan for this precinct.”</i></p>	<p>from commercial to residential, detailing preferred uses and a ratio of land uses being incorporated into the Carr Place Residential Precinct. The transitional zone has been identified as the area within the Carr Place Residential Precinct that has access to the right of way and to accommodate mixed use development, of which the subject property is within. For the purpose of the implementation of the Guidelines, and the long term vision and objectives for the Leederville area, it is not considered appropriate that provision for development vary within the transitional zone.</p> <p>A key element of the Carr Place Residential Precinct is to encourage an increase in dwelling density through the introduction of sliding density and sliding building heights. In order to promote good design and built form outcomes, essentially it is considered that the larger the lot parcel the greater opportunity for greater height and density. This is not to be read as mandatory amalgamation, rather the table within the Precinct document, indicates that if a lot is greater than 500 square metres, the opportunity exists to consider greater height and density. In essence, this is to support the broader objective of the Carr Place Residential Precinct to <i>'increase density and the quality of</i></p>
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	<p>Public Consultation Process</p> <p><i>“The agenda contains recommendations to council suggesting that the proposal should be approved, with certain conditions, and addressing certain objections from residents affected by the proposal. I question how these recommendations could have been made without a proper consultation process with residents.</i></p>	<p><i>housing in the precinct'. Furthermore, it is important to reiterate that the Built Form Guidelines are in essence guidelines; Applicants are not forced to purchase land for the purpose of amalgamation and, therefore, it is not considered that there is a loophole in the Masterplan. In addition, it is not considered that the proposed development will compromise the proposed development of the adjoining lots; similarly, given the current lot sizes, these lots would in the advent of a Development Application be eligible for the consideration of an increase in height and density and consideration for similar variations to side setbacks, and would not be required to amalgamate with other lots to do so.</i></p> <p>The Built Form Guidelines have been adopted by the Council as a local planning policy, in accordance with clause 38 (5) (b) of the Town's Town Planning Scheme No.1. Accordingly, the Council is to have due regard to such Policies in its determination of Development Applications subject to such policies.</p> <p>Noted- The Consultation Submissions Table in the Agenda Report notes that the Table will be updated and circulated to Council Members prior to the Council Meeting.</p>
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	<p><i>There are two reasons that the consultation process appears to have been sidestepped.</i></p> <p><i>The period for objections had not closed by the time the recommendations were made. The closing date is the 12<sup>th</sup> of October. The date on the Agenda is the 8<sup>th</sup> of October. How could the report to Council have been written without waiting for all the responses from residents? There will not realistically be a time for a supplementary report, if one is even contemplated, as the Council is meeting just one day after the consultation period ends.</i></p> <p><i>In addition, the plans that are to be approved are stamped as received by the Town on 1 October 2009. However, the letter sent to residents about the matter is dated the 22<sup>nd</sup> of September. It seems that residents were not sent the most up to date information.</i></p> <p><i>It should also be noted that plans for the development available on the Town's web site are misleading in that they do not correctly depict the adjoining buildings. The drawings depict the buildings on the adjoining properties as having the same (nil) setback as the proposed building. In fact, the buildings are several metres back from the property line, with gardens in front. In addition the drawings do not show the balconies on the existing buildings, which will be much closer to the new building that is implied.</i></p> <p><i>It is difficult to form an impression of how the building will look without correct information."</i></p> <p>Officer Recommendation</p> <p><i>"Consent of Neighbours</i></p> <p><i>Condition (v) states, in part:</i></p> <p><i>"... [obtain] the consent of the owners of No. 210 ... Carr Place for entry onto their land..."</i></p> <p><i>I feel very confident in asserting that this will not ever happen, given the current plans.</i></p>	<p>The applicant submitted amended plans on 1 October 2009. These plans were not referred to adjoining neighbours as there were no major changes to the plans which warranted further consultation.</p> <p>The plans submitted are correct when depicting the buildings on the adjoining properties. Moreover, an aerial photograph is attached which depicts existing development on the adjoining lots.</p> <p>Noted.</p>
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	<p><i>Parking</i></p> <p><i>Condition (xxiii) states:</i></p> <p><i>“the car park shall be used only by employees, tenants, and visitors directly associated with the development.</i></p> <p><i>This cannot be enforced in any reasonable way. The development will contribute to further crowding in an already overburdened area.”</i></p> <p>Application</p> <p><i>“Defer consideration of agenda item 7.1 until such time as a proper consideration of all public submissions has taken place;</i></p> <p><i>Allow the soon-to-be-elected Council to decide on this proposal at an ordinary meeting rather than at a Special Meeting called four days ahead of the elections.”</i></p>	<p>Noted- this condition is to ensure that parking is not being let to other people who are not connected to the development. This condition can be enforced if the Town has proof that parking is being used/paid for by external parties.</p> <p>Noted.</p>
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<b>Landowner:</b>	Walter Nardi
<b>Applicant:</b>	Walter Nardi
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Residential R80
<b>Existing Land Use:</b>	Single House
<b>Use Class:</b>	Office, Multiple Dwellings
<b>Use Classification:</b>	“SA”; “P”
<b>Lot Area:</b>	583 square metres
<b>Access to Right of Way</b>	Northern rear side, 5.03 metres wide, unsealed and privately owned

**BACKGROUND:**

No specific background directly relates to the proposal.

**DETAILS:**

The proposal involves the demolition of an existing single house, and construction of a four-storey mixed use development, comprising five (5) offices, eight (8) multiple dwellings and associated basement car parking.

The site is located within Precinct 7-Carr Place Residential Precinct of the draft Leederville Town Centre Masterplan.

**ASSESSMENT:**

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Density	R120-7 dwellings	R 137- 14 per cent density bonus = 8 multiple dwellings	Supported- The development is consistent with the objectives of Clause 40 of TPS 1 with respect to enhancing the amenity of the area, the demolition of the existing buildings which have no specific cultural heritage, and the proposal is consistent with orderly and proper planning of the locality. The intensity of development and the uses are consistent with the objectives of the Leederville Masterplan, and it is considered the development will not have an unreasonable impact on occupiers of the development or on the conservation of amenities of the locality.
Plot Ratio	N/A	N/A	Noted.
<b>Building Setbacks:</b> Second and Third Floors	Staggered setback approach for building greater than two storeys fronting Carr Place	Nil	Supported- In this instance, the balconies on the building are of light weight material, open on three sides contributing to a sense of openness, and reflecting a balanced design. Furthermore, the overall design of the proposal is not considered to create an unacceptable bulk and scale issue.
<b>East</b> Ground Floor	1.8 metres	Nil	Supported- The wall will mostly abut a driveway on the adjoining property and there will no overshadowing. Furthermore, the side setback is not considered to create an undue, adverse effect on the existing streetscape.

First Floor	7 metres	Nil	As above.
Second and Third Floors <b>West</b>	9 metres	Nil	As above.
Ground Floor	1.5 metres	Nil	Supported- The wall will mostly abut a driveway on the adjoining property and there will no overshadowing. Furthermore, the side setback is not considered to create an undue, adverse affect on the existing streetscape.
First Floor	6.6 metres	Nil	As above.
Second and Third Floors <b>North</b>	9 metres	Nil	As above.
First Floor	6 metres	Nil	Supported - The height and overall design of the proposal is considered not to create an unacceptable bulk and scale issue. The adjoining right-of-way of 5.03 metres in width provides some form of relief to the adjacent landowners.
Second Floor	7 metres	Nil	As above
Third Floor	7 metres	Nil	As above
Boundary Walls	Average Height= 3 metres Maximum Height= 3.5 metres  Boundary Wall on one side of boundary	Average Height= 13 metres Maximum Height= 13.7 metres Average Height= 13.35 metres Maximum Height= 13.5 metres  Two sides of boundaries	Supported - The height and overall design of the proposal is not considered to create an unacceptable bulk and scale issue in Precinct 7 of the draft Leederville Masterplan.  As above.
Balcony	Minimum dimension 2.4 metres	2.095 metres	Not supported- A condition to comply with the minimum dimension of 2.4 metres has been imposed.

Privacy	Balcony= 7.5 metres	<p>Balcony to office 2 (behind the front setback of adjoining western properties)= nil from western boundary</p> <p>Balcony to office 4= nil from western boundary</p> <p>Balconies to offices 5 and 6 (first floor) = nil from eastern and western boundaries</p> <p>Balconies to offices 5 and 6 (first floor)= 5.03 metres from the northern boundary (including right of way)</p> <p>Balconies to multiple dwellings Nos. 1,4,5 and 8 (second and third floors) (behind the front setbacks of adjoining eastern and western properties)= Nil to eastern and western boundaries</p> <p>Balconies to multiple dwellings Nos. 2, 3, 6 and 7 (second and third floors)= nil from eastern and western boundaries</p> <p>Balconies to multiple dwellings (second and third floors) Nos. 2,3,6 and 7 = 5.03 metres from northern boundary (including the right of way)</p>	Not supported- A condition of planning approval has been imposed to comply with the relevant privacy requirements of the Residential Design Codes.
<b>Consultation Submissions</b>			
Advertising of the proposal, in accordance with the Town's Community Consultation Policy, was for a period of 21 days with the closing date for submissions being 12 October 2009. In the event further submissions are received, an updated consultation table will be circulated to Council Members, prior to the Council Meeting to be held on 13 October 2009.			
Support	Nil	Noted.	
Objections (2)	Parking - The proposal will have an adverse impact on parking and traffic in the surrounding area.	Not supported- the proposal complies with the Town's parking requirements.	

	Density - The area is supposed to accommodate low density development. The proposal will wedge the adjoining property between commercial properties which will make them unattractive as residential properties.	Not supported - as the area is undergoing redevelopment, and the increase in density is considered not to have an undue impact.
	Use - The office and multiple dwellings could be used for other purposes.	Not supported- this comment is not substantiated. Moreover, the development has not been constructed.
	Noise - The development will cause an increase in the level of noise in the area.	Not supported- as the development will be required to comply with the relevant noise regulations.
	Overshadowing- Reduction in sunlight to adjacent properties.	Not supported- the proposal complies with the overshadowing requirements.
	Height -The proposed building is too high for this area.	Not supported- The building height is consistent with the type and form of development suitable for lots in the transitional zone of Carr Place as outlined in the Built Form Guidelines.
<b>Other Implications</b>		
Legal/Policy		TPS 1 and associated Policies, and Residential Design Codes (R Codes).
Strategic Implications		Nil
Sustainability Implications		The proposal will be required to satisfy the energy efficiency requirements of the Building Code of Australia requirements at the Building Licence stage. The proposal would maximise the potential use of the land, taking into consideration its close proximity to the City and major transport routes.
Financial/Budget Implications		Nil

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

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

**COMMENTS:**

**Demolition**

The subject brick and iron dwelling at No. 212 Carr Place, Leederville was constructed in the Interwar Bungalow style of architecture circa 1928. A number of alterations and additions undertaken during 1960s-1970s have served to diminish the authenticity of the subject dwelling. Based on the external inspection undertaken on 25 September 2009 and the plans dated 17 September 2009, it is considered that the place has little aesthetic, historic, scientific or social heritage significance. In accordance with the Town's Policy relating to Heritage Management – Assessment, the place does not meet the threshold for entry on the Town's Municipal Heritage Inventory. In light of the above, it is considered that approval should be granted for demolition subject to standard conditions.

**Car Parking**

Twenty-seven car bays have been provided for the proposed development. In accordance with the Residential Design Codes requirements for mixed-use development, on-site car parking for multiple dwellings may be reduced to one car bay per dwelling where on-site parking required for other users is available outside normal business hours. However, the applicant is providing 16 car bays (2 car bays per dwelling) for the residential component. The balance of car bays available for the office components in this instance is 11 car bays.

<b>Requirements as per Parking and Access Policy</b>	<b>Required</b>
Total car parking required before adjustment factor (nearest whole car number)	
Office-1 car bay per 50 square metres gross floor area (proposed 594 square metres) = 11.88 car bays= 12 car bays	12 car bays
Apply the parking adjustment factors:	(0.4624)
<ul style="list-style-type: none"> <li>▪ 0.80(the proposed development is within 400 metres of a rail station)</li> <li>▪ 0.85 (within 400 metres of a bus stop)</li> <li>▪ 0.85 (within 400 metres of an existing public car parking place(s) with in excess of a total of 75 car parking spaces)</li> <li>▪ 0.80 (proposed development contains a mix of uses, where at least 45 percent of the gross floor area is residential)</li> </ul>	5.549 car bays
Car parking provided on-site	11 car bays
Minus the most recently approved on-site parking shortfall	Nil
Resultant surplus	5.451 car bays

**Bicycle Parking**

<b>Requirements</b>	<b>Required</b>	<b>Provided</b>
Office  1 per 200 (proposed 594 square metres) square metres gross floor area for employees (class 1 or 2).	2.97 = 3 spaces	Bicycle Parking shown on the ground floor.

### **Technical Services**

Technical Services Officers have advised that the overhead power lines are to be placed underground, and that the unsealed section of the right of way from the north eastern boundary of the subject land abutting the right of way shall be sealed, drained and paved to the Town's specifications. In addition, a number of the proposed car parking bays within the basement do not comply with Australian Standards and will need to be addressed at Building Licence stage.

### **Use/Strategic Implications**

The site is located within the Leederville Masterplan area. The Masterplan provides the planning framework that will ensure the continued development of Leederville based on a series of key goals including; encouraging a sustainability density of development, capitalising on the close proximity to the train station, providing additional residential and commercial opportunities and encouraging local employment.

At the Special Meeting of Council held on 16 March 2009, the Leederville Masterplan Built Form Guidelines were adopted with a series of amendments. One of the key amendments was to introduce a transitional zone from commercial to residential within the Carr Place Residential Precinct. The subject property falls within this transitional zone.

The proposed mixed-use development is consistent with the Leederville Masterplan Carr Place Precinct and also strongly supports the key goals of the Leederville Masterplan detailed above. It is considered the proposal will facilitate a benchmark for future development and contribute to landowner confidence in renewing this underdeveloped residential area.

In view of the above, the application is supportable as it is not considered that the development will result in any undue impact on the amenity of the surrounding area, but rather, will contribute to the development of the Leederville Masterplan in line with the overarching vision for the Town Centre.

### **Absolute Majority**

Given the proposed density bonus, as per Clause (40)(3)(b) of the Town's Town Planning Scheme No.1, the Council, in the event of approving the application, would be required to do so by an absolute majority decision.

In view of the above, it is considered that the application is supportable; as it is considered the development will significantly improve the use and appearance of the overall site, and will not result in any undue impact on the amenity of the surrounding area.

**7.4 Hyde Park Lakes Restoration Project – Adoption of Masterplan, Approval of Funding and Progress Report No. 7**

<b>Ward:</b>	South	<b>Date:</b>	8 October 2009
<b>Precinct:</b>	Hyde Park P12	<b>File Ref:</b>	RES0042
<b>Attachments:</b>	<a href="#">001</a> , <a href="#">002</a> , <a href="#">003</a>		
<b>Reporting Officer(s):</b>	R Lotznicker, J van den Bok, J Giorgi		
<b>Checked/Endorsed by:</b>		<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) **RECEIVES** progress report No 7 as at 8 October 2009 on the Hyde Park Lakes Restoration;
- (ii) **CONSIDERS** the submissions received as a result of the community consultation, and **NOTES** the majority of respondents are in favour of restoring the Hyde Park Lakes "to their former beauty";
- (iii) **NOTES** that;
  - (a) *the Commonwealth Minister for Climate Change and Water and the Federal Member for Perth, Stephen Smith, have both written to the Town seeking the adoption of a Masterplan for the restoration of the Hyde Park Lakes and for this information to be provided to them by no later than 27 November 2009;*
  - (b) *in the event that the Town does not adopt a Masterplan and advise the Commonwealth Minister by 27 November 2009 the Commonwealth Funding of \$2 million is considered to be in jeopardy;*
  - (c) *Option 2A - "Modified 'Ornamental' Permanent Water Solution" as shown on attached plan No 2665-DP-01, which incorporates many of the principles outlined the Syrinx Masterplan (dated December 2008) (Appendix 7.4A), has been developed by the Town's Technical Services Directorate as a possible alternative option to Syrinx Option 1- "Integrated Wetland Masterplan Option" and Syrinx Option 2: "The 'Ornamental' Permanent Water Solution";*
  - (d) *an Indicative Cost Estimate has been prepared for the Project options, as shown in Confidential Appendix 7.4C; and*
  - (e) *the Town's administration has formed a Project Management Team to oversee this project, comprising:*
    - 1. *Director Technical Services – Chair;*
    - 2. *Manager – Parks and Property Services;*
    - 3. *Manager – Engineering Services;*
    - 4. *Co-ordinator – Statutory Planning;*
    - 5. *Sustainability Officer; and*
    - 6. *Project Officer – Environment;*

- (iv) **APPROVES;**
- (a) *the adoption of the Hyde Park Redevelopment Masterplan (dated 2008) as shown in Appendix 7.4A, subject to incorporating Option 2A – “Modified ‘Ornamental’ Permanent Water Solution”, estimated to cost \$4 million as its preferred option, as shown on attached Plan No 2665-DP-01 (Appendix 7.4B), for the reasons outlined in the report;*
- (b) *of the Project Budget of \$4,555,000 comprising:*
- |    |                                      |                          |
|----|--------------------------------------|--------------------------|
| 1. | <i>Stage 1 – Essential Works</i>     | <i>\$4,000,000</i>       |
| 2. | <i>Stage 2 – Future Staged Works</i> | <i><u>\$ 555,000</u></i> |
- from the following funding sources:*
- |    |   |                          |
|----|---|--------------------------|
| 1. | <i>Town of Vincent – Loan</i>                 | <i>\$2,000,000</i>       |
| 2. | <i>Commonwealth Government</i>                | <i>\$2,000,000</i>       |
| 3. | <i>Other sources (e.g. grants, donations)</i> | <i><u>\$ 555,000</u></i> |
|    |   | <i>\$4,555,000</i>       |
- (c) *the Indicative Timeline for the implementation of the project as outlined in the report;*
- (v) *subject to clauses (iii) and (iv) above being supported, APPROVES BY AN ABSOLUTE MAJORITY pursuant to Section 6.20(2) of the Local Government Act, to borrow an amount up to \$2,000,000 for the project, subject to:*
- (a) *the Commonwealth Department of the Environment, Water, Heritage and the Arts providing funding of \$2 million to the Town;*
- (b) *the Town giving one month’s public notice of its proposal to borrow such monies; and*
- (c) *the Chief Executive Officer being authorised to negotiate the most suitable loan terms and conditions and to further investigate other possible funding sources and options;*
- (vi) **AUTHORISES the Chief Executive Officer to;**
- (a) *subject to clauses (iii) and (iv) above being approved, submit the Town’s Masterplan, Option 2A - “Modified ‘Ornamental’ Permanent Water Solution”, together with the Application for funding to the Commonwealth Department of the Environment, Water, Heritage and the Arts, as a matter of urgency;*
- (b) *engage the services of appropriately qualified consultants as necessary to progress and refine the detailed design and documentation of the restoration project and obtain the appropriate statutory approvals to enable the Masterplan to be implemented;*
- (c) *prepare the necessary Plans, including but not limited to:*
- *Ecological Impact Plan;*
  - *Acid Sulphate Soil Plan;*
  - *Contaminated Site Management Plan; and*
  - *Environmental Management Plan;*

- (d) *further liaise with the various stakeholders, including but not limited to:*
- *Water Corporation;*
  - *Department of Water;*
  - *Department of Environment;*
  - *Heritage Council of Western Australia;*
  - *Department of Indigenous Affairs;*
  - *Swan River Trust;*
  - *Relevant Aboriginal community; and*
  - *Claise Brook Catchment Group and other relevant community groups;*
- (e) *make minor changes to the adopted Masterplan, which may arise and be necessary, during the design/development and construction stages;*
- (f) *call tenders for the implementation of the project once the detailed design and documentation has been completed; and*
- (g) *issue a special edition newsletter to the Town's ratepayers/residents and advise all respondents and stakeholders of the Council's decision.*
- 

Cr Doran-Wu and Cr Messina departed the Chamber at 8.04pm.

Moved Cr Farrell, Seconded Cr Burns

*That the recommendation be adopted.*

Debate ensued.

Cr Doran-Wu and Cr Messina returned to the Chamber at 8.05pm.

Debate ensued.

Cr Lake spoke for five minutes.

**PROCEDURAL MOTION**

Moved Cr Maier, Seconded Cr Ker

*That Cr Lake be permitted to speak for a further five minutes.*

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

**For:** Cr Doran-Wu, Cr Ker, Cr Lake, Cr Maier

**Against:** Presiding Member, Mayor Nick Catania (two votes – deliberative and casting vote), Cr Burns, Cr Farrell, Cr Messina

Debate ensued.

**AMENDMENT NO 1**

Moved Cr Maier, Seconded Cr Lake

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

*“(vi)(h) make public the confidential costing.”*

The Chief Executive Officer advised that he does not believe this information should be made public as in the case that the Council calls a tender it will be disclosing to potential tenderers what is believed to be the indicative cost. This may be detrimental to the Town.

Debate ensued.

**AMENDMENT NO 1 PUT AND LOST (2-6)**

**For:** Cr Lake, Cr Maier

**Against:** Mayor Nick Catania, Cr Burns, Cr Doran-Wu, Cr Farrell, Cr Ker, Cr Messina

Debate ensued.

**AMENDMENT NO 2**

**Moved Cr Maier, Seconded Cr Ker**

*That a new clause (vii) be inserted as follows:*

*“(vii) APPROVES that the Mayor and/or the Chief Executive Officer hold a meeting with the Water Corporation to progress a partnership concerning the restoration of Hyde Park Lakes.”*

**AMENDMENT NO 2 PUT AND CARRIED (8-0)**

Debate ensued.

**AMENDMENT NO 3**

**Moved Cr Maier, Seconded Cr Ker**

*That the Syrinx Masterplan be restructured to move pages 28(i) to 28(vi) to a separate appendix.*

The Chief Executive Officer advised that he will need to check this matter. The Chief Executive Officer did not have the answer as to whether it will be breaching Intellectual Property, Copyright etc. however the appropriate method will be taken, whether it is adopting the Report with the Town's Option being included as an Addendum or including it within the Masterplan.

Debate ensued.

Cr Maier advised that he still wished to proceed with the Amendment.

The Chief Executive Officer advised that the wording would be changed to modify or amend the Syrinx Report so as not to breach Copyright or Intellectual Property.

The Mover, Cr Maier advised that he wished to change his amendment and reword it. The Seconder, Cr Ker agreed.

*AUTHORISES the Chief Executive Officer to review the most appropriate method of the Council's Option 2A being adopted and either included as an Addendum to the Syrinx Masterplan or included into it.*

**AMENDMENT NO 3 PUT AND CARRIED (8-0)**

Debate ensued.

**AMENDMENT NO 4**

**Moved Cr Lake, Seconded Cr Ker**

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

*“(vi)(i) prepare a Catchment Management Plan to minimise further pollutants entering the Hyde Parks Lakes.”*

Debate ensued.

**AMENDMENT NO 4 PUT AND CARRIED (7-1)**

**For:** Mayor Catania, Cr Burns, Cr Doran-Wu, Cr Farrell, Cr Ker, Cr Lake, Cr Maier

**Against:** Cr Messina

Debate ensued.

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

**For:** Mayor Catania, Cr Burns, Cr Doran-Wu, Cr Farrell, Cr Ker, Cr Messina

**Against:** Cr Lake, Cr Maier

**COUNCIL DECISION ITEM 7.4**

*That the Council;*

- (i) *RECEIVES progress report No 7 as at 8 October 2009 on the Hyde Park Lakes Restoration;*
- (ii) *CONSIDERS the submissions received as a result of the community consultation, and NOTES the majority of respondents are in favour of restoring the Hyde Park Lakes "to their former beauty";*
- (iii) *NOTES that;*
  - (a) *the Commonwealth Minister for Climate Change and Water and the Federal Member for Perth, Stephen Smith, have both written to the Town seeking the adoption of a Masterplan for the restoration of the Hyde Park Lakes and for this information to be provided to them by no later than 27 November 2009;*
  - (b) *in the event that the Town does not adopt a Masterplan and advise the Commonwealth Minister by 27 November 2009 the Commonwealth Funding of \$2 million is considered to be in jeopardy;*
  - (c) *Option 2A - "Modified 'Ornamental' Permanent Water Solution" as shown on attached plan No 2665-DP-01, which incorporates many of the principles outlined the Syrinx Masterplan (dated December 2008) (Appendix 7.4A), has been developed by the Town's Technical Services Directorate as a possible alternative option to Syrinx Option 1- "Integrated Wetland Masterplan Option" and Syrinx Option 2: "The 'Ornamental' Permanent Water Solution";*
  - (d) *an Indicative Cost Estimate has been prepared for the Project options, as shown in Confidential Appendix 7.4C; and*

- (e) *the Town's administration has formed a Project Management Team to oversee this project, comprising:*
1. *Director Technical Services – Chair;*
  2. *Manager – Parks and Property Services;*
  3. *Manager – Engineering Services;*
  4. *Co-ordinator – Statutory Planning;*
  5. *Sustainability Officer; and*
  6. *Project Officer – Environment;*
- (iv) **APPROVES;**
- (a) *the adoption of the Hyde Park Redevelopment Masterplan (prepared by Syrnix dated 2008) as shown in Appendix 7.4A, subject to:*
1. *non-acceptance of Options described in parts 11.3, 11.4, 11.5, 11.6, 11.7, 12.0, 13.0 Appendix 4, Appendix 5 – concept plans. Option 1 and 2 and deletion of pages 28(i) to 28(vi);*
  2. *the Town of Vincent Option 2A – “Modified ‘Ornamental’ Permanent Water Solution”, estimated to cost \$4 million as its preferred option being an Addendum to the Masterplan, as shown on attached Plan No 2665-DP-01 (Appendix 7.4B), for the reasons outlined in the report;*
- (b) *of the Project Budget of \$4,555,000 comprising:*
- |   |                          |
|---|--------------------------|
| 1. <i>Stage 1 – Essential Works</i>     | <i>\$4,000,000</i>       |
| 2. <i>Stage 2 – Future Staged Works</i> | <i><u>\$ 555,000</u></i> |
- from the following funding sources:*
- |  |                          |
|--|--------------------------|
| 1. <i>Town of Vincent – Loan</i>                 | <i>\$2,000,000</i>       |
| 2. <i>Commonwealth Government</i>                | <i>\$2,000,000</i>       |
| 3. <i>Other sources (e.g. grants, donations)</i> | <i><u>\$ 555,000</u></i> |
|  | <i>\$4,555,000</i>       |
- (c) *the Indicative Timeline for the implementation of the project as outlined in the report;*
- (v) *subject to clauses (iii) and (iv) above being supported, APPROVES BY AN ABSOLUTE MAJORITY pursuant to Section 6.20(2) of the Local Government Act, to borrow an amount up to \$2,000,000 for the project, subject to:*
- (a) *the Commonwealth Department of the Environment, Water, Heritage and the Arts providing funding of \$2 million to the Town;*
  - (b) *the Town giving one month's public notice of its proposal to borrow such monies; and*
  - (c) *the Chief Executive Officer being authorised to negotiate the most suitable loan terms and conditions and to further investigate other possible funding sources and options;*

- (vi) ***AUTHORISES the Chief Executive Officer to;***
- (a) ***subject to clauses (iii) and (iv) above being approved, submit the Town's Masterplan with Addendum showing, Option 2A - "Modified 'Ornamental' Permanent Water Solution", together with the Application for funding to the Commonwealth Department of the Environment, Water, Heritage and the Arts, as a matter of urgency;***
  - (b) ***engage the services of appropriately qualified consultants as necessary to progress and refine the detailed design and documentation of the restoration project and obtain the appropriate statutory approvals to enable the Masterplan (with Addendum) to be implemented;***
  - (c) ***prepare the necessary Plans, including but not limited to:***
    - ***Ecological Impact Plan;***
    - ***Acid Sulphate Soil Plan;***
    - ***Contaminated Site Management Plan; and***
    - ***Environmental Management Plan;***
  - (d) ***further liaise with the various stakeholders, including but not limited to:***
    - ***Water Corporation;***
    - ***Department of Water;***
    - ***Department of Environment;***
    - ***Heritage Council of Western Australia;***
    - ***Department of Indigenous Affairs;***
    - ***Swan River Trust;***
    - ***Relevant Aboriginal community; and***
    - ***Claise Brook Catchment Group and other relevant community groups;***
  - (e) ***make minor changes to the adopted Masterplan (and Addendum), which may arise and be necessary, during the design/development and construction stages;***
  - (f) ***call tenders for the implementation of the project once the detailed design and documentation has been completed;***
  - (g) ***issue a special edition newsletter to the Town's ratepayers/residents and advise all respondents and stakeholders of the Council's decision;***
  - (h) ***review the most appropriate method of the Council's Option 2A being adopted and included as either an Addendum to the Syrinx Masterplan or included into it; and***
  - (i) ***prepare a Catchment Management Plan to minimise further pollutants entering the Hyde Parks Lakes; and***
- (vii) ***APPROVES that the Mayor and/or the Chief Executive Officer hold a meeting with the Water Corporation to progress a partnership concerning the restoration of Hyde Park Lakes.***

**IMPORTANT ADDITIONAL INFORMATION:**

There have been some questions regarding the costs of the various options.

*Please note the following:*

**Syrinx Option 1 – Integrated wetland option:**

- Proposed necessary works = **\$3,502,037**
- Future possible works (not absolutely necessary) = **\$1,233,580**

**Note:** Remediation costs not included as no option was further investigated. The remediation costs could be as follows as outlined on Page 104 of the 10 Feb 2009 report briefly discussed possible remediation options as follows (suggested by Syrinx):

- Do nothing - \$1.5m
- Fill & forget - \$1.7m
- Excavate/Dose/Dispose - \$4m
- Dynamic Compaction - \$1m+
- Insitu remediation - \$0.6m
- Hybrid approach - \$ to be determined.

So cost of necessary works could be as high as **\$7.5m** if the excavate/dose/dispose remediation option was chosen

**Syrinx Option 2 – Ornamental lake option:**

- Proposed necessary works = **\$3,656,729**
- Future possible works (not absolutely necessary) = \$1,233,580

**Note:** Remediation costs not included as no option was further investigated. The remediation costs could be as follows as outlined on Page 104 of the 10 Feb 2009 report briefly discussed possible remediation options as follows (suggested by Syrinx):

- Do nothing - \$1.5m
- Fill & forget - \$1.7m
- Excavate/Dose/Dispose - \$4m
- Dynamic Compaction - \$1m+
- Insitu remediation - \$0.6m
- Hybrid approach - \$ to be determined.

So cost of necessary works could be as high as **\$7.6m** if the excavate/dose/dispose remediation option was chosen.

**Option 2A – TOV Modified Ornamental permanent water solution**

- Proposed necessary works = **\$3,981,850\***
- Future possible works (not absolutely necessary) = \$574,000

**Note:\*** Includes most of the remediation of material costs using dredging/envirotubes.

### **Conclusion**

The commonwealth have requested the Town provide them with a project costing, timeline & how the funding shortfall will be made up.

With Options 1 & 2, the cost of remediation is undetermined (Syrinx gave some 'possible' options). The remediation proposal as outlined in option 2A could be incorporated in either options 1 or 2 however the overall cost of each option would need to be adjusted accordingly.

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### **PURPOSE OF REPORT:**

The purpose of this report is to update the Council on the Hyde Park Lakes Restoration Project and seek approval for the adoption of the preferred Masterplan Option and funding requirements.

### **BACKGROUND:**

As previously reported to the Council in December 2008, following a lengthy and detailed process, Syrinx Environmental (engaged by the Town to undertake Hyde Park Lakes Master Planning) finally presented the Masterplan for the Restoration of Hyde Park Lakes at a Council forum.

At its Ordinary Meeting held on 10 February 2009 (next available Council meeting), the Council considered progress Report No.6 in relation to the Hyde Park Lakes Masterplan, and made the following decision:

*That the Council;*

- (i) *RECEIVES Progress Report No. 6 in relation to the restoration of the Hyde Park Lakes;*
- (ii) *NOTES that;*
  - (a) *the information contained in the report in relation to the development of the Masterplan Restoration scenarios (as attached in Appendix 9.2.3) and the Environmental Investigations associated with the development of the preferred restoration options;*
  - (b) *in accordance with the Contaminated Sites Act 2003 and Contaminated Sites Regulations 2006, the Hyde Park Lakes have been identified, reported and recorded as a Contaminated Site with the Department of Environment and Conservation (DEC) and as such will require to be managed and remediated;*
  - (c) *several possible remediation options, and their associated estimated costs, have been discussed in the report and that the site comprising the Lakes needs to be remediated, using an appropriate remediation option, as a requirement of the Contaminated Sites Act 2003 and Contaminated Sites Regulations 2006, prior to the Masterplan for restoration being implemented;*
  - (d) *a preliminary site investigation was previously undertaken which determined the existence of acid sulphate soils and potential acid sulphate soils;*

- (e) *to enable a suitable remediation option to be progressed and costed, as mentioned in clause (ii)(c), a comprehensive sample and analysis plan to undertake a Detailed Site Investigation needs to be implemented;*
- (f) *the estimated cost to implement the requirements as outlined in clause (ii)(d) is \$125,000;*
- (g) *the Town's Officers have been in constant communication with the Federal Minister for the Environment's office regarding the funding commitment of \$2million for the restoration of the Lakes;*
- (iii) *APPROVES progressing the required further in depth investigations of Hyde Park Lakes, as outlined in clause (ii)(d) and (e), at a preliminary estimated cost of \$125,000, to be funded from the Hyde Park Lakes Reserve Fund, to enable a suitable remediation option/s to be progressed and costed;*
- (iv) *ADOPTS IN PRINCIPLE "Option 1– Integrated Wetland Masterplan Option" as its preferred option for the restoration of the Hyde Park Lakes;*
- (v) *HOLDS a community workshop at the commencement of the public comment period;*
- (vi) *HOLDS an on site Information Session and Hyde Park Lakes on a weekend during this period;*
- (vii) *PLACES an information noticeboard at Hyde Park in the vicinity of the Lakes to advise parks users of the proposal and also requesting them to provide feedback during the consultation process;*
- (viii) *ADVISES the following stakeholders of its decision and seeks their comments regarding the preferred Masterplan option:*
  - (a) *Western Australian Water Corporation;*
  - (b) *Department of Water;*
  - (c) *Swan River Trust; and*
  - (d) *Heritage Council of Western Australia;*
- (ix) *ACTIVELY pursues funding towards the remediation/restoration of the Hyde Park Lakes from the stakeholders mentioned in clause (vi) above;*
- (x) *PROVIDES a copy of the draft Masterplan options to the Federal Minister for Environment's office and ADVISES the Federal Minister for Environment of the Council decision, to enable the Federal funding to be further progressed; and*
- (xi) *RECEIVES a further report at the conclusion of the community consultation or as additional information becomes available.*

**DETAILS:**

The two 'faces' of the Hyde Park Lakes can be seen below - with water in winter, dry in summer. The Town has been progressing towards developing a solution for the restoration of the Lakes and all the time being cognisant of the very large number of factors/constraints associated with this matter.



**Summer**



**Winter**

The progress of actions, to date, on the decisions made by the Council at its Ordinary Meeting held on 10 February 2009 and other developments, are outlined in this report as follows.

**Detailed Site Investigation:**

The Council approved progressing with the required further 'in depth' investigations of the Hyde Park Lakes, to enable a suitable remediation option/s to be further progressed and costed.

At its Ordinary Meeting held on 9 June 2009, the Council accepted a tender submitted by Golder Associates for a Detailed Site Investigation (DSI) of Hyde Park Lakes and Remediation Area.

**Officers' Comments**

The DSI is currently in progress, with the final report due in mid October 2009. Preliminary meetings with the consultant have been held and it appears that the level of contaminants in the Lake sediments varies, however, indications are that the contaminants present are what would be expected in a compensating basin which has been in existence for many years.

**Masterplan Options explored:**

The Masterplan document prepared for the Town by Syrinx was supported by a range of previous studies undertaken over the last 20 years or so. These previous studies covered topics such as; water quality, sediments, parkland, conservation and heritage values.

The aim of the Syrinx Masterplan document was to provide clear directions for the future restoration of the Hyde Park Lakes, both in a strategic and a practical sense. The main factors influencing the Lakes and their future health were analysed and key issues were identified in the form of opportunities and constraints.

At the time four (4) main restoration options were identified as follows:

- Scenario 1 – Ephemeral (short lived) Lake system
- Scenario 2 – Permanent Lake system
- Scenario 3 – Integrated solution where both Lakes contained some permanent water;
- Scenario 4 – An integrated approach where one of the Lakes became a ephemeral wetland and the other Lake maintained as a permanent water body.

Officers' Comments

Between December 2007 and June 2008, Syrinx consultants worked with the Hyde Park Lakes Restoration Working Group and attended four (4) meetings.

In addition, during this time a single stakeholder group meeting was held at Hyde Park to discuss the proposal. Other stakeholders were also involved in the process e.g. Swan River Trust, Heritage Council, etc.

Two proposed Masterplan Options were subsequently developed (as a requirement of the Consultant's brief) and the Integrated Wetland Option was eventually presented to the Council as the preferred option subject to undertaking community consultation etc.

**Syrinx Option 1– Integrated Wetland Masterplan Option:**

This option, as adopted 'in principle' by the Council, was the preferred Masterplan option of both Syrinx and the Hyde Parks Lakes Restoration Working Group (HPLRWG). This option comprised the following:

- *Habitat Creation:* Provision of 15,000 m<sup>2</sup> of flora and fauna habitat
- *Water Quality:* Treatment of 40% of all stormwater flows through functioning wetland, resulting in significant water quality improvement
- *Water Supply:* Water consumption = 10 to 15 ML/yr
- *Landscape:* Arcadian landscape characteristics partly maintained in areas that contain permanent open water, with seasonal changes to other areas

The integrated option was recommended after reviewing the technical feasibility, (in consultation with the Hyde Park Lakes Restoration Working Group), whereby both Lakes would contain some permanent water, some in Lake vegetation and some water treatment capacity. At the time this option was considered preferable due to the multiple benefits gained in terms of potential fulfilment of the environment, landscape, social and heritage objectives.

A treatment swale or "cascade" within Hyde Park was also included in ALL options for improving the quality of stormwater entering the Lakes, while also providing a landscape feature.

Preliminary Estimated Cost Option 1– Integrated Wetland Masterplan Option:

Syrinx preliminary estimated cost for option 1, including the Treatment Swale, was in the order of \$3.5m, with approximately another \$1.2m allowed for landscape elements, e.g. boardwalks, etc. which could be staged over a number of financial years.



*Plan of proposed Syrinx Option 1– Integrated Wetland Masterplan Option*

Officers' Comments

As mentioned above, this option was considered to be preferable due to the multiple benefits gained in terms of potential fulfilment of the environment, landscape, social and heritage objectives - indicated above.

**Syrinx Option 2: The “Ornamental” Permanent Water Solution:**

This option potentially maintains water in the Lakes all year round. This Masterplan solution for the Lakes would correspond to the initial landscape intent for Hyde Park Lakes, which has been difficult to achieve without supplementary water.

Water Source

This option required the Lakes to be topped-up during the dryer months of the year due to the loss in evapotranspiration and as a result of technical constraints. The best water source solution for the permanent water solution would be to top-up from a groundwater bore.

Existing groundwater bores within Hyde Park source water from the superficial aquifer; however, this water has previously been identified as being high in nutrients and would therefore require some form of treatment, preferably prior to entering the Lakes.

Lining

A significant amount of water is lost via seepage into the water table and therefore this option proposed lining the Lakes and isolating them from the groundwater to maintain a level of water within the Lakes all year round.

Level of Complexity

The “Ornamental” Permanent Water Solution would require significant work to address the environmental damage that has occurred to The Lakes over time by sourcing additional water from a nutrient-rich aquifer; and ensuring that the new design and planning of Hyde Park Lakes was viable in the long-term.

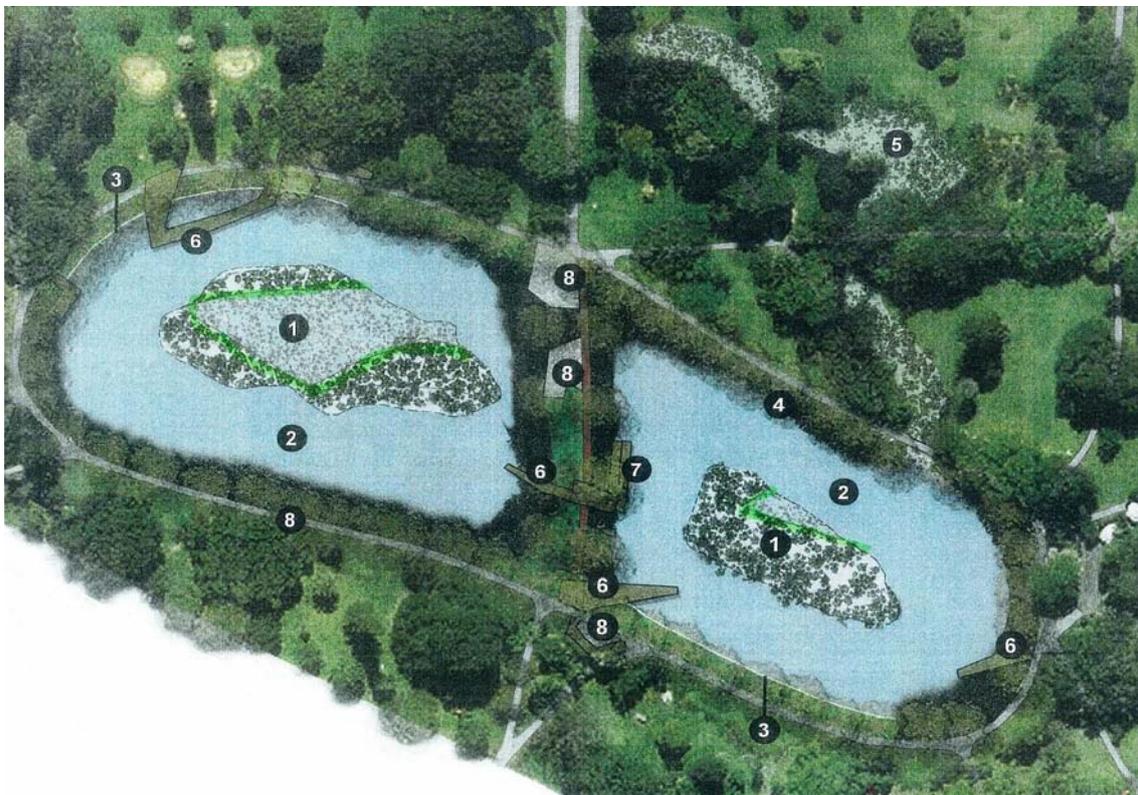
Benefits

There would be very little change to the physical appearance of the Lakes anticipated, except that there would be a high water level all year round. It is expected that there will be no risk of contamination to or from the groundwater, as no interaction would take place.

Technical Requirements

The permanent ornamental Lakes would appear very similar to the existing Lakes at high water level. Therefore, limited changes to the form would be required. While the permanent open water solution may not be the best option in terms of ecological functionality and landscape integration, it would be possible to maintain a portion of, or all of, the hard-walling around the edges of both Lakes. The primary reason for this is a direct response to preserve this Heritage-listed element of the Park, if not completely then at least partially.

Based on the desired water level in the Lakes, the supplementary water volume will have to be determined. It is expected that the necessary volume would be approximately 20ML to 25ML per annum.



*Plan of Syrix Option 2: The “Ornamental” Permanent Water Solution:*

Preliminary Estimated Cost Option 2– The “Ornamental” Permanent Water Solution:

Syrix preliminary estimated cost for Option 2, including the Treatment Swale, was in the order of \$3.7m with approximately another \$1.2m allowed for landscape elements e.g. boardwalks, etc which could be staged over a number of financial years.

Officers' Comments

This option resulted in the least change to Hyde Park Lakes, however, it was considered that maintaining water in the Lakes at all times had its limitations given their size. This option proposed treating the islands (re engineering) to improve water quality and also recommended improving the quality of stormwater entering the Lakes, with the addition of a treatment swale or "cascade" within Hyde Park

## COMMUNITY CONSULTATION

### Workshop:

Council decided to hold a Community Workshop at the commencement of the public comment period. The community workshop was held on Tuesday 17 March 2009 in the function room of the Town's Administration and Civic Centre. 12 officers, representatives from Syrinx consultants, Council Members and 15 members of the public were in attendance.

The comments from the attendees at the meeting are attached at appendix 7.8 and, as can be seen, the comments were varied with some in favour of changing the look of the Lakes while others were against making substantial changes.

At the conclusion of the meeting, the Town's Chief Executive Officer thanked the public, consultants, Council Members and Staff for attending. He suggested that people should submit formal comments during the consultation period. He advised the issues were complex and would be emotive but the Town would consider the comments received.

### Information Session at Hyde Park Lakes:

The Council decided to hold an on site Information Session at Hyde Park Lakes on a weekend during this period.

The session was held at Hyde Park on Saturday 21 March 2009. The Director Technical Services, several Council Members, two representatives from Syrinx and approximately 12 members of the public attended the meeting (numbers fluctuated during the presentation).

The attendees were generally in favour of the proposal as presented, i.e. the integrated wetland option, and were encouraged to submit formal comments.

### Information Noticeboards at Hyde Park:

The Council decided to install information noticeboards at Hyde Park in the vicinity of the Lakes to advise parks users of the proposal and also requesting them to provide feedback during the consultation process. The notice boards were erected at strategic locations in the park (refer below) at the commencement of the formal consultation process.

The Team of Vincent's Hyde Park Lakes Restoration Working Group has been working with Syrinx Environmental Planners since late 2007 and has developed a Masterplan for the Restoration of Hyde Park Lakes. The completed Masterplan identified two lake restoration options, of which the Council recently gave its 'in principle' support for Option 1 - Integrated Wetland. An overview of this preferred option is displayed below.

**SITE HISTORY**  
The Hyde Park Lakes have a special significance for the town indigenous whose people, as they were since important meeting and trading grounds - providing a critical food source when winter supplies were drying up in the summer.

**CURRENT ISSUES**  
The Lakes have been suffering from ill health for many years in terms of both water quality and water quantity. In a bid to address both of these issues and to return the site to a healthy and functioning system, the Town of Vincent has undertaken a Measurement system which has, through regular monitoring and landscape interpretation, determined the most appropriate options for rehabilitation based on the social, economic and environmental requirements of the community.

**RESTORATION VEGETATION**  
The restoration of the Lakes incorporates native vegetation communities, from woodland to dry grassy woodland.

**INDICATIVE SPECIES**

**THE VISION**  
"To maintain an aesthetically pleasing, sustainable lake system that builds on the ideas of the past while acknowledging, adopting and combining them with the ideas of today"

**OBJECTIVES OF THE INTEGRATED WETLAND**  
The Masterplan for the restoration of Hyde Park Lakes will have both the Lakes modified to provide some degree of ecological treatment of water, that entering the system to 'clean it up'.

**LANDSCAPE ENHANCEMENT**  
Strategic access to the Lakes ridge is conceptually designed through a series of boardwalks and interpretive gathering spaces where the community can gain a sense of heightened interaction with the habitat and ecology that the Hyde Park Lakes offer.

**TREATMENT SWALES**  
A natural swale is to be introduced into the Hyde Park landscape between Vincent Street and the northern lake shore. This additional treatment and natural area of 'buffer' is to be used to help manage the water entering the system and to the setting of suspended solids. With a limited impact on the existing infrastructure and heritage vegetation, the swale will have a beneficial impact on water quality and biodiversity.

Hyde Park Lakes | RESTORATION MASTERPLAN: A HISTORY, THE ISSUES, OUR VISION FOR AN INTEGRATED WETLAND | January 2009

Should you require any further information with regards this proposal please contact Jeremy van den Bok (Manager Parks Services) on 08 9373 6266, or if you wish to provide your written comments please forward to: Mr John Giorgi (Chief Executive Officer), Town of Vincent - PO Box 62, Leederville WA 6002. Please note: the closing date for comments is Friday 1<sup>st</sup> May, 2009.

Stakeholder Liaison:

The Council decided to advise the following stakeholders of its decision and seek their comments regarding its preferred Masterplan option:

- (a) Western Australian Water Corporation;
- (b) Department of Water;
- (c) Swan River Trust; and
- (d) Heritage Council of Western Australia

Western Australian Water Corporation:

No formal response was received from the Water Corporation.

Department of Water (DoW)

The following response was received from the DoW on 19 March 2009.

*Thank you for your correspondence of 27 February 2009 and the referral of the "Hyde Park Lakes - Preparation of a Masterplan for their restoration" for our comment.*

*The adopted scenario of "Option 1 - Integrated Wetland Masterplan Option" would be supported by the Department of Water (DOW).*

*Clarification would be required on some specific issues within the proposed plan. These include:*

- *Top up requirements required for the modified lake. The DOW has recently granted an interim increase in the groundwater allocation for the Town of Vincent to prevent issues from Acid sulphate soils being exposed. This was seen as an interim measure only whilst a long term management strategy was developed. It was noted in the Town of Vincent Operating Strategy amendment on 8 December 2008 that artificial top up would not be required once restoration is completed. The adopted option states that "minimal top up from groundwater bores would be required". This statement will need to be quantified. The DOW encourages you to consider contingency plans should groundwater not be available for ongoing top up requirements. We would encourage you to consider water conservation strategies within your amalgamated groundwater licence to meet additional groundwater requirements.*
- *Dewatering of lakes for lining and construction. Please note that a licence may be required to dewater these sites and that the Town of Vincent should contact the DOW's Swan Avon Region to discuss the licensing requirements.*

Swan River Trust

The following response was received from the Swan River Trust on 30 April 2009.

*Thank you for referring the Hyde Park Lakes Masterplan to the Swan River Trust for comment. The Trust is supportive of the Town of Vincent's efforts to improve the environmental quality of the Hyde Park lakes and the stormwater that passes through them.*

*Officers of the Trust attended the stakeholder site visit on 28 May 2008, where two alternative options for the lakes were discussed. It is pleasing to note that the preferred option is the one which will likely bring the greater benefit to water quality flowing from the lakes to the Swan River via the Claise Brook main drain.*

*As you are aware, water quality monitoring has shown elevated nutrients and other pollutants, such as metals, in the main drain and the lakes. In addition, estuarine sediments in an area close to the drain outfall have been shown to have a broad range of contaminants above environmental guidelines. Although the restoration design within the Masterplan is still in a concept form and modeling of expected water quality improvements has not been provided, the overall approach for stormwater management is promising. As a general guide, the longer the flow path and larger the wetland treatment area, the greater the benefit to water quality. The introduction of local native plant species will also improve the site's general environmental value.*

*It is understood that the London Plane trees surrounding the lakes will be kept for their heritage/aesthetic value. In autumn these deciduous trees are contributing excessive amounts of organic matter to an already stressed system and in order to prevent the gradual build up of contamination in the lakes after restoration, and release of excessive nutrients into the stormwater system, intensive maintenance of the site to remove leaf litter will be required.*

*Heritage Council of Western Australia*

The following response was received from the Heritage Council on 12 March 2009.

*Thank you for your correspondence received on March 4, 2009 regarding the restoration of Hyde Park Lakes.*

*We received the Masterplan document prepared by Syrinx dated December 2008 and understand that the Town of Vincent Council has adopted in principle Option 1, which is the integrated Wetland Masterplan Option, for the restoration of the Hyde Park Lakes.*

*A conservation Officer previously had the opportunity to view the draft document in March 2008. We would like to reiterate our previous advice:*

- 1. Option 1, which is the integrated wetlands Masterplan option, is supported subject to further detailed design being submitted to the Heritage Council for consideration and advice prior to the commencement of such works.*
- 2. New plantings should be in a style compatible with the Victorian Gardenesque style of the park.*
- 3. The swale is supported 'in principle', subject to the following comments:*
  - The proposed location of the swale also cuts very close to trees has been indicated as having exceptional significance. The impact of the swale on these trees needs to be carefully assessed by an Arboriculturalist.*
  - Any introduction of bridges or pathways to cross the proposed swale should be in an understated manner and style. Its revised design and location should be submitted to the Heritage Council for further assessment and comment.*
- 4. The proposed removal of the limestone edging around the lakes and its replacement with a timber boardwalk is supported 'in principle'.*

Formal Community Consultation:

On 18 March 2009, letters were sent to residents and precinct groups and posted on the Town's Website, inviting comments on the proposal. The formal consultation closed on 1 May 2009. Residents were advised as follows:

*"As you may be aware, over the last two years the Town's Hyde Park Lakes Restoration Working Group has been working with Syrinx Environmental Consultants in preparing a Masterplan for the Restoration of Hyde Park Lakes.*

*I am pleased to advise that the completed Masterplan was formally considered by the Council at its Ordinary Meeting held on 10 February 2009, where two (2) restoration options for the lakes were presented. At the meeting the Council adopted, in principle, Option 1 – the Integrated Wetland option as its preferred lakes restoration option.*

*In accordance with the Council's decision, your comments with regard to the proposal are sought and should be received by Friday 1 May 2009. All comments received during the formal consultation period will be presented in a further report to Council.*

*A copy of the proposal is on display in the foyer of the Town's Administration and Civic Centre, the Town's Library at the Loftus Centre, or can be viewed on the Town's website at [www.vincent.wa.gov.au](http://www.vincent.wa.gov.au) under "Community Consultation".*

*Information boards have also been installed in several locations at Hyde Park*

*In addition, an information session, to be run by the Town's environmental consultants, Syrinx Environmental, will be held at Hyde Park, near the stage area, on Saturday 21 March 2009 commencing at 10.00 am. The Syrinx Environmental team will be pleased to answer any questions."*

At the close of consultation, 12 written responses were received, including a petition signed by 276 persons.

The written submissions were as follows:

- In favour - nine (9)
- Partially in favour - three (3)
- Against – petition with 276 signatures

The results of the consultation are attached at Appendix 7.4D.

With regard to the petition, which was presented to the Ordinary Meeting of Council held on 12 May 2009, the following was requested.

*"We, the undersigned, wish to register our support to restore the Hyde Park lakes to their former beauty.*

- *The Lakes: Line the lakes. Ensure they remain full of water year round. Do not make either of them into season wetlands. Turn the fountains back on.*
- *The edging: Retain and refurbish the natural stone edging all the way around both lakes. Do not replace any part of them with reed covered banks or boardwalks.*

- *The "Arcadian" landscaping: Retain the "Arcadian" landscaping throughout Hyde Park. Arcadian landscaping embraces both native and non-native species that conform to an "idyllic style" (e.g. the Plane trees and native Moreton Bay Fig trees) and on the island in the lake (e.g. native Palm trees, Weeping Willow, etc) and do not replace them with native vegetation.*

*Hyde Park is a unique green space. It is heritage listed on the State register to preserve these Arcadian values. It is the most popular community park in Perth because of its unique beauty and because these values have been preserved since 1898. Let's RESTORE the lakes, not turn them into a 'wetlands'. That was what Commonwealth funding was obtained for."*

#### Officers' Comments

As can be seen from the consultation process, very few written submissions were received (12 in total) with nine (9) in favour and three (3) partially in favour of option 1.

A petition with 276 signatures was received requesting that the Lakes remain unchanged.

The DoW advised that Option 1 - Integrated Wetland Masterplan Option *would be supported with further clarification on some specific issues within the proposed plan.*

The Swan River Trust advised it *was supportive of the Town's efforts to improve the environmental quality of the Hyde Park Lakes and the stormwater that passes through them*

The Heritage Council supported Option 1 *subject to further detailed design being submitted and the proposal to remove the limestone edging around the Lakes and its replacement with a timber boardwalk was supported 'in principle'*

As the majority of respondents requested that the Lakes NOT be changed, the Town's officers have explored options to determine whether this could be achievable.

#### **Meeting with Water Corporation and DoW:**

As mentioned in the report, the DSI is well advanced, with final results due in Mid October 2009. Given the petition requesting that the Lakes be restored to their former glory, the Town's officers further investigated the matter.

To this end, in August 2009 a meeting was convened with representatives of the Water Corporation and DoW, where the following background information was provided regarding the Lakes.

Urban Catchment - Hyde Park is a Water Corporation compensating basin in a highly urbanised area and subsequently there is a significant runoff over an area of 125 hectares.

Groundwater – Groundwater levels have decreased by approximately 0.5m since the 1980s. The main sources of water for the Lakes at present are via the stormwater system and recharging from a bore located within the superficial or shallow aquifer.

Water Quality -The water quality of Hyde Park Lakes is very poor, with both Phosphorous and Nitrogen levels exceeding ANZECC guidelines.

Water Supply – the sources available for the Lakes' water supply include rainfall (not reliable), stormwater (this must be optimised), the superficial aquifer (high nitrogen levels) and the deeper aquifers (licensing issues).

Landscape – modern day examples of Hyde Park’s “gardenesque” style landscape which includes winding pathways, undulating grassed areas with trees and irregular plantings include Central Park in New York and Hyde Park in London.

Representatives from the Water Corporation and DoW were advised of the two (2) restoration options and that at its Ordinary Meeting held on 10 February 2009 the Council considered a further progress report on the matter and decided to adopt in principle "Option 1– Integrated Wetland Masterplan Option" as its preferred option for the restoration of the Hyde Park Lakes.

Representatives were further advised that during the consultation process, a significant number of community members indicated they did not support this option and would like the Lakes restored to their former glory (similar to Option 2).

It was acknowledged that with reduced rainfall etc. there may be challenges in achieving this and that the Lakes comprised a compensation basin for the Water Corporation Hyde Park Main Drain and that there were contaminants in the Lakes such as heavy metals, potential acid sulphate soils, etc. A DSI was currently being undertaken to determine the composition and extent of the contaminants.

The following matters were specifically raised with representatives from the Water Corporation:

- 1 *Will the Water Corporation as a major stakeholder provide contributory funding for the remediation of the Lakes?*
2. *Is there any scope to reduce the size of the Lake area without compromising their status as a compensating basin?*

Following the meeting, a formal response was received from the Water Corporation’s Regional Business Manager, Perth Region on 3 September 2009.

*"The Hyde Park Lakes are a part of the Water Corporation's drainage system. To enable the catchment, which is mostly contained within the Town of Vincent, to be adequately drained, the Lakes will need to be retained as a drainage compensating basin into the future.*

*With respect to the specific issues raised with the Water Corporation at the meeting:*

*Reducing the Size of the 'Lakes'*

*Preliminary indications are that the size of the lakes can be reduced by at least 25% without compromising their function as a compensating basin. The actual reduction potential will need to be confirmed by detailed design.*

*Contributory Funding*

*While the Water Corporation is sympathetic towards the Hyde Park restoration project and does not object to the proposed treatment for the lakes, it is not in a position to provide funds towards the cost of the project.*

*As discussed at the meeting, I am happy to provide technical assistance and advice to assist you to arrive at an optimum solution to ensure that the lakes remain a valuable, long term social asset for the Town of Vincent."*

The following matters were specifically raised with representatives from the DoW.

1. *If lining is an option, is there scope to obtain a supply of ground water in the drier months of the year (October to March) to maintain water in the lakes?*
2. *Is there any other funding available for these types of works?*

Following the meeting, a formal response was received from the DoW's Regional Manager – Swan Avon Region on 3 September 2009.

*"An outcome of the meeting on 31 August 2009 was a request by representatives of the Town of Vincent to clarify the availability of groundwater to supplement the Hyde Park Lakes.*

*As per the current Ground Water License GWL 108326(5) and as recorded in previous correspondence, the Town currently has 28,000k/L per annum allocated from the Perth Superficial aquifer to maintain lake water levels. This license is valid until 30 November 2017.*

*The DOW recognises that well designed and maintained constructed lakes can have community benefits that are similar to those gained from natural wetlands, such as aesthetic and recreational values. However, it is necessary to manage the issues associated with constructed lakes, including water use efficiency. It is therefore recommended that any additional water required for this purpose is sourced from the Town's current groundwater allocation via implementation of conservation and efficiency measures. With reference to the Town's Water Conservation Plan, there is noted a commitment to monitor before levels and wetland condition in Hyde Park and the information supplied by this monitoring program, linked to programmed irrigation efficiency measures, may assist in achieving such efficiencies.*

*However, if an application is made for additional water it will be considered in line with the availability of water and current licensing policy and process at the time of application."*

The issue regarding the Gnamptara Sustainability Strategy (GSS) was also discussed at the meeting and the DOW advised as follows (in the same correspondence):

*"Additionally, the discussion held regarding the findings of the Gnamptara Sustainability Strategy (GSS) highlighted concerns regarding the sustainability of maintenance of water levels in the lakes. The GSS refers to ground water dependent ecosystems (GDE) and significant non-urban wetlands being impacted by declining water levels in the Gnamptara mound. As the Hyde Park Lakes are a compensating basin, supplied by storm water and, as noted above, by pumped groundwater, it is considered they fall outside the scope of the GSS draft recommendations."*

Again there was no funding available from the DOW for the Town's restoration proposal.

#### **Option 2A – Town of Vincent – Modified “Ornamental” Permanent Water Solution:**

As mentioned above, the majority of respondents (petition received) requested that the Hyde Park Lakes be upgraded to reflect their current appearance i.e. they did not support option 1 – Integrated Wetland Option. As a result of this, the Town's Technical Services officers decided to revisit Syrinx Option 2, The “Ornamental” Permanent Water Solution with the aim of possibly modifying this option to meet the objectives as requested by the petitioners.

### Reducing the Lake Area by 25%

One of the main impediments with the Syrix Option 2 was maintaining water in the Lakes at all times given their size.

Following the meeting with the Water Corporation and DoW, the Town's officers further examined the feasibility of the fully lined Lake option where reducing the Lakes' water area by about 25% was considered. It was determined that this can be achieved by constructing new walls further into the Lakes. The two existing Lakes cover an area of 30,500m<sup>2</sup> with the existing islands covering an area of 7,100m<sup>2</sup>. Therefore, the existing Lake water area is 23,400m<sup>2</sup>.

Constructing new walls an average of 5.0m in from the existing walls, would result in a reduction of Lakes area of 5,500m<sup>2</sup> (or approximately 23.5%) and would result in a smaller water body being created.

### New Walls

The petitioners requested that *the Council retain and refurbish the natural stone edging all the way around both Lakes. Do not replace any part of them with reed covered banks or boardwalks.*

The Hyde Park Lakes are surrounded by approximately 1,000m of walling. The walls comprise predominantly limestone laid on the natural bed (it is believed) with an exposed aggregate header slab. The walls are generally in a state of disrepair with root intrusions, loose/broken headers, and sagging sections of wall. (refer photos below).



It is considered that new (limestone) walls could be constructed approximately 5.0m in from the existing walls and some of the existing 'stagnant' water areas on the north west corner of the eastern Lake and the south west corner of the western Lake could be rationalised (*refer attached concept plan No 2665-DP-01*).

The new walls would be constructed on a compacted limestone base. As mentioned above, the existing walls would remain in place to act as a root barrier for the existing trees. The existing capping would be removed and the area between the existing and proposed wall could possibly be backfilled with material excavated from the Lakes. It is estimated that approximately 3,500m<sup>3</sup> (solid measure) of excavated material could be used on site and used as back fill material. The area between the existing and new wall would be planted with a combination of native ground cover and/or turf (in the larger areas) and informal pathways could be constructed in a suitable material, leading from the existing perimeter asphalt paths to the new Lake edge.

Topping up with ground water:

The petitioners requested as follows: *Line the Lakes. Ensure they remain full of water year round. Do not make either of them into season wetlands. Turn the fountains back on.*

Option 2 - "Ornamental Lakes with Treatment" was the option developed by Syrinx and the HPLRWG. The DoW has advised that *"it recognises that well designed and maintained constructed Lakes can have community benefits that are similar to those gained from natural wetlands, such as aesthetic and recreational values"*.

As mentioned above, reducing the Lake areas (by 25%) in conjunction with the 'lining' option (Syrinx Option 2) may be able to sustain water in the Lakes all year around.

Water Licences

The Town amalgamated its former individual bore licences in 2007. This bore licence *GWL 108326* (revised in 2008) allows for a total annual allocation of 657,975 kl which includes an additional allocation of 28,800 kl, which was granted to enable recharging of the Hyde Park Lakes to continue following the identification of acid sulphate soil material. Amalgamating of bore licences allowed organisations to budget water use/allocations across areas based on their recreational priority.

Therefore, the Town may use more than the 28,800 kl allocated for Hyde Park as long as it can demonstrate savings in other areas. This of course is very difficult to determine at this point in time as there are currently no meters on any bores. The above licence is currently valid until 30 November 2017.

The Town has another bore licence *GWL 164795* which is for an annual groundwater allocation of 14,475 kl and covers the former City of Perth parks now under the care, control and management of the Town following the recent boundary changes.

Based on the evaporation rate (per day) October to March averages, the total evaporation would be approximately 1,400 mm (1.40m). Assuming the Lakes were lined (no loss of water via the ground) and with a 25% reduction in the area of the Lakes, the volume of water lost through evaporation over this period would be approximately 25,000 kl.

Therefore, assuming there was water in the Lakes to begin with (winter rains), a lined Lake system of 17,900m<sup>2</sup> topped up from bore water from the superficial aquifer should mean there was water present in the Lakes all year around. This calculation does not take into account the possible additional water which may flow into the Lakes from the odd summer rainfall event during the October to March period.

Dredging of Lake Bed:

Regardless of what option is adopted the Lakes will need to be dredged to either remove the contaminated material and/or reform the Lake beds to achieve the requirements of the Masterplan/s.

As the Council is aware, the Town is currently undertaking a DSI of the Hyde Park Lakes. This will determine the nature and extent of contaminants in the Lakes and hopefully also provide a clearer understanding of the hydrology of the Lakes system.

To enable the Lakes to be lined, the base would need to be excavated and given the potential contaminated nature of Lake bed material, the material would most probably require some form of treatment, if it were to be disposed off site or possibly reused on the site.

Information from historical environmental reports and DEC ASS Risk Maps, indicate that the sediments are likely to be acid sulphate soils (ASS). If sediments are left above the water table, they should be treated with lime. The material could be treated with lime prior to being pumped into the enviro tubes.

To reduce the likelihood of ASS formation and leaching of metals, lime could be added to the dredge spoil during the enviro tubes filling process. Further research will be required to determine appropriate treatment options but treatment with lime is thought to be appropriate for ASS and metals contamination. Cement stabilisation could also be considered.

As the base of the Lakes is not very firm it would be difficult to drive trucks and excavators onto the Lake bed and undertake the required earthworks. Dewatering could be undertaken, however, based on the costs contained in "Rawlinson's Australian Construction handbook", this cost would be exorbitant over such a large area.

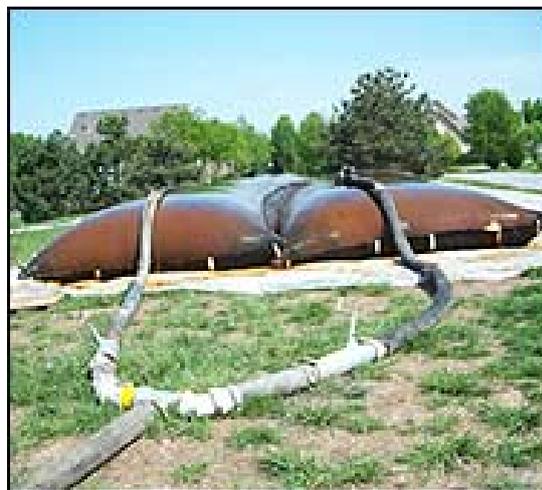
A viable alternative option that has been explored is dredging the Lake beds while the Lakes are full of water (during August/September) with a floating dredge. The dredged material could be appropriately treated with the addition of suitable product/s before being pumped into 'enviro tubes'\*. As this process would be undertaken in wet conditions, it would not be weather affected.

Note:\* Enviro tubes are fabricated from a specially fabricated geotextile. The weave of this fabric passes water easily but retains solids well. Dewatering in a tube is a factor of gravity, time and chemistry that separates the water from the solids and allows the water to escape through the fabric. A polymer is usually used to speed up the process, and to clear up the decant water.

The 'enviro tubes' would be strategically placed around the perimeter of the Lakes (between the perimeter Plane trees) and when full of dredged material; the water would ooze from the tubes and flow back into the Lakes. Once the material was dry, the tubes would be cut open and the dry material reused on the site or disposed off site.



*Dredging machine*



*material being pumped into enviro tubes*

Preliminary discussions with a dredging contractor indicated that this is a viable option for Hyde Park. The two photos above show the dredging machine on the left and the material being pumped into the 'enviro tubes' on the right.

Based on a reduced Lake area of approximately 18,000m<sup>2</sup> if an average of 400mm of material was removed, this would equate to a volume of 7,200m<sup>3</sup> (solid measure). If some of this material were to be reused as backfill behind the proposed walls (as previously estimated 3,500m<sup>3</sup>), only about 3,700m<sup>3</sup> would be required to be removed off site.



*Envirotubes being cut open to enable the dry material to be removed.*

### Lining

The petitioners requested *that the Lakes be lined*. This can be achieved by reshaping the Lake beds and laying a Geosynthetic clay liner (such as Elcoseal) or similar.

Geosynthetic clay liners consist of clay material, usually bentonite, woven between two geotextile layers. This lining mechanism uses the properties of bentonite and the material to which it is bonded holds the clay in place. Geosynthetic clay liners require soil cover of at least 300mm to provide sufficient normal force to confine the expansion of the bentonite core layer. The bentonite swells and extrudes through the geotextile fabric at the overlap, forming a seal by producing a dense and uniform clay barrier with the same hydraulic qualities in all parts of the clay liner.

Subgrade preparation would require the removal of silt and over-excavation of 400mm to allow for covering of the Geosynthetic clay liner. A lifting frame fitted to an excavator would be required to suspend the Geosynthetic clay liner roll. The material would then be manually pulled across the Lakes. Excavators would then be required to cover the liner with 300mm of backfill material.



*Laying Geosynthetic clay liner*

Installing the liner would act as a barrier between the contaminated sediments and aquatic ecosystems. Minimising infiltration through the impacted sediment may improve the situation. However, due to the elevated groundwater levels, the sediments may still be in contact with groundwater, potentially acting as a source for groundwater contamination. Subject to the findings of the DSI works and further detailed design, it would still be prudent to remove and/or treatment of the contaminated sediments as a remedial measure rather than leaving them insitu and covering with a liner.

Other liner options could also be considered. High Density Polyethylene (HDPE) may be easier to install and be more cost effective. Furthermore, lining a Lake will require long term maintenance. These operational costs would need to be considered during the feasibility study. An operational and maintenance plan may be required.

Note All liners have a useful life expectancy, envisaged to be a period of between 20 to 30 years. There would be a significant cost if at the end of this period the liner were to be removed/replaced. In addition, even with the treatment options being undertaken, it may be likely that some contaminants would continue to build up and may require removal using a similar process in years to come.

As each of the options suggested, i.e. options 1, 2 and 2A, include the installation of a liner, the cost will be relative to the actual size of the liners identified for each respective option.

#### Estimated cost of Option 2A Modified "Ornamental" Permanent Water Solution

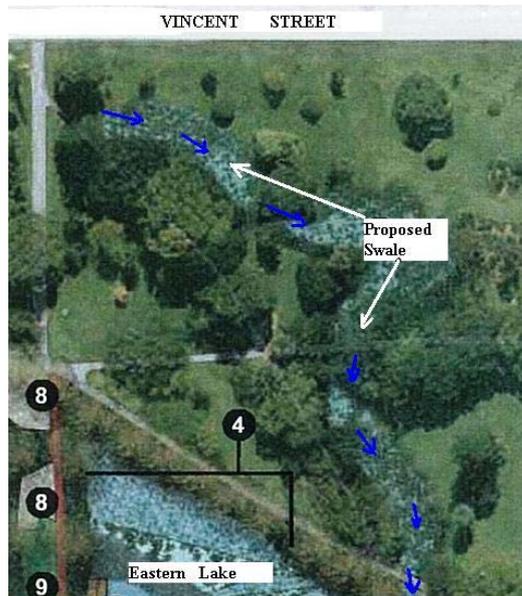
The preliminary estimated cost of option 2A is \$3.98m (includes treatment swale). An additional \$574,000 has been allowed for 'other works' which if required could be staged over a number of financial years.

#### Water Quality - Treatment Swale:

With both options Option 1 and 2 the consultants, Syrinx, recommended that a treatment swale forms a part of the proposal.

Sources of the Lakes contamination were identified as originating from stormwater inflow, leaf litter, site run off and Natural wetland sediments. A stormwater treatment swale through Hyde Park was previously discussed at length with the HPLRWG and it was considered by the group that this idea had considerable benefit in not only treating the stormwater prior to entering the Lakes but adding another landscape feature to the park.

The consultants, Syrinx, considered that the treatment swale was a key remediation element in the sustainability of the system, regardless of the final option selected. The swale would oxygenate and remove particulates, as well as remove some of the phosphorus and nitrogen before entering the Lake system. This is also a key remediation approach for reduction of algae in the water column. They considered the vegetated treatment swale would have a limited impact on the existing infrastructure and Heritage vegetation, whilst being of exceptional benefit to the water quality and biodiversity. The cost of these works has been included in all options and forms a component of Option 2A.



*Plan view of proposed Swale*



*Sectional view through proposed swale*

#### Island Remediation:

With both options Option 1 and 2 the consultants, Syrinx recommended that the existing islands be remediated to act as bio filters in the permanent open water bodies. It is therefore considered that for option 2A the Syrinx Option 2 proposal would be adopted with the re-engineered and revegetated with species endemic to the region, primarily communities of *Melaleuca raphiophylla* over sedge land communities of *Baumea juncea* and *Juncus kraussii*. Increasing the size of the islands will also be further explored to achieve more bio filter area.

The implications on flora and fauna of installing a liner should be considered. For example, if a liner is fitted to the base of the Lakes, then groundwater levels beneath the islands may fall and access to water for root systems may become more difficult. The design of the banks to the islands should also consider habitat requirements for fauna and flora.

#### BioFilters

In the past, there has been some resistance, by some members of the community, to modifying islands to any great degree (particularly the western island where mature palms and native trees are established) however it is considered that modifying the islands is most definitely required to address the water quality issues.

Syrinx identified that a biofilter comprising of native plants/sedges provided an excellent option for treatment of stormwater prior to entering and within the Lakes themselves. Sizing of the biofilter is critical to the effectiveness of the system and Syrinx, based on their modelling, indicated that the modification of 12,000m<sup>2</sup> within the Lakes should allow the proposed works to achieve the stormwater treatment target of 40% hydrological efficacy. With the inclusion of the swale, this would potentially add another 5,000m<sup>2</sup> to the treatment capacity, therefore a total of 17,000m<sup>2</sup> of treatment area was being proposed for the Syrinx Integrated Wetland Option 2.

The Town's officer's Option 2A includes hard walling around all edges of both Lakes and does not allow for any soft edge treatment embankment planting which would act as additional treatment areas. Therefore, a total biofilter treatment area of 12,000m<sup>2</sup> would be achieved for Option 2A. This is a part of the proposed Option 2A that would be further investigated in the final design stage as the issue of water quality was one of the main objectives of the HPLRWG.

In addition, whilst treatment of the bore water prior to entering the Lakes was not discussed in any great detail in the Syrinx Report, it is envisaged that if the existing groundwater bore was utilised (Bore No. 29, located in the south eastern corner of Hyde Park) it may be possible to create another smaller treatment swale (refer following photos) in this area, meandering between the existing wall and the proposed Lake wall.



*Bubble-up outlet for bore*



*Example of vegetated swale*

Alternatively it was outlined during meetings of the HPLRWG that a new bore to top up the Lakes could be investigated and possibly constructed along the northern side of Hyde Park should preliminary results indicate a better groundwater quality.

#### **Commonwealth Department of the Environment, Water, Heritage and the Arts**

On 4 August 2008, the Town received a letter from the Minister for Climate Change and Water, an extract of which is as follows:

*I am writing regarding the Australian Government's commitment to provide funding of up to \$2 Million for the Saving Hyde Park Project under the Water for the Future – national Water Security Plan for Cities and Towns...*

The Town's officers subsequently met with officers from the Water Governance Division of the Commonwealth Department of the Environment, Water, Heritage and the Arts in October 2008. At the meeting they were provided with a background summary and were advised that the matter had not yet been formally considered by the Council. The Department was later advised of the Council decision and the process so far.

The Manager Parks & Property Services has been in constant contact with the Department. The Assistant Secretary Urban Water Security Branch, Department of the Environment, Water, Heritage and the Arts wrote to the Town on 3 September 2009 advising as follows:

*"I am writing regarding the Saving Hyde Park Project to which the Australian Government has committed \$2 million in funding assistance under the National Water Security Plan for Cities and Towns.*

*I reiterate that the Australian Government is committed to supporting this project, however, I note the Town of Vincent has been unable to provide a full project proposal.*

*In this regard, I recognise the Town of Vincent has engaged consultants to undertake by mid October 2009 further geotechnical and other investigations of the Hyde Park Lakes before a final project design and cost estimate can be made. I note that you expect Council to consider the final options for the Lakes in early November 2009. The Australian Government wishes to resolve this issue before the end of this calendar year **and I would appreciate your advice before the end of November 2009 on the future of the project including if it is to proceed, a full proposal.***

*You would appreciate that this offer of Australian Government assistance for the project has been on the table for sometime. **If you are unable to meet the timelines outlined above the Government will review its commitment to the project.** [Emphasis added]"*

The Town responded to the letter on 9 September 2009 and formally provided the following information.

*"Thank you for your letter of 3 September 2009 regarding funding assistance for the above project. I wish to advise that the Council is also fully committed to delivering on this project.*

*In November 2004, the Council established a Working Group to explore options for the restoration of the Hyde Park Lakes to an acceptable level. This Group met regularly throughout 2005/2006 and in 2007 it was decided that, due to the very complex nature of the matter, an environmental consultant would be engaged to prepare a detailed Masterplan for the restoration of the Lakes.*

*During 2008/2009 two (2) detailed options were developed by the consultant, in liaison with the Working Group.*

*During this process, it was also determined that the site contained contaminants and this was subsequently reported to the Department of Environment and Conservation. The site was subsequently listed as a "Contaminated Site" and remediation is required.*

*In late 2008, the Council formally considered the consultant's report and in February 2009 the Council adopted Option 1 "in principle" (integrated wetland option) and consulted widely on this preferred proposal.*

*Also, as part of the process, due to the site status as a "Contaminated Site" requiring remediation, in June 2009 a further consultancy was awarded for a Detailed Site Investigation. This consultancy will conclude in mid October 2009.*

*During the community consultation period, there were mixed views on the adopted proposal, with the majority of respondents wanting the Lakes to be restored to their former glory.*

*As a result of the community consultation, alternative options are being further explored and developed and with the results of the Detailed Site Investigation expected in mid October 2009, a further report will be presented to the Council in late October/early November 2009, when a final decision will be made on a fully costed Masterplan option, an implementation timetable and outlining sources of funding.*

*I apologise for the time taken to submit a formal application to the Department, however, as the process evolved, the issues also grew and, given the many complexities of the project, a preferred way forward required further investigation.*

*The implementation timetable will outline the most appropriate timeframe to undertake the works, which may need to be staged, given the site constraints, seasonal fluctuations in water level and the magnitude of the project.*

*The Council is relying on Commonwealth funding for this project to come to fruition and, therefore, we will write to you gain in early November 2009."*

#### **Letter from the Federal Member for Perth, Stephen Smith**

In addition, a letter was received from the Federal Member for Perth, Stephen Smith, on 13 September 2009 as follows:

*"In May 2008 I wrote to you advising that \$2 million had been set aside by the Australian Government to fund the restoration of Hyde Park Lakes.*

*At the time, I advised you that the Department of the Environment, Water, Heritage and the Arts was awaiting the completion of the Masterplan for the Restoration of Hyde Park Lakes. Once the Plan had been completed, they would be able to release the funds.*

*As you are aware, due to unanticipated additional environmental complications, including the discovery of contaminated soils, research into how to solve the Hyde Park problems has been ongoing, and a Masterplan has not been finalised.*

*I have been informed by the office of the Minister for Water, the Hon. Penny Wong, that in order for their funds to be released the Town of Vincent must submit their Masterplan to the Department of the Environment, Water, Heritage and the Arts **no later than 27 November 2009**. I understand that the Department will soon write to the Town conveying this.*

*I look forward to the Town meeting this deadline to enable the restoration of Hyde Park Lakes."*

*[Emphasis added.]*

#### **Contaminated Sites Legislation:**

In accordance with the Contaminated Sites Act 2003 and Contaminated Sites Regulations 2006, the Hyde Park Lakes have been identified, reported and recorded as a Contaminated Site with the Department of Environment and Conservation (DEC) and as such will require to be managed and remediated.

As previously mentioned, an Acid Sulphate Soils Self-Assessment Form will need to be completed and submitted to the Western Australian Planning Commission (WAPC) as there is significant risk of disturbing the acid sulphate soils within Hyde Park Lakes, prior to any development approval.

When the restoration of Hyde Park Lakes commences, there will be requirement from WAPC for the Town to develop an Acid Sulphate Soils Management Plan for Hyde Park.

### **Aboriginal Heritage Act Requirements:**

A suitably qualified consultant will need to be appointed to provide heritage advice, archival research, archaeological investigation, anthropological consultation and reporting for the proposed restoration of Hyde Park Lakes.

The proposed restoration works will impact on a registered Department of Indigenous Affairs (DIA) site 3792 and will require a Site Identification Survey. The survey will need to be conducted to Section 18 standards in accordance with the *Aboriginal Heritage Act 1971*. The survey will need to include:

- Archival research comprising literature reviews of relevant surveys previously undertaken in the area, other material and journal articles related to the area, research of the DIA Register and associated mapping and recording, compilation of cultural heritage information with commentary on the archaeological and ethnographic history of the project area and identification of the Aboriginal Consultants who have expressed interest and hold knowledge about the area.
- Ethnographic consultation with interested Aboriginal parties (including but not limited to the native title representative bodies). Aboriginal groups will be accompanied by anthropologists/archaeologists and provided with details of the proposed scope of work within the project area. A representative from the Town of Vincent (preferably the Mayor/Director Technical Services) will be present to assist for all consultations. All outcomes from consultations will be documented, discussed and recorded in the field, including any confidentiality issues relating to limitation of information. The voicing of any recommendations and conditions will also be discussed in detail with specific reference to the proposed project activities recorded and signed for by all Aboriginal individuals present.
- Archaeological investigation of the project area will include identification, relocation and documentation of archaeological sites through targeted ground surveys, full site recording in accordance with DIA guidelines, and preparation of pre and post fieldwork map(s) identifying site locations, including GPS coordinates and tracking information.
- Final reporting will include recommendations arising from the ethnographic and archaeological survey and the impact of the activities proposed on site, incorporating any subsequent management requirements. Where any unregistered sites are identified, these will need to be collated and all information required for the purpose of Aboriginal site registration and forwarded to the DIA at the conclusion of the reporting process.

A final report on the ethnographic and archaeological studies will be produced to complement a Section 128 application to use the land where existing or newly identified Aboriginal sites are located. The Aboriginal heritage survey consultation processes will be conducted in accordance with the *Aboriginal Heritage Act (1972)*.

### **Discussion/Recommendations**

The Council previously adopted "Syrinx Option 1– Integrated Wetland Masterplan Option" *in principle*, as its preferred option for the restoration of the Hyde Park Lakes. Following consultation, a significant number of respondents indicated their preference for the Lakes retaining their existing character.

The Syrinx Option 2 - The "Ornamental" Permanent Water Solution, was more in keeping with the wishes of the majority of respondents, however, this option was considered to be less sustainable, hence the adoption by the Council, in principle, of the "Syrinx Integrated Wetland Option".

The Department of Water have indicated that it *"recognises that well designed and maintained constructed Lakes can have community benefits that are similar to those gained from natural wetlands, such as aesthetic and recreational values"* as long as the Town continues to *"manage the issues associated with constructed Lakes, including water use efficiency"*.

Taking on board the majority of comments received as a result of the formal community consultation, Option 2A, a hybrid of Syrinx Option 2, was subsequently developed after further investigations by the Town's officers and detailed discussions with the Water Corporation and DoW.

The differences between the Syrinx Option 2 and the alternative Option 2A are outlined as follows:

Option 2A proposes the following:

- Reduction in the size of the Lake areas by 23.5% (Water Corporation indicated that a reduction in Lake area of up to 25% could be supported)
- New walls constructed approximately 5.0m into the Lakes from the existing walls (for the full perimeter of the Lakes)
- The potential to reuse the excavated material on site from the proposed dredging/earthworks
- No soft edges around the Lake perimeter. The entire perimeter will be walled
- Treatment of bore water prior to entering the Lakes via an additional treatment swale constructed between the new and the existing walling or some other method (to be further investigated at the detailed design stage)

The similarities of the proposed option 2A with the Syrinx Option 2 are:

- Lined Lakes
- Removal of contaminants
- Islands treated/replanted/sedge plantings with native plantings
- Modifications to drainage infrastructure
- Treatment swale

Note: At the time of writing this report, the DSI was still in progress and costings for the removal of contaminants were still to be determined, however, preliminary estimated costs have been determined (refer financial implications).

#### Design including preparation of design drawings and technical specifications

Once the concept plan has been adopted by the Council, a specialised consultant would need to be engaged to undertake the design of the liner system, incorporating the various stormwater inflow pipes, the islands, the 'envirotubes' perimeter retaining walls, earthworks, etc. It is envisaged that a staged design approach would be undertaken to further investigate various configurations, dewatering methods and liner types, through to feasibility and detailed engineering design.

By decreasing the size of the Lakes, it is suspected that the Lakebeds will not dry up. Further review of groundwater/surface water interaction and modelling of suspected Lake levels at different times of the year may be required. If the liner is covered with 300mm of surcharge sand and the level of the Lakes remain above the surrounding groundwater level, there should not be an issue with the liner floating or liner damage. It would be prudent, however, to include an air release and groundwater relief system in the liner design.

There are ecological considerations that will need to be considered. One concern is nutrient build up, therefore, a study on ecological impacts associated with the proposed change may need to be considered.

- What depth of water is required to sustain the Lake's ecology?
- Will the new Lake configuration (i.e. lined base) support the Lake/s ecology?
- Will a shallow depth of water turn stagnant?
- Will it overheat?
- Will nutrients build up?

Officers' Comments

The challenge for the Town's officers was to develop a solution for the restoration of the Hyde Parks Lakes which not only met the wishes of the community but also addressed the objectives.

The Integrated Wetland Solution (Syrinx option 1) proposed that the Lakes be re-engineered by introducing a 'wetland' element to improve aesthetics and water quality while retaining a permanent water body in a part of the re-engineered Lakes (via lining). This option also recommended that the islands be completely re-engineered to act as treatment swales. It proposed that the majority of the existing walling be removed, the edges reshaped and that sedges etc. be planted again to act as water treatment measures.

While it is acknowledged that Lakes cannot be retained exactly as they are now, it is considered that they can be modified to retain their existing character while at the same time incorporating many of the environmental recommendations of the Syrinx Option 2 "Ornamental" Permanent Water Solution.

It is therefore considered that Option 2A, a Hybrid of the Syrinx Option 2 "Ornamental" Permanent Water Solution, should be further progressed as the preferred Masterplan option.

**Proposed Indicative Timeline:**

The following 'draft' timeline has been developed to implement option 2A. Note the timeline also provides the actions to date with regard to the actions associated with progressing toward the development of a Masterplan option for the restoration of the Hyde Park Lakes.

**Indicative Timeline**

	<b>Item</b>	<b>Timeline</b>	<b>Comments</b>
1	Establishment of a Hyde Park Lakes Restoration Working Group (HPLWG)	Nov 2004	<b>Completed</b> Established to commence a process to restore the Lakes to an acceptable level of service. Ordinary Meeting of Council held on 23 November 2004 established a Hyde Park Lakes Restoration Working Group.
2	Inaugural meeting of the HPLWG	March 2005	<b>Completed</b> First meeting of the group held 17 March 2005. Five (5) subsequent meetings held to identify solutions.

	<b>Item</b>	<b>Timeline</b>	<b>Comments</b>
3	Progress Report No 1	October 2006	<b>Completed</b> 9 x possible' Lake restoration options (developed by the Hyde Park Lakes Restoration Working Group) presented to Council 10 October 2006. No specific option endorsed by the group further investigation/assessment/evaluation was required.
4	Progress Report No 2	February 2007	<b>Completed</b> OMC 13 Feb 2007 – Noted that in an effort to maintain some water in the Lakes, only the Western (deeper) Lake would be recharged with bore water and the Eastern Lake would be left to dry out naturally throughout the remainder of the summer period.
5	Progress Report No 3	June 2007	<b>Completed-</b> OMC 26 June 2007 – Approved a Draft Consultants brief for the preparation of a Masterplan for the restoration of the Hyde Park Lakes
6	Progress Report No 4 & establishment of a Hyde Park Lakes Restoration Public Fund	August 2007	<b>Completed</b> OMC 28 August 2007 – Engaged Syrx Environmental for the preparation of the Masterplan for Hyde Park Lakes. Approved the establishment of a Hyde Park Lakes Restoration Public Fund, subject to the following:
7	Progress Report No 5	March 2008	<b>Completed</b> OMC 25 March 2008. Council approved a further Investigation of Hyde Park Lakes to be undertaken by Syrx Environmental due to the unique nature of the services provided in the context of the entire project
8	Council Forum	December 2008	<b>Completed</b> Syrx presented on overview of the Masterplan Options and the HPLRWG preferred option to a Council forum held on 9 December 2008
9	Progress Report No 6	February 2009	<b>Completed-</b> OMC 10 February 2009 - Noted the Hyde Park Lakes were identified, reported and recorded as a Contaminated Site with the Department of Environment and Conservation (DEC) and would require to be managed and remediated using an appropriate remediation option, prior to the Masterplan for restoration being implemented; a preliminary site investigation was previously undertaken which determined the existence of acid sulphate soils and potential acid sulphate soils and a comprehensive sample and analysis plan to undertake a DSI needs to be implemented; Approved progressing the required further in depth investigations of Hyde Park Lakes to enable a suitable remediation option/s to be progressed and costed; Adopts in Principle "Option 1– Integrated Wetland Masterplan Option" as its preferred option for the restoration of the Hyde Park Lakes; Resolved to hold a community workshop at the commencement of the public comment period and an on site Information Session at Hyde Park Lakes.

	<b>Item</b>	<b>Timeline</b>	<b>Comments</b>
10	Community Workshop	Mar 2009	<b>Completed</b> - March 17th Held at the Town's Administration & Civic centre.
11	Information Session	Mar 2009	<b>Completed</b> - Mar 21st Held at Hyde Park.
12	Community Consultation	Mar – April 09	<b>Completed</b>
13	Tender No 392/09 - Consultancy for the DSI of Hyde Park Lakes and Remediation Area	Jun 09	<b>Completed</b> - OMC 9 June 2009 - A tender the tender submitted by Golder Associates Pty Ltd for Consultancy for a DSI of Hyde Park Lakes and Remediation Area was accepted.
14	Meeting with Dept of Water and Water Corporation	Aug 09	<b>Completed</b>
15	Undertake DSI	Jul – Oct 09	In progress - 75% completed.
16	Letter from Commonwealth Dept of the Environment, Water Heritage & Arts	Sept 09	Advising that they require a proposal by the end of November 2009 or the funding may be in jeopardy.
17	Final Report on DSI	Oct 09	Information will be incorporated into design.
18	Formal Submission to Commonwealth Dept of the Environment, Water, Heritage and the Arts	Oct-Nov 09	Not Commenced.
19	Further liaison with the Water Corporation, Department of Water, Department of Environment, Heritage Council and Swan River Trust. Provision of heritage advice, archival research, archaeological investigation, anthropological consultation.	Oct-Dec 09	Not Commenced.
20	Council meeting to consider submissions and final approval of Loan. Apply for loan funding to Commonwealth.	24 Nov 09	Not Commenced.
21	Progress and refine detailed design & documentation & obtain appropriate approvals to enable the project to be implemented.	Oct 09- April 10	Not Commenced.
22	Progress/prepare Acid Sulphate Soil Management Plan (ASSMP)	Oct 09-April 10	Not Commenced.
23	Progress/prepare Environmental Management Plan (EMP) (stormwater, dust, odour, noise).	Oct 09-April 10	Not Commenced.
24	Progress/prepare Contaminated Site Management Plan.	Oct 09-April 10	Not Commenced.
25	Call tenders for project	May/June 10	Not Commenced.
26	Approve tender	July 2010	Not Commenced.
27	Implement works	August 2010- Feb 2011	Not Commenced.

### **CONSULTATION/ADVERTISING:**

Further liaison with the Water Corporation, DoW, Department of Environment, Heritage Council and Swan River Trust in the further development of the proposal will occur. In addition, a suitably qualified consultant will need to be appointed to provide heritage advice, archival research, archaeological investigation, anthropological consultation and reporting for the proposed restoration of Hyde Park Lakes.

### **LEGAL/POLICY:**

Hyde Park is included on the Heritage Council of Western Australia's Register of Heritage Places. The place has significant scientific and historic importance as a remnant of the former chain of wetlands that extended north of Perth and is valued as an important source of aesthetic and recreational enjoyment for the community. In accordance with the Heritage of Western Australia Act 1990, any proposed alteration or development to Hyde Park would be required to be referred to and approved by the Heritage Council of Western Australia prior to the commencement of works.

Hyde Park Lakes has been identified, recorded, and will need to be managed and remediated in accordance with the Contaminated Sites Act 2003 and Contaminated Sites Regulations 2006.

In addition, the proposed restoration works will impact registered Department of Indigenous Affairs (DIA) site 3792 and will require a Site Identification Survey. The survey will need to be conducted to Section 18 standards in accordance with the *Aboriginal Heritage Act 1972*.

### **STRATEGIC IMPLICATIONS:**

In accordance with the objective of Strategic Plan 2009-2014 – Key Result Area One: 1.1.4 Minimise negative impacts on the community and environment. "*(e) Adopt a Masterplan for the restoration of the Hyde Park Lakes and implement measures to remediate the Lakes and improve water quality and surrounds.*"

### **SUSTAINABILITY IMPLICATIONS:**

The Town is committed to the principles of environmental, social and economic sustainability and is dedicated to achieving and promoting sustainable outcomes throughout its everyday functions and responsibilities.

As part of the Town's Sustainable Environment Plan 2007-2012, the Town has identified a number of objectives and the Hyde Park Lakes Restoration Project will be required to address most of the objectives listed below on various levels;

- reduce water use (reduce the size of the Lakes – Option 2A)
- use natural systems to improve water quality (construction of swale)
- encourage the planting of native species (Islands to be replanted)
- re-establish native fringing vegetation as bird habitat areas (may be possible in some locations between existing and new walling)

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

***\*Note: The following Financial/Budget Implications were corrected and distributed prior to the meeting. Changes are indicated by strike through and underline.***

The Council previously resolved to actively pursue funding towards the remediation/restoration of the Hyde Park Lakes from the stakeholders.

Prior to being able to apply for the potential grant funding opportunities available for this project, the Council must first have approved/finalised a restoration concept and the costings must be accurately projected.

Preliminary estimated costs of the three (3) restoration options (excluding other works) are as follows:

**Essential Works including Remediation Costs**

	<b>Essential Works</b>	<b>Remediation</b>	<b>Total</b>
Syrinx Option 1– Integrated Wetland Masterplan Option:	\$3.50m	<u>\$0.6m-\$4m</u>	<u>\$4.1m-\$7.5m</u>
Syrinx Option 2: The “Ornamental” Permanent Water Solution:	\$3.66m	<u>\$0.6m-\$4m</u>	<u>\$4.26m-\$7.66m</u>
Option 2A – Town Modified “Ornamental” Permanent Water Solution:	\$3.98m	<u>Included in main costings</u>	<u>\$3.98m</u>

Preliminary estimated costs of the three (3) restoration options including other works i.e. boardwalks, lookouts etc are as follows:

**Essential Works/Non-Essential Works including Remediation Costs**

	<b>Essential Works</b>	<b>Non-Essential Works</b>	<b>Remediation</b>	<b>Total</b>
Syrinx Option 1– Integrated Wetland Masterplan Option:	\$3.50m	\$1.23m	<u>\$0.6m-\$4m</u>	<u>\$5.33m-\$8.73m</u>
Syrinx Option 2: The “Ornamental” Permanent Water Solution:	\$3.66m	\$1.23m	<u>\$0.6m-\$4m</u>	<u>\$5.49-\$8.89</u>
Option 2A – Town Modified “Ornamental” Permanent Water Solution:	\$3.98m	\$0.57	<u>Included in main costings</u>	<u>\$4.55m</u>

A preliminary Indicative comparative cost breakdown to implement each of the options is contained in the Confidential attachment at Appendix 7.4C.

In August 2008 the Australian Government advised the Town of its commitment to provide funding of up to \$2 Million for the Saving Hyde Park Project under the Water for the Future – National Water Security Plan for Cities and Towns.

The Minister for Water, the Hon. Penny Wong has further advised that in order for their funds to be released, the Town must submit their Masterplan to the Department of the Environment, Water, Heritage and the Arts no later than 27 November 2009.

The Town’s assigned contact officer at the Department of Environment, Water Heritage and the Arts, was contacted this week and advised of the progress of the Hyde Park project.

He was informed that a Special Meeting of Council will be held on the 13 October 2009 where a further report on the Hyde Park Lakes Restoration Project would be presented and where the Council will be requested to adopt a restoration option. The Town’s officers were advised that once this information and plans were received the Department would put together a brief to the Minister, Ms. Penny Wong on the project for her consideration.

This process could take only a few weeks and subject to the Ministers approval of the project, the Town would then need to complete the Funding Agreement template which was received some months ago following a meeting with department representatives and is currently being worked on. In addition the Town's officers were advised that, if successful, there was no restriction on the project commencement date however the funding program ends in the 2011/2012 financial year.

The recommended Masterplan option 2A is estimated to cost in the order of \$4.55m however it is considered that the 'other work' component of the plan could be implemented over a number of financial years. It is therefore considered that cost to implement the preferred Masterplan Option will be \$3.89m (excluding other works) and recommended for funding.

If the Council were to borrow the additional funds to implement the works (excluding 'other works'), the repayment based on the funds borrowed are outlined below.

<b>Value of loan</b>	<b>5 years</b>	<b>10 years</b>	<b>20 years</b>
	\$/annum	\$/annum	\$/annum
\$2.0m	464,460	272,006	183,350
\$2.5m	580,576	340,007	229,188
\$3.0m	696,869	408,008	275,025
\$4.0m	929,159	544,011	366,700

Stage 2 Works of approximately \$555,000 can be carried out in future years. Other sources of funds will be pursued and include donations (e.g. Bendigo Bank, private) corporate sponsorship and grants (e.g. Heritage Council, Lotterywest). It should be noted that these works will be carried out when funding is available.

Hyde Park Lakes Reserve Fund contains an amount of \$267,670, as at 30 June 2009.

The cost of the Golder Consultancy for the Detailed Site Investigation is approximately \$105,000, which will be paid out of the Reserve Fund. This will leave \$162,670 in the Reserve Fund.

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

#### COMMENTS:

The issues with the Hyde Park Lakes include a decline in the environmental health of the Lakes, poor water quality, a lack of water in the Lakes due to decreased rainfall and a lowering of the groundwater table. Other issues include failing infrastructure items (Lake walls, causeway, etc) and a disturbance of the original clay sediment causing undue percolation through the Lake bed.

The Council established a Working Group and subsequently engaged an environmental consultant to develop restoration options for the Lakes. During the process, the Hyde Park Lakes were identified, reported and recorded as a Contaminated Site with the Department of Environment and Conservation (DEC) and as such will require to be managed and remediated.

Further investigative works to determine the actual extent of contamination to enable an appropriate remediation option/s to be further developed and costed and progressed as a requirement of the Contaminated Sites Act 2003 and Contaminated Sites Regulations 2006.

The community were consulted on the Council's preferred option and the majority of respondents requested that the Lakes not be altered and that the status quo remain.

As mentioned above, while it is acknowledged that the Lakes cannot be retained exactly as they are now, it is considered that they can be modified to retain their existing character while at the same time incorporating many of the environmental recommendations of the Syrinx Option 2 "Ornamental" Permanent Water Solution.

It is therefore considered that Option 2A, a Hybrid of the Syrinx Option 2 "Ornamental" Permanent Water Solution, should be progressed as the preferred Masterplan option.

The letters from the Commonwealth Minister for Climate Change and Water and the Federal Member for Perth, Stephen Smith have indicated that the Council must make a decision in this important matter and failure to do so will jeopardise the proposed \$2 million funding. As the Council will appreciate, the project is complex and requires consideration investigation by the Town's Administration. Furthermore it is obvious that a significant number of the Town's residents want the Town to rehabilitate the Lakes "to their former beauty". The Chief Executive Officer considers that a delay in this matter will compromise the Town's position and accordingly it is appropriate that the matter be placed before the current Council (Elections are due on 17 October 2009).

It is requested that the Council approve of the Officer's recommendation.

**7.2 Nos. 395-397 (Lot: 28 D/P: 613) William Street, Perth - Proposed Alterations and Additions to Existing Shop (Reconsideration of Condition)**

<b>Ward:</b>	South	<b>Date:</b>	5 October 2009
<b>Precinct:</b>	Beaufort; P13	<b>File Ref:</b>	PRO3301; 5.2009.327.1
<b>Attachments:</b>	<a href="#">001</a>		
<b>Reporting Officer(s):</b>	S Kendall		
<b>Checked/Endorsed by:</b>	H Smith, R Boardman	<b>Amended by:</b>	-

**OFFICER 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, REFUSES the application submitted by B Pan on behalf of the owner Goldenstep Pty Ltd for proposed Alterations and Additions to Existing Shop (Reconsideration of Condition), at Nos. 395-397 (Lot: 28 D/P: 613) William Street, Perth, and as shown on plans stamp-dated 24 August 2009, for the following reasons:*
- (a) *the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
- (b) *the non-compliance with the Town's Policy No.3.6.1 relating to Heritage Management - Development Guidelines as the place is listed on the Municipal Heritage Inventory and the subject alterations do not reflect the heritage significance associated with the place and do not follow good heritage management practice; and*
- (c) *the non-compliance with the Orders of the State Administrative Tribunal.*
- (ii) *ADVISES the applicant that the current ground floor front openings are considered to be unauthorised. Therefore, the owner is required to submit a Building Licence application, demonstrating the ground floor replacement door and window configuration being in line with the outer edge of the upper floor windows to reinstate the building symmetrical presentation, by 1 November 2009, and complete the required work within 60 days of the issue of a Building Licence; and*
- (iii) *AUTHORISES the Chief Executive Officer to proceed with prosecution and legal proceedings against the owners of Nos. 395-397 (Lot 28) William Street, Perth, in relation to the requirements of the Written Direction issued under Section 214 (3) of the Planning and Development Act 2005 and additional Directions pursuant to Section 29 (3) of the State Administrative Tribunal Act 2004 (WA) and Section 255 of the Planning and Development Act 2005 (WA), if clause (ii) above, is not complied with.*

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**Moved Cr Farrell, Seconded Cr Ker**

*That the recommendation be adopted.*

Debate ensued.

Cr Farrell departed the Chamber at 9.04pm.

**AMENDMENT**

**Moved** Cr Maier, **Seconded** Cr Ker

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

- (iii) ***AUTHORISES REQUESTS*** the Chief Executive Officer to proceed with prosecution and legal proceedings against the owners of Nos. 395-397 (Lot 28) William Street, Perth, in relation to the requirements of the Written Direction issued under Section 214 (3) of the Planning and Development Act 2005 and additional Directions pursuant to Section 29 (3) of the State Administrative Tribunal Act 2004 (WA) and Section 255 of the Planning and Development Act 2005 (WA), ~~if clause (ii) above, is not complied with,~~ ***without further delay.***

Debate ensued.

Cr Farrell returned to the Chamber at 9.05pm.

Debate ensued.

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

**For:** Mayor Catania, Cr Burns, Cr Ker, Cr Maier, Cr Messina  
**Against:** Cr Doran-Wu, Cr Farrell, Cr Lake

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

**COUNCIL DECISION ITEM 7.2**

*That the Council;*

- (i) *in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, REFUSES* the application submitted by B Pan on behalf of the owner Goldenstep Pty Ltd for proposed Alterations and Additions to Existing Shop (Reconsideration of Condition), at Nos. 395-397 (Lot: 28 D/P: 613) William Street, Perth, and as shown on plans stamp-dated 24 August 2009, for the following reasons:
- (a) *the development is not consistent with the orderly and proper planning and the preservation of the amenities of the locality;*
  - (b) *the non-compliance with the Town's Policy No.3.6.1 relating to Heritage Management - Development Guidelines as the place is listed on the Municipal Heritage Inventory and the subject alterations do not reflect the heritage significance associated with the place and do not follow good heritage management practice; and*
  - (c) *the non-compliance with the Orders of the State Administrative Tribunal.*
- (ii) ***ADVISES*** the applicant that the current ground floor front openings are considered to be unauthorised. Therefore, the owner is required to submit a Building Licence application, demonstrating the ground floor replacement door and window configuration being in line with the outer edge of the upper floor windows to reinstate the building symmetrical presentation, by 1 November 2009, and complete the required work within 60 days of the issue of a Building Licence; and
- (iii) ***REQUESTS*** the Chief Executive Officer to proceed with prosecution and legal proceedings against the owners of Nos. 395-397 (Lot 28) William Street, Perth, in relation to the requirements of the Written Direction issued under Section 214 (3) of the Planning and Development Act 2005 and additional Directions pursuant to Section 29 (3) of the State Administrative Tribunal Act 2004 (WA) and Section 255 of the Planning and Development Act 2005 (WA), ***without further delay.***

<b>Landowner:</b>	Goldenstep Pty Ltd
<b>Applicant:</b>	B Pan
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No.1 (TPS 1): Commercial
<b>Existing Land Use:</b>	Shop
<b>Use Class:</b>	Shop
<b>Use Classification:</b>	"P"
<b>Lot Area:</b>	461 square metres
<b>Access to Right of Way</b>	N/A

**BACKGROUND:**

5 January 2006 The Town under delegated approval from the Council, conditionally approved an application for change of use from consulting rooms to shops, offices and warehouse and associated alterations and additions, subject to standard and appropriate conditions, including the following condition:

*"(vi) prior to the issue of a Building Licence, revised plans shall be submitted and approved demonstrating that the existing front doors and windows are kept intact. The revised plans shall not result in any greater variation to the requirements of the Town's Policies."*

12 September 2006 The Council at its Ordinary Meeting adopted the place at Nos. 395 - 397 (Lot 28) William Street, Perth on the Town's Municipal Heritage Inventory.

5 October 2006 The Town's Development Compliance Officer inspected the subject premises in relation to the above condition. The site inspection revealed that the ground level windows had been removed and provision made for wide commercial ground level door openings. A Building Licence had not been issued for works on the site.

6 October 2006 Under Section 214(3) of the Planning and Development Act 2005, a Written Direction was issued by the Town of Vincent, which required:

*"1. Under section 214(3) of the Planning and Development Act 2005 ('Act'), you are required, within 60 days of the service of this written direction on you:*

*(a) to re-instate the front doors and windows that previously existed on the property."*

10 November 2006 An application for retrospective approval for alterations to front door and windows to approved shops, offices and warehouse was refused by the Town under delegated authority from the Council for the following reasons:

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

- (ii) *the non-compliance with the Town's Policy No.3.6.1 relating to Heritage Management - Development Guidelines as the place is listed on the Municipal Heritage Inventory and the subject alterations do not reflect the heritage significance associated with the place and do not follow good heritage management practice."*

In relation to this matter, the owner of the subject place was also advised the following:

*"In light of this Planning Refusal the current ground floor front openings, resultant from the removal of the ground floor front door and four sash windows that previously existed on the property are still unauthorised, therefore you are requested to reinstate the front door and four sash windows by 8 December 2006 (this date reflects the 60 day timeframe as provided in the Town's Written Direction dated 6 October 2006). If you do not comply with this request the Town will commence legal proceedings against you under the provisions of Section 214(3) of the Planning and Development Act, 2005."*

27 November 2006 The owner of the subject place lodged applications for review of both the Written Direction and the Refusal of Retrospective Approval to the SAT.

26 June 2007 The SAT dismissed the application for review of the Refusal of the Retrospective Approval and affirmed the Council's decision to issue the Written Direction under Section 214 (3) of the Planning and Development Act 2005, subject to the following additional directions:

*"(i) Direction 1(b) shall read "that if in the opinion of the Town it is impractical to reinstate the original door and windows they shall be reconstructed from timber based on the photographic or documentary evidence available".*

*(ii) Direction 1(c) shall read "that should an additional door be required to provide direct and independent access to both tenancies from William Street the previous door, which has since been bricked up, along the southern side of the centre line of the building shall be reinstated based on credible evidence acceptable to the Town of its location and form".*

*(iii) Direction 1(d) shall read "that should further alterations be required the applicant shall undertake whatever professionally prepared investigations are necessary to establish an adequate basis on which the Town can assess proposals for adaptation."*

16 July 2007 The SAT amended the Order made on 26 June 2007 to include the following in regard to DR 423 of 2006:

*"(iv) The date by which the direction must be complied with is extended to 60 days from the date of this order."*

- 25 July 2007                    The applicant sought review of the SAT's determinations by the President upon a matter involving a question of law.
- 12 October 2007                The SAT President determined that the Tribunal misconstrued its powers, and therefore erred in law, in imposing two of the three additional requirements in the direction. However, the President determined that the Tribunal did not err in law in its determination to affirm the direction. The following order was made:
- “1.     *The stay of the direction that is the subject of the proceedings DR 423 of 2006 imposed on 6 August 2007 is discharged.*
2.     *The application for review by the President in relation to the determination in proceedings DR 423 of 2006 is allowed in part.*
3.     *The application for review by the President in relation to the determination in proceedings DR 439 of 2006 is dismissed.*
4.     *The decision and orders made by the Tribunal on 26 June 2007 and varied on 16 July 2007 in proceedings DR 423 of 2006 are affirmed with the following variations:*
- (a)     *Paragraphs (ii) and (iii) of Order 2 are deleted; and*
- (b)     *Paragraph (iv) of Order 2 is amended so as to require compliance with the direction within 60 days of the date of this order.*
5.     *The decision and orders made by the Tribunal on 26 June 2007 and varied on 16 July 2007 in proceedings DR 439 of 2006 are affirmed.”*
- 5 November 2007                The Town's Officers met with the owner and the tenant to provide advice and assistance to achieve compliance with the SAT Order.
- 7 November 2007                The Town's Officers met with the owner, tenant and architect on site to provide advice and assistance to achieve compliance with the SAT Order.
- 19 January 2008                The Town's Officers met with the owner, architect and another representative on behalf of the owner, to provide advice and assistance to achieve compliance with the SAT Order.
- 6 February 2008                SAT ordered that:
- “1.     *Paragraph 4(b) of the Orders of 12 October 2007 is amended so that the time for compliance with the direction is extended to Friday 15 February 2008.”*
- 19 February 2008                The owner's representative advised the Town's Officers that the representative would attempt to lodge a Building Licence application to the Town for the required modifications to comply with the SAT Orders within the next week.

- 2 April 2008            The Town wrote to the owner of the subject property advising that failure to comply with the SAT Order made on 12 October 2007 would result in the Town commencing legal proceedings.
- 7 April 2008            The owner of the subject property advised the Town, in writing, that the Building Licence application will be lodged with the Town "*this week*".
- 15 April 2008            The owner's representative attended the Town's Administration and Civic Centre to submit a Building Licence application in order to comply with the Order of the SAT. The plans were insufficient and did not reflect previous discussions or correspondence with the Town, in accordance with the SAT Order.
- 16 April 2008            The Town's Officers confirmed in writing, to the owners representative, the necessary requirements to be fulfilled in order to satisfy the SAT Order, and requested the Building Licence application to be submitted to the Town, by no later than Wednesday, 23 April 2008.
- 22 April 2008            The owners representative submitted revised plans via email for consideration by the Town's Officers.
- 23 April 2008            The Town's Officers advised the owners representative, via email, that the revised plans generally reflected the Town's requirements and requested advice as to when the Building Licence application would be submitted.
- 11 June 2008            The Town received a Building Licence for the proposed alterations and additions.
- 13 February 2009        After much delay, resulting from the owner's travels, the Building Licence for the proposed alterations and additions was issued by the Town.
- 17 August 2009         The Town's Officers undertook a site visit and met the owner of the subject place and noted the following:
- The works to replace and reinstate the ground floor doors and windows had not been undertaken; and
  - A visually permeable roller door had been installed to the inside frame of the northern opening.
- 26 August 2009         The owner submitted the current application for Proposed Alterations and Additions to Existing Shop (Reconsideration of Condition).

**DETAILS:**

The proposal involves the reconsideration of a requirement from a Written Direction, issued by the Town on 6 October 2006, under Section 214(3) of the Planning and Development Act 2005, which required the applicant '*to re-instate the front doors and windows that previously existed on the property.*'

The two-storey Federation Georgian building at Nos. 395 -397 William Street is listed on the Town's Municipal Heritage Inventory as a Management Category B - Conservation Recommended. As a result of the above requirement, and an order from the SAT, this required as follows:

*“that if in the opinion of the Town it is impractical to reinstate the original door and windows they shall be reconstructed from timber based on the photographic or documentary evidence available”.*

The Town's Officers met with the owner and architect to resolve a mutually acceptable design solution. The place has been recognised as a comparatively rare example of the Federation Georgian style of architecture and its symmetrical presentation is an integral component of the places significance. The removal of the previously existing fenestration configuration of the façade negatively impacts on critical remaining aspects of its original design and presentation. Therefore, it was resolved to require the replacement fenestration detail, to be in line with the outer edge of the upper floor windows, to reinstate its symmetrical presentation. To enable increased access, all openings were to be timber framed doors.

In accordance with the above and after numerous meetings with the applicant and his architectural consultant, a Building Licence was issued for the proposed replacement doors.

Subsequent to the Building Licence being issued, the applicant has submitted the subject application for reconsideration as he considers that it is impossible to install the doors to maintain the symmetrical presentation, as shown in the Building Licence, as the measurements on the Building Licence were incorrect, in that they did not factor-in the width of the proposed timber frames. The applicant proposes to install doors in the 'unauthorised' openings. The applicant's concern is compounded by the fact that he has already purchased the doors at a size of 900 millimetres.

The applicant claims that the Town's requirements should not be imposed as the subject façade has been subject to numerous alterations and additions over the years, which included the removal of the original ground floor openings and replacement with two large openings. Furthermore, the applicant argues that the contemporary awning addition, which has been approved for the building by the Town will obscure any symmetrical detailing. The applicant's submission relating to his request is attached at Appendix 7.2.

#### ASSESSMENT:

<b>Non-Compliant Requirements</b>			
<b>Requirements</b>	<b>Required</b>	<b>Proposed *</b>	<b>Officer Comments Pursuant to Clause 38(5) of TPS 1</b>
Density	N/A	N/A	Noted.
Plot Ratio	N/A	N/A	Noted.
<b>Consultation Submissions</b>			
The application was not advertised as per the requirements of the Town's Policy relating to Community Consultation, which states development of a marginal complex nature or impact (category 3) that is not supportable by the Town does not require advertising.			
<b>Other Implications</b>			
Legal/Policy			TPS 1 and associated Policies, and Residential Design Codes (R Codes).
Strategic Implications			Nil
Sustainability Implications			Nil
Financial/Budget Implications			Nil

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

**COMMENTS:**

As outlined in the background of this report, the Town has made every reasonable effort to assist in achieving compliance with the SAT Order. Numerous discussions have been held with the applicant and their architect to ensure the reinstated window and door configuration was acceptable, and subsequent to these discussions, the Town has endorsed a Building Licence, which demonstrated that windows achieving compliance with the SAT Orders. At no time during these discussions was it identified that compliance could not be achieved with the amended proposal.

It is considered the proposed amendments will undermine the SAT decision and the Town's Heritage Management Policies and will make a mockery of the Officers efforts to ensure compliance with the SAT, and Town requirements. In light of the above, the amended proposal is not supported.

**At 9.06pm**     **Moved Cr Farrell, Seconded Cr Ker**

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

- **8.1 as this matter contains information concerning:**
  - *legal advice obtained, or which maybe obtained by the local government and relates to a matter to be discussed at the meeting; and*
  - *affecting an employee or employees;*
- **8.2 as this matter contains information:**
  - *affecting an employee or employees;*
- **8.3 as this matter contact information concerning:**
  - *a contract to be entered into;*
  - *legal advice obtained, or which maybe obtained by the local government and relates to a matter to be discussed at the meeting;*
  - *a matter that if discussed would reveal information that has a commercial value to a person; and*
  - *a matter about the business, professional, commercial or financial affairs of a business; and*

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

The Chief Executive Officer advised that he, the Director Development Services and the Manager Parks and Property Services declared a financial interest in Item 8.1. They departed the Chamber at 9.06pm. They did not speak.

**8.1 CONFIDENTIAL REPORT: City of Perth Superannuation Fund**

Ward:	-		7 October 2009
Precinct:	-	File Ref:	PER0005
Attachments:	-		
Reporting Officer(s):	M Rootsey		
Checked/Endorsed by:	-	Amended by:	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the further report on the funding request from the City of Perth Superannuation Fund as at 7 October 2009;*
- (ii) *APPROVES BY AN ABSOLUTE MAJORITY;*
  - (a) *the payment of \$640,000 to the City of Perth Superannuation Plan through AustralianSuper;*
  - (b) *an increase in the employer contribution from 15% to 17% retrospective from 1 July 2009 to the City of Perth Superannuation Plan; and*
  - (c) *the payment of \$640,000 to the City of Perth Superannuation Plan and this be funded from a reallocation of funds in the 2009/10 Annual Budget as follows:*

<i>Project</i>	<i>Amount</i>
<i>Fitzgerald/Randall Crossing Project</i>	<i>\$155,000</i>
<i>Moir Street Reconstruction</i>	<i>\$190,000</i>
<i>To be identified in mid year Budget Review</i>	<i>\$295,000</i>
<b>TOTAL</b>	<b>\$640,000</b>

(iii) *NOTES that:*

- (a) *payment to the City of Perth Superannuation Plan will be made as follows:*

<i>October 2009</i>	<i>\$345,000</i>
<i>December 2009</i>	<i>\$295,000</i>

- (b) *the Chief Executive Officer will identify a source of funds for the \$295,000 (as mentioned in (ii)(c) above) and this will be reported to the Council in early 2010 as part of the mid year budget review; and*
- (iv) *REQUESTS that a Town of Vincent representative be provided on the City of Perth Superannuation Plan consultative committee and the Town's representative be the Director Corporate Services.*

**COUNCIL DECISION ITEM 8.1**

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

*That the recommendation be adopted.*

**Debate ensued.**

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

**For:** Mayor Catania, Cr Burns, Cr Doran-Wu, Cr Farrell, Cr Lake, Cr Maier

**Against:** Cr Ker, Cr Messina

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**DETAILS:**

The Chief Executive Officer is of the opinion that this report is of a confidential nature as it contains information:

- concerning legal advice obtained, or which may be obtained by the local government and relates to a matter to be discussed at the meeting; and
  - affecting an employee or employees.
-

The Chief Executive Officer remained out of the Chamber as he had declared financial interest in Item 8.2 also. The extent of his interest being that it relates to his Contract of Employment.

**8.2 CONFIDENTIAL REPORT: Chief Executive Officer's Annual Performance Review 2009 and Deed of Contract of Employment**

<b>Ward:</b>	-	<b>Date:</b>	9 October 2009
<b>Precinct:</b>	-	<b>File Ref:</b>	Personal
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	Mayor Catania, John Phillips (HR Consultant), John Giorgi		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *RECEIVES the Performance Review Report 2009 concerning the Chief Executive Officer's Annual Performance Review 2009 and ENDORSES the overall rating of "Satisfactory" - meeting the performance requirements of the position of Chief Executive Officer of the Town of Vincent;*
- (ii) *APPROVES of:*
  - (a) *revised Performance Criteria and Indicators (Schedule B), as shown in Appendix 1, for the 2009/2010 review period;*
  - (b) *the Deed of Contract of Employment Clause 5.4.1(a) to be amended to vary the review process to provide for the annual performance review to be measured against the following Key Result Areas:*
    - *Governance, Compliance and Organisational Management;*
    - *Customer Service;*
    - *Relationships; and*
    - *Strategic Plan and Major Projects;*
  - (c) *a Performance Bonus of \$15,000 to be paid to the Chief Executive Officer for the period 2008/2009, in recognition of the appraisal process outcome, and in accordance with clause 12.3 of the Deed of Contract of Employment;*
  - (d) *the Performance Bonus for the period 2009/2010 to be set to a maximum of \$20,000;*
- (iii) *APPROVES BY AN ABSOLUTE MAJORITY to offer a new Contract of Employment to the Chief Executive Officer, John Giorgi, for a period of five (5) years, effective from 1 January 2010, based on the terms and conditions contained within the current Contract (together with the minor amendments, as detailed in the report);*
- (iv) *AUTHORISES the Mayor (in liaison with the Deputy Mayor) and the Chief Executive Officer to finalise the Contract and to sign the Deed of Contract of Employment and affix the Council's Common Seal; and*
- (v) *NOTES the next review of the Chief Executive Officer's performance is to be conducted by August 2010.*

The Chief Executive Officer was out of the Chamber for this item, as he had declared a financial interest.

The Presiding Member, Mayor Nick Catania requested the Town's employees to leave the Chamber.

The Director Development Services remained out of the Chamber, the Director Technical Services and the Director Corporate Services departed the Chamber.

**COUNCIL DECISION ITEM 8.2**

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

*That the recommendation be adopted.*

**MOTION CLAUSES (i) and (ii) PUT AND CARRIED (7-1)**

**For:** Mayor Catania, Cr Burns, Cr Doran-Wu, Cr Farrell, Cr Ker, Cr Lake, Cr Messina

**Against:** Cr Maier

**MOTION CLAUSES (iii) and (iv) PUT AND CARRIED  
BY AN ABSOLUTE MAJORITY (6-2)**

**For:** Mayor Catania, Cr Burns, Cr Doran-Wu, Cr Farrell, Cr Ker, Cr Messina

**Against:** Cr Lake, Cr Maier

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

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**DETAILS:**

The Chief Executive Officer is of the opinion that this report is of a confidential nature as it contains information:

- affecting an employee or employees.
-

**8.3 CONFIDENTIAL REPORT: Opportunity to Purchase Land**

<b>Ward:</b>	North	<b>Date:</b>	8 October 2009
<b>Precinct:</b>	Smith's Lake; P6	<b>File Ref:</b>	PRO2919
<b>Attachments:</b>	-		
<b>Reporting Officer(s):</b>	T Woodhouse, M Rootsey, R Boardman, John Giorgi		
<b>Checked/Endorsed by:</b>	-	<b>Amended by:</b>	-

**OFFICER RECOMMENDATION:**

*That the Council;*

- (i) *NOTES that an opportunity has arisen to purchase No. 81 Angove Street, North Perth WA 6006, comprising of 1,505m<sup>2</sup> of land, as detailed in this report;*
- (ii) **APPROVES BY AN ABSOLUTE MAJORITY;**
  - (a) *to AUTHORISE the Chief Executive Officer to purchase the subject land and to engage a licensed valuer to act on behalf of the Town at the auction, subject to:*
    - 1. *the Council approving of a Major Land Transaction Business Plan in accordance with Section 3.59 of the Local Government Act; and*
    - 2. *the Chief Executive Officer and Mayor being AUTHORISED to bid up to \$\*\*\*\*\* (to remain confidential) and once the property is declared on the market, up to \$\*\*\*\*\* (to remain confidential), for No. 81 Angove Street, North Perth WA 6006;*
  - (b) *pursuant to Section 6.20(2) of the Local Government Act, to borrow an amount up to \$\*\*\*\*\* (to remain confidential) for the purchase of the subject land (plus an amount for GST, stamp duty and disbursements) subject to:*
    - 1. *the Town giving one month's local public notice of its proposal to borrow such monies; and*
    - 2. *the Chief Executive Officer being authorised to negotiate the most suitable loan term and conditions;*
- (iii) **AUTHORISES the Chief Executive Officer to;**
  - (a) *make public all or part of this recommendation once the appropriate sale conditions have been finalised; and*
  - (b) *if successful at auction, to pay the 10% deposit "upon the fall of the hammer" and this be funded from the Land and Building Acquisition Reserve Fund; and*
- (iv) *NOTES that a further report will be submitted advising the outcome of the Town's offer and/or auction.*

**COUNCIL DECISION ITEM 8.3**

**Moved Cr Farrell, Seconded Cr Messina**

*That the recommendation be adopted.*

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

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**DETAILS:**

The Chief Executive Officer is of the opinion that this report is of a confidential nature as it contains information concerning:

- a contract to be entered into;
  - legal advice obtained, or which maybe obtained by the local government and relates to a matter to be discussed at the meeting;
  - a matter that if discussed would reveal information that has a commercial value to a person; and
  - a matter about the business, professional, commercial or financial affairs of a business.
-

**LEGAL:**

The Local Government Act 1995, Section 5.23(2) prescribes that a meeting or any part of a meeting may be closed to the public when it deals with a range of matters.

Section 5.94 of the Act provides the public is entitled to inspect a wide range of information about the Town. Section 5.95(6) excludes information that has been prescribed as confidential from this entitlement.

The Town of Vincent Local Law Relating to Standing Orders states the following:

*“2.15 Confidential business*

*(1) All business conducted by the Council at meetings (or any part of it) which are closed to members of the public is to be treated in accordance with the Local Government (Rules of Conduct) Regulations 2007.*

The confidential reports are provided separately to Council Members, the Chief Executive Officer and Directors.

In accordance with Section 5.23 of the Local Government Act, the report is to be kept confidential until determined by the Council to be released for public information.

At the conclusion of these matters, the Chief Executive Officer may wish to make some details available to the public.

**PROCEDURAL MOTION**

**At 9.58pm**     **Moved Cr Ker, Seconded Cr Messina**

*That Council resume an “open meeting”.*

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

**9. CLOSURE**

**The Presiding Member, Mayor Nick Catania, declared the meeting closed at 9.58pm with the following persons present:**

Mayor Nick Catania, JP	Presiding Member
Cr Anka Burns	South Ward
Cr Doran-Wu	North Ward
Cr Steed Farrell ( <i>Deputy Mayor</i> )	North Ward
Cr Ian Ker	South Ward
Cr Sally Lake	South Ward
Cr Dudley Maier	North Ward
Cr Izzi Messina	South Ward
John Giorgi, JP	Chief Executive Officer
Rob Boardman	Director Development Services
Rick Lotznicker	Director Technical Services
Mike Rootsey	Director Corporate Services

No Members of the Public or journalists present.

These Minutes were confirmed by the Council as a true and accurate record of the Special Meeting of the Council held on 13 October 2009.

Signed: .....Presiding Member  
Mayor Nick Catania

Dated this ..... day of ..... 2009