

## **INDEX (15 October 2002)**

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Minutes of the Ordinary Meeting of the Council of the Town of Vincent held at the Administration and Civic Centre, 244 Vincent Street, Leederville, on Tuesday 15 October 2002 commencing at 6.05pm.

**1. DECLARATION OF OPENING**

The Presiding Member, Mayor Nick Catania, JP declared the meeting open at 6.05pm.

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

**(a) Apologies:**

Mike Rootsey - Executive Manager Corporate Services  
Rick Lotznicher - Executive Manager Technical Services

**(b) Present:**

Mayor Nick Catania, JP	Presiding Member
Cr David Drewett, JP	Deputy Mayor - Mt Hawthorn Ward
Cr Simon Chester	Mt Hawthorn Ward
Cr Caroline Cohen	North Perth Ward
Cr Helen Doran-Wu	Mt Hawthorn Ward
Cr Basil Franchina	Mt Hawthorn Ward
Cr Kate Hall	North Perth Ward
Cr Ian Ker	North Perth Ward
Cr Marilyn Piper	North Perth Ward
John Giorgi, JP	Chief Executive Officer
Rob Boardman	Executive Manager, Environmental & Development Services

Ms Jenny D'Anger	Journalist - Voice News
Ryan Sturman	Journalist - Guardian Express

Mr Andrew Del Marco, Perth Biodiversity Co-ordinator West Australia Local Government Association (until 6.23pm)  
Craig Wooldridge - Contract Development Officer Road Network Main Roads WA (until 7.10pm)  
Miranda Nikolich - Public Relations Consultant Main Roads WA (until 7.10pm)

Approximately 10 Members of the Public.

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

Nil

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

1. Mr Steed Farrall of 90 Matlock Street, Mt Hawthorn - Item 6.3. He stated that he was speaking of behalf of the Mt Hawthorn Precinct Group and stated that he agreed in principal with the Officers Recommendation. He believes that there is a very high discretion on requirements and this needs to be addressed. For example density and plot ratio which has an impact on the amenity of the area. Believes there needs to be clarity in the Scheme and everyone should have an equal level of information. Stated that the Mt Hawthorn Precinct Group in keen to participate in the Town's Scheme Review.
2. Mr David Bromfield of 122 East Parade, East Perth - Item 6.2. Stated that he had only heard about this presentation 3 hours ago and it is vital that residents be consulted. Stated that he believe MRWA lack of research and competence in the planning is questionable and he had had liaison with MRWA over a period of 10 years and believe their research is questionable. Stated that he has safety concerns about the crossing point over East Parade at Guildford Railway Road bridge and the crossing point at the East Perth railway station.
3. Mr John Little of 7/11 Newcastle Street, Leederville - Item 6.4. He requested the Council not to go ahead with the independent Organisational Review, which he believes will cost at least \$100,000. He asked was it necessary. He stated that he had recently seen newspaper articles which referred to Cr Drewett stating that he has a responsibility to ratepayers to deliver to them an organisation that is running completely efficiently and Cr Franchina to eliminate wastage in the Town of Vincent. He asked the following question;

*“Could Cr Drewett specify where the Administration is not running efficiently and Cr Franchina where there is wastage?”*

He also referred to the Councils Officers only carrying out the request of the Council and implementing the budget. He queried the competence of the Councillors.

There being no further questions, Public Question Time closed at 6.15pm.

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

Nil.

**4. APPLICATIONS FOR LEAVE OF ABSENCE**

Nil.

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

Nil.

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

Nil

**7. DECLARATION OF INTERESTS**

Nil

## 6.1 Biodiversity Commitment

<b>Ward:</b>	Both	<b>Date:</b>	8 October 2002
<b>Precinct:</b>	All	<b>File Ref:</b>	ORG0044
<b>Reporting Officer(s):</b>	Jeremy Van Den Bok		
<b>Checked/Endorsed by:</b>	Rick Lotznicher		
<b>Amended by:</b>			

### ***OFFICER RECOMMENDATION:***

*That the Council receives the presentation by the Perth Biodiversity Project Program Manager from the Western Australian Local Government Association (WALGA) on Biodiversity Commitment.*

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

*That the recommendation be adopted.*

**6.15pm Moved by Cr Ker, Seconded by Cr Hall**

*That Standing Orders be suspended to allow Mr Andrew Del Marco Perth Biodiversity Co-ordinator with the West Australian Local Government Association to make a presentation.*

**CARRIED (9-0)**

Mr Del Marco stated that he was a resident of the Town and stated that the Town of Vincent and 25 other metropolitan Local Governments have all signed a Memorandum of Understanding with the Local Government Association. He applauded this action.

He referred to the Town's good work particularly at the Loftus Centre by planting gums, Smiths Lake Reserve and Banks Reserve. He advised that Round 2 of funding closes at the end of October and there are a range of projects which can be funded, for example projects which raise residents awareness.

He presented Mayor Catania with a signed certificate of the Memorandum of Understanding.

**Received with acclamation**

**6.23pm Moved by Cr Piper, Seconded by Cr Ker**

*That Standing Orders be resumed.*

**CARRIED (9-0)**

### **COUNCIL DECISION ITEM 6.1**

**CARRIED (9-0)**

**6.23pm Andrew Del Marco departed the Chamber.**

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**BACKGROUND:**

The Town's Officers have received a request from WALGA to brief the Council on Biodiversity Commitment.

**DETAILS:**

The Perth Biodiversity Project is a long-term project to assist all Perth's 30 Local Governments to conserve biodiversity in all its forms, including bushland, native species, natural landscapes, private land and genetic diversity. All Local Governments involved in the project have access to technical support services based at the WA Local Government Association (WALGA) and can apply for funding under the Project's Devolved Grants program. Round One of the Funding Program funded 17 projects in 18 Local Governments. Expressions of Interest for Round Two projects are now being called.

Important parts of the project are;

- (a) raising awareness of biodiversity conservation amongst elected members, senior staff and planning, engineering and operational staff; and
- (b) the incorporation of biodiversity conservation into Council's Town Planning Schemes, development assessment processes and corporate planning documents.

All Councils involved in the project have been asked to sign a Memorandum of Understanding with WALGA to publicly demonstrate their commitment to biodiversity conservation.

**6.2 Presentation by Main Roads WA - East Parade - Proposed Changes**

<b>Ward:</b>	Mt Hawthorn	<b>Date:</b>	8 October 2002
<b>Precinct:</b>	Banks; E15	<b>File Ref:</b>	TES0303
<b>Reporting Officer(s):</b>	R Lotznicher		
<b>Checked/Endorsed by:</b>			
<b>Amended by:</b>			

***OFFICER RECOMMENDATION:***

*That the Council receives the presentation by Main Roads WA on the proposed changes to East Parade.*

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

*That the recommendation be adopted.*

**6.25pm Moved by Cr Piper, Seconded by Cr Hall**

*That Standing Orders be suspended to allow Main Roads WA Contract Development Officer, Mr Craig Woolridge to make a presentation.*

**CARRIED (9-0)**

A power point presentation outlining 3 options concerning East Parade was then presented.

**6.45 Cr Piper departed the Chambers**

**6.48 Cr Piper returned to the Chambers**

Mr Woolridge stated that MRWA would write to the Council and formally advise of the proposal, seeking comment.

**7.10pm Moved by Cr Ker, Seconded by Cr Hall**

*That Standing Orders be resumed.*

**CARRIED (9-0)**

**Moved by Cr Ker, Seconded by Cr Piper**

*That the following new clauses be added:*

*“(ii) requests MRWA for a written report on the proposal; and*

*(iii) refers the proposal to the Council’s Local Area Traffic Management Advisory Group for consideration.”*

**AMENDMENT CARRIED (9-0)**

**7.10pm Mr Wooldridge and Ms Nikolich departed the Chamber.**

**COUNCIL DECISION ITEM 6.2**

*That the Council;*

- (i) receives the presentation by MRWA on the proposed changes to East Parade;*
- (ii) requests MRWA for a written report on the proposal; and*
- (iii) refers the proposal to the Council's Local Area Traffic Management Advisory Group for consideration.*

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

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**BACKGROUND:**

The Town's Officers have received a request from Main Roads WA (MRWA) Officers to brief the Council on proposed changes to East Parade.

**DETAILS:**

East Parade is classified as a Primary Distributor, in accordance with the Metropolitan functional road hierarchy and it is therefore under the care, control and management of MRWA.

The section of East Parade within the Town, between Summer Street and Guildford Road, is approximately 0.85km in length and comprises a combination of undivided and divided dual carriageway, as shown in Appendix 6.2.

East Parade provides a minor north south link from East Perth, the Graham Farmer Freeway and the north eastern Suburbs.

For a number of years MRWA has investigated various options to improve the level of service of both East Parade and the East Parade/Guildford Road/Whatley Green Intersection.

The presentation by MRWA will outline three options designed to improve traffic flow, and capacity of East Parade.

**6.3 Review of Town of Vincent Town Planning Scheme No. 1**

<b>Ward:</b>	Both Wards	<b>Date:</b>	10 October 2002
<b>Precinct:</b>	All Precincts	<b>File Ref:</b>	PLA0100
<b>Reporting Officer(s):</b>	D Abel		
<b>Checked/Endorsed by:</b>	R Boardman, J Giorgi		
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

(1) *the Council receives the report and legal advice relating to the review of the Town of Vincent Town Planning Scheme No 1 and Council's Decisions of 14 May 2002 Item 11.2, in particular, Clauses (i) and (ii) as follows;*

*"(i) as a part of the Town Planning Scheme Review, the Town of Vincent adopts in principle the process of a "non-discretionary" Town Planning Scheme;*

*(ii) the Council delegates authority to the Town's Officers to refuse any planning application which does not fully comply with Town of Vincent policies, design guidelines and Town Planning Scheme;"*

(2) *the Council notes that the legal advice states that;*

*(i) the amendment of the Town of Vincent Town Planning Scheme No. 1 to remove all discretionary powers would present a number of difficulties and it would require strict compliance with the Scheme's requirements without any possibility of variations, even those which were minor and immaterial in any relevant sense;*

*(ii) a non-discretionary scheme would be at variance with the Model Scheme Text;*

*(iii) amendment of the Scheme to remove all discretions would produce a scheme at variance with the Model Scheme Text, which contains those discretions and as a result:*

*(a) the Town would be likely to encounter considerable difficulty in gaining Ministerial approval for such Scheme amendments;*

*(b) it has the potential to frustrate development; and*

*(c) would prohibit development where the required variations were minor and unobjectionable on planning grounds;*

*(iv) Clause (ii) of Council's resolution gives rise to significant difficulties. In particular:*

*(a) while Council is empowered by clause 49 of the Scheme to delegate its powers under the Scheme to the Town's officers, Council may not direct those officers as to the manner in which those powers are to be exercised; and*

*(b) as a consequence any decision made by officers in accordance with clause (ii) of Council's resolution would likely be held invalid if challenged in legal proceedings;*

- (v) *Council's resolution would have no force in relation to the Tribunal or the Minister and both would be free to determine an appeal unfettered by Council's resolution;*
  - (vi) *the Town's Solicitors strongly recommend that the Town's officers do not make any determination with respect to planning applications in accordance with Clause (ii) of Council's resolution (as these would most likely be held invalid if challenged by legal proceedings); and*
  - (vii) *Section 2.7 of the Local Government Act 1995 does not displace the rule of law, which prohibits a Council from dictating the manner in which its officers may exercise the powers, which are delegated to them and accordingly, section 2.7 does not provide any support for Clause (ii) of Council's resolution;*
- (3) *Councillor Simon Chester MOVES a motion to change the Council Decision of 14 May 2002 Item 11.2, by deleting clauses (i) and (ii) as follows;*
- "(i) *as a part of the Town Planning Scheme Review, the Town of Vincent adopts in principle the process of a "non-discretionary" Town Planning Scheme;*
  - (ii) *the Council delegates authority to the Town's Officers to refuse any planning application which does not fully comply with Town of Vincent policies, design guidelines and Town Planning Scheme;"*
- (4) *in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996 as referred to in Section 5.25(e) of the Local Government Act 1995, three Elected Members, namely Mayor Nick Catania, Councillor Ian Ker and Councillor Simon Chester, being one third of the number of offices of members of the Council, support this Motion; and*
- (5) *the Council RESOLVES BY AN ABSOLUTE MAJORITY to change the Council Decision 14 May 2002, Item 11.2, by deleting clause (i) and (ii) as follows;*
- "(i) *as a part of the Town Planning Scheme Review, the Town of Vincent adopts in principle the process of a "non-discretionary" Town Planning Scheme;*
  - (ii) *the Council delegates authority to the Town's Officers to refuse any planning application which does not fully comply with Town of Vincent policies, design guidelines and Town Planning Scheme."*
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**Moved by Cr Doran-Wu, Seconded by Cr Ker**

*That the recommendation be adopted.*

**COUNCIL DECISION ITEM 6.3**

**Moved by Cr Doran-Wu, Seconded by Cr Drewett**

*That this item "LIE ON THE TABLE".*

**CARRIED (9-0)**

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### **FURTHER REPORT:**

At the Ordinary Meeting of Council held on 25 June 2002, it was resolved that this item "LIE ON THE TABLE". It also requested that a Special Meeting of Council be held and Elected Members' comments be obtained.

On 3 July 2002, a memorandum was sent to all Elected Members, seeking comments by 19 July 2002 (shown as Appendix 6.3(a)). Comments have been received by Councillor Caroline Cohen (shown as Appendix 6.3(b)).

The following is the verbatim report which was submitted to the Ordinary Meeting of Council held on 25 June 2002.

#### **"BACKGROUND:**

*At the Ordinary Meeting of Council held on 14 May 2002, a Notice of Motion was resolved as follows:*

*"That;*

- (i) as a part of the Town Planning Scheme Review, the Town of Vincent ADOPTS IN PRINCIPLE the process of a "non-discretionary" Town Planning Scheme;*
- (ii) the Council delegates authority to the Town's Officers to refuse any planning application which does not fully comply with Town of Vincent policies, design guidelines and Town Planning Scheme;*
- (iii) the Council authorises the Chief Executive Officer to prepare a report for further consideration by the Council, within 30 days, advising of the process and outlining any advantages and disadvantages; and*
- (iv) the Council allocates funds in the 2002-2003 Draft Budget to finance costs associated with the change."*

#### **DETAILS:**

*The Town Planning and Development Act 1928 clause 7AA Review of Schemes requires a town planning scheme to be reviewed in each fifth year following the promulgation gazettal of the scheme. The Town of Vincent Town Planning Scheme No.1 was gazetted/promulgated on 4 December 1998 and therefore is due for formal review by 4 December 2003.*

#### **STRATEGIC IMPLICATIONS:**

*Strategic Plan 2000-2002 – Key Result Areas: 1.1 "Implement Town Planning Scheme No. 1 and associated policies and guidelines".*

#### **COMMENTS:**

##### *Current Status*

*Town Planning Scheme No.1 provides the Council with the discretion to vary the development requirements in certain circumstances under clauses 20 and 27 and a general discretion under clause 40.*

*Numerous Policies adopted pursuant to Town Planning Scheme No.1 also provides the Council with the discretion to vary certain development requirements.*

*The Residential Planning Codes (R Codes) provides the Council the discretion to vary various development requirements relating to residential development under the R Codes. The discretion mainly relates to the setbacks, total open space and car parking requirements for single houses; setbacks requirements for grouped and multiple dwellings; and density (to a maximum 50 per cent bonus) and car parking requirements for special purpose dwellings (aged or dependent persons' dwellings and single bedroom dwellings).*

*A comprehensive review of planning applications determined by the Town in terms of any variations to the relevant development requirements, for the period of 1 July 2001 to 31 May 2002, inclusive, are detailed in Appendix 10.1.4 to this report. In summary, the review revealed the following:*

<i>Planning Applications Determined for the Period 1 July 2001 to 31 May 2002, Inclusive</i>						
<i>Planning Applications Determined</i>	<i>Residential Planning Codes</i>		<i>Town's Policies</i>		<i>Total Development Requirements</i>	
	<i>Nil Variations</i>	<i>Variations</i>	<i>Nil Variations</i>	<i>Variations</i>	<i>Nil Variations</i>	<i>Variations</i>
<i>Total Number</i>	<i>130</i>	<i>251</i>	<i>210</i>	<i>171</i>	<i>58</i>	<i>323</i>
	<i>381</i>		<i>381</i>		<i>381</i>	
<i>Total Proportion</i>	<i>34 per cent</i>	<i>66 per cent</i>	<i>55 per cent</i>	<i>45 per cent</i>	<i>15 per cent</i>	<i>85 per cent</i>

*The 15 per cent of planning applications determined, which did not involve a variation to the development requirements mainly comprised those applications relating to change of use, signage and demolitions, and which receive objections.*

*Implications of Non-Discretionary/Prescriptive and Discretionary/Performance-Based Town Planning Schemes*

<i>Discretionary/Performance-Based Town Planning Scheme</i>	
<i>Advantages</i>	<i>Disadvantages</i>
<i>Provides an incentive for and/or to facilitate the retention of the existing buildings of heritage or streetscape value.</i>	<i>Requires additional public consultation in terms of the Town's Community Consultation Policy.</i>
<i>Promotes new development to be more compatible to the local built fabric, conditions and/or market preferences. The development may not comply with the current development requirements, and/or requirements that are generically applied across the Perth Metropolitan Region or even the State, such as specific requirements under the R Codes.</i>	<i>Incurs additional resources, including time and costs, in processing, assessing and considering each application on its merit.</i>
<i>Encourages innovative, individual and/or diverse designs, which in turn solidifies the Town's Strategic Plan Mission Statement "Nurturing our Diverse Community".</i>	<i>Creates greater potential for uncertainty and inconsistent application and interpretation of development requirements and variations in assessing and determining applications.</i>
<i>Delivers a wider housing choice.</i>	<i>Requires a higher level of skill and training to apply.</i>
<i>Promotes a sense of place and identity in the community.</i>	
<i>Allows unforeseen planning related circumstances to be considered.</i>	

<i>Results in lesser appeals to the Minister for Planning and Infrastructure or Town Planning Appeal Tribunal on Planning Refusals and conditions of Planning Approval, therefore requiring less resources, including time and costs, for such matters.</i>	
<i>Results in lesser Amendments to the Town Planning Scheme, therefore requiring less resources, including time and costs, for such matters.</i>	

<i>Non-Discretionary/Prescriptive Town Planning Scheme</i>	
<i>Advantages</i>	<i>Disadvantages</i>
<i>Requires less public consultation in terms of the Town's Community Consultation Policy.</i>	<i>The stated advantages of a Discretionary/Performance-Based Town Planning Scheme will not be successfully achieved.</i>
<i>Incurs less resources, including time and costs, in processing, assessing and considering each application on its merit.</i>	
<i>Creates greater potential for certainty and consistent application and interpretation of development requirements and variations in assessing and determining applications.</i>	
<i>Requires a lower level of skill and training to apply.</i>	

*Legal Implications*

*The Town has received the following legal advice from its solicitors in relation to the Council resolution of 14 May 2002 (bold type has been added for emphasis):*

*"Implications of a Non-discretionary Town Planning Scheme*

*The amendment of the Town of Vincent Town Planning Scheme No. 1 ('Scheme') to remove all discretionary powers would present a number of difficulties. In such a form, the Scheme would be entirely prescriptive and inflexible. It would require strict compliance with the Scheme's requirements without any possibility of variations, even those which were minor and immaterial in any relevant sense. Although not addressed in Council's resolution we assume the proposed removal of discretionary powers would relate to residential and non-residential developments alike.*

*A non-discretionary scheme would be at variance with the Model Scheme Text. In relation to non-residential development the Model Scheme Text provides a power of approval where an application for planning approval does not comply with the standards and requirements of the Scheme (see clause 5.5.1). In relation to residential development the Model Scheme Text does not provide a similar general power to vary the standards and requirements of the Residential Planning Codes (see clauses 5.1 and 5.5.1 of the Model Scheme Text). However, it does not remove the discretions present within the Residential Planning Codes, of which there are several.*

*Regulation 11(1) of the Town Planning Regulations requires a scheme text to be prepared in accordance with the Model Scheme Text, although the Minister retains the power to approve a scheme text which departs from the Model Scheme Text (see clause 11(2)). Amendment of the Scheme to remove all discretions, as envisaged by Council's resolution, would produce a scheme at variance with the Model Scheme Text, which contains those discretions. As a result, the Town would be likely to encounter considerable difficulty in gaining Ministerial approval for such Scheme amendments.*

*From the view point of the efficient administration of the Town's planning responsibilities the introduction of a non-discretionary Scheme would likely prove to be a problematic instrument. Although such a Scheme would remove the administrative burden of considering*

*applications requiring variations of Scheme requirements or standards, it would deny the Town any legal capacity to approve developments which the Town would wish to see developed in its district, but which require variations of scheme standards and requirements. In short, it has the potential to frustrate development, which the Town itself may wish to proceed. Equally, such a Scheme would prohibit development where the required variations were minor and unobjectionable on planning grounds. In our view, it is doubtful whether such inflexibility would serve the broader public interest served by the City in administering its planning responsibilities.*

*Clause (ii) of Council's Resolution*

*Paragraph (ii) of Council's resolution gives rise to significant difficulties. We assume the intended effect of paragraph (ii) is to require the Town's officers to refuse any planning application, which is at variance with the Town's planning policies, design guidelines and the Scheme.*

*In numerous cases the courts have held to be invalid decisions where the decision maker is directed as to the manner in which he/she is to exercise a discretionary power (see, for example, Ansett Transport Industries (Operations) Pty Ltd v Commonwealth (1977) 139 CLR 54). Accordingly, while Council is empowered by clause 49 of the Scheme to delegate its powers under the Scheme to the Town's officers, Council may not direct those officers as to the manner in which those powers are to be exercised. Unfortunately, paragraph (ii) of Council's resolution does just that. It constitutes a direction to officers to refuse planning applications that do not fully comply with the City's Scheme, planning policies and the Residential Planning Codes. As a consequence any decision made by officers in accordance with paragraph (ii) of Council's resolution would likely be held invalid if challenged in legal proceedings.*

*Even if such decisions could be validly made in accordance with Council's resolution, they could be appealed to the Town Planning Appeal Tribunal or the Minister for Planning. Council's resolution would have no force in relation to the Tribunal or the Minister. Both would be free to determine an appeal unfettered by Council's resolution.*

*For the above reasons we strongly recommend that the Town's officers do not make any determination with respect to planning applications in accordance with paragraph (ii) of Council's resolution.*

*Refusal of Planning Applications by the Chief Executive Officer*

*Under the Scheme the power to determine applications for planning approval resides with the Council. Clause 49 of the Scheme permits delegation of any power conferred or imposed on the Council to an officer of the Town. Clause 49 would permit Council to delegate its planning powers to the Chief Executive Officer. However, absent any such delegation the Chief Executive Officer would have no power to determine (ie. approve or refuse) an application for planning approval by reason only of his office as Chief Executive Officer.*

*Paragraph (ii) of Council's resolution purportedly delegates authority to refuse planning applications to the Town's officers, which would include the Chief Executive Officer. However, as discussed above, there are significant legal difficulties associated with refusing planning applications in accordance with that delegation.*

*Section 2.7 of the Local Government Act 1995 and the Role of Council*

*Section 2.7(1) of the Local Government Act sets out in general terms the role of councils. Specifically, the section provides that Council:*

- (a) is to direct and control the local government's affairs; and*
- (b) is responsible for the performance of the local government's functions.*

*The question which arises from section 2.7(1)(a) is whether Council's stated role of directing and controlling the Town's affairs permits it to direct or control the Town's officers, as it has purported to do in paragraph (ii) of its resolution, in the manner in which delegated planning powers are to be exercised. Section 2.7 is a provision, which in broad terms sets out Council's role. The section is descriptive only. It does not itself give Council any powers. Section 2.7 does not displace the rule of law, which prohibits a Council from dictating the manner in which its officers may exercise the powers, which are delegated to them. Accordingly, section 2.7 does not provide any support for paragraph (ii) of Council's resolution.*

*A further concern which may arise from Council's resolution is that, if implemented, it would result in a substantial portion, if not all, of the planning applications received by the Town being determined (by way of refusal) by the Town's officers rather than Council itself. In such circumstances it may be argued that in respect of its planning functions Council was not directing or controlling the Town's affairs or assuming responsibility for the performance of those functions.*

*In our view section 2.7 of the Act does not displace the operation of clause 49 of the Scheme which permits Council to delegate its powers under the Scheme to officers of the Town. Equally, proposing a scheme amendment which removes all discretionary powers from the Scheme would not be inconsistent with section 2.7. As a consequence it is our view that Council's resolution does not undermine the effect of section 2.7 of the Local Government Act. However, as discussed above Council's resolution presents difficulties on other grounds.*

#### *The refusal to exercise delegated powers*

*The legal implications of a refusal by an officer to exercise a power delegated by Council must be considered from the perspective of the Town as a whole. The material issue is whether the power is exercised rather than whether it is exercised by the Council or an officer to whom the power was delegated.*

*Where a local government is given statutory powers it cannot refuse to exercise those powers unless the written law granting those powers enables it to refrain from doing so. However, in this instance neither the Scheme nor the Town Planning and Development Act enables the Town to refuse to exercise its planning powers. The same position applies to officers to whom powers are delegated.*

*The delegation of a power to a Chief Executive Officer or other officer of the Town would not divest Council of the power. By virtue of section 59 of the Interpretation Act, Council would retain its ability to exercise any power which it delegated to an officer. Therefore, where an officer refused to exercise delegated planning power, the Council could exercise that power itself.*

*Where there was a refusal to exercise the power, either by the Town, or an officer to whom it was delegated or both, two legal consequences would follow.*

*First, a court order could be sought compelling the Town and/or the officer to exercise the power. Secondly, if an individual suffered loss as a consequence of the refusal to exercise the power the Town and officer could be held liable for that loss.*

*For these reasons we strongly recommend against either Council or an officer to whom a power is delegated from refusing to exercise that power."*

*Town Planning Scheme Review Process*

*The review of the Town's Town Planning Scheme No. 1 and the preparation and promulgation of a new town planning scheme will result in the following two (2) main documents:*

- (i) *The Local Planning Strategy-*  
*A local planning strategy is the strategic basis and framework for the new town planning scheme and is to-*
  - (a) *set out the long-term planning directions for the Town;*
  - (b) *apply State and regional planning policies; and*
  - (c) *provide the rationale for the zones and other provisions of the scheme; and*
  
- (ii) *The new Town Planning Scheme-*  
*A town planning scheme is a legally binding document that prescribes the requirements for the use and development of land in the Town. The town planning scheme comprises the following two (2) documents-*
  - (a) *town planning scheme text; and*
  - (b) *town planning scheme maps.**The Town may also have policies prepared, advertised and adopted pursuant to the town planning scheme as is the case currently with Town Planning Scheme No. 1 and associated Policies.*

<i>Stages</i>	<i>Main Milestones</i>
<i>1</i>	<i>Preparation of a town planning scheme examination report on the status and operation of Town Planning Scheme No. 1. It is considered that the existing scheme will need to be reviewed and a new scheme prepared. Therefore, prior to the preparation of the examination report, the Council should request the Minister for Planning and Infrastructure for an exemption from the requirement to invite submissions from the public on the desirability of a review of the scheme.</i>
<i>2</i>	<i>Consideration and determination of the contents, conclusions and recommendations of the scheme examination report by the Council and then the Western Australian Planning Commission and Minister for Planning and Infrastructure. It is most likely that the report will conclude and recommend that the current scheme should be reviewed through the preparation of a new scheme.</i>
<i>3</i>	<i>Council resolution to prepare a new town planning scheme.</i>
<i>4</i>	<i>Preparation of a local planning strategy.</i>
<i>5</i>	<i>Preparation of a new town planning scheme.</i>
<i>6 onwards</i>	<i>Advertising, adoption, approval, endorsement and promulgation of the local planning strategy and new town planning scheme.  A flow chart detailing the process involved with the preparation and promulgation of the new town planning scheme is shown in Appendix 10.1.4 to this report.  The local planning strategy and new town planning scheme will generally be adopted, advertised and endorsed, concurrently.</i>
<i>Timeframe</i>	<i>The project will commence as from 26 August 2002, and the entire project to promulgation of the new town planning scheme is expected to take up to 2 years.  The timeframe includes a minimum consultation period of 3 months.</i>

<i>Estimated Cost</i>	<i>The estimated cost in undertaking a full review of Town Planning Scheme No. 1 and preparation of a new town planning scheme would be up to \$100,000. The associated costs would be required to cover various and numerous tasks, including the following: Additional 'in house' resources or out-sourcing of the project. It is considered most appropriate and effective that the project is undertaken 'in house'; Extensive community consultation of both the draft local planning strategy and new town planning scheme; Legal advice; and Production of the draft and final documentation.</i>
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*Conclusion*

*It is considered most appropriate at this stage that the draft new town planning scheme should be both discretionary/performance-based and non-discretionary/prescriptive. The non-discretionary/prescriptive requirements should prescribe minimum standards for specific design elements to achieve an appropriate level of amenity, while the discretionary/performance-based provisions should allow specific design elements to be performance based and to achieve a qualified and quantified criteria.*

*In light of the above, it is recommended that the Council revokes part of the resolution adopted by the Council at its Ordinary Meeting held on 14 May 2002 (Item No. 11.2) namely Clauses (i) and (ii), authorises the Chief Executive Officer to prepare a scheme examination report on the status and operation of the Town of Vincent Town Planning Scheme No. 1, and prior to the preparation of the examination report, the Council requests the Minister for Planning and Infrastructure for an exemption from the requirement to invite submissions from the public on the desirability of a review of the scheme."*

**6.4. Capital Works Schedule - Independent Organisational Review – Motion to Change a Council Decision**

<b>Ward:</b>	-	<b>Date:</b>	14 October 2002
<b>Precinct:</b>	-	<b>File Ref:</b>	FIN0025
<b>Reporting Officer(s):</b>	John Giorgi		
<b>Checked/Endorsed by:</b>			
<b>Amended by:</b>	-		

**OFFICER RECOMMENDATION:**

*That;*

- (1) *as required by the Town of Vincent Local Law relating to Standing Orders, Clause 3.21(3), the Council CONSIDERS the Statement of Impact prepared by the Chief Executive Officer, as detailed in this report, before voting on a Motion to revoke or change a decision of the Council;*
- (2) *the Council ACCEPTS the advice of the Chief Executive Officer not to change its Adopted Capital Works Schedule 2002-2003 to bring forward the Independent Organisational Review for the following reasons;*
  - (i) *(a) the financial consequences of the proposed change may result in an increase in costs in a number of key capital works projects;*
  - (b) possible delays in completing some scheduled Capital Works projects;*
  - (c) the need to re-schedule some projects;*
  - (d) the need to engage temporary staff to maintain the current level of service to the community during the on-site review period; and*
  - (e) the need to employ a Project Manager to assist the Chief Executive Officer to ensure that the Council's State Sporting Facilities Plan Projects are not compromised, delayed or be exposed to an increase in costs; and*
  - (ii) *it is recognised "Best Practice" procedure to carry out a review of the Council's Strategic Plan prior to conducting an Independent Organisational Review;*
- (3) *the Council determines and APPROVES of Project Objectives and Outcomes, Project Brief and Tender Selection Criteria prior to carrying out the Independent Organisational Review;*
- (4) *the Council APPROVES of the following AMENDED TERMS OF REFERENCE for the Proposed Independent Organisational Review;*
  - "4.1 Examine Council's Strategic Plan in terms of;*
    - 4.1.1 identifying critical issues;*
    - 4.1.2 determining the capacity of the Council to achieve stated objectives given the current staffing structure, resources and timelines; and*





**COUNCIL DECISION ITEM 10.2.4**

*“That the Council APPROVES the attached 2002/2003 Capital Works Schedule subject to the Angove Street Upgrade Works being moved from December (to avoid the festive season) and the project commence in October; ...*

*Independent Organisation Review: February – May 2003”;*

- (8) *Councillors Chester, Doran-Wu, Drewett, Franchina, Hall and Piper MOVE a motion to change the decision by;*

*“changing the timeline proposed for the Independent Organisation Review scheduled for February – May 2003”;*

- (9) *in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996 as referred to in Section 5.25(e) of the Local Government Act 1995, Councillors Chester, Doran-Wu, Drewett, Franchina, Hall and Piper, being more than one third of the number of offices of members of the Council, support this motion; and*

- (10) *the Council RESOLVES BY AN ABSOLUTE MAJORITY to change the decision by;*

- (i) *changing the Independent Organisational Review timeline scheduled for February – May 2003;*
- (ii) *carrying out the Independent Organisational Review scheduled for October – December 2002;*
- (iii) *changing the Capital Works Schedule 2002-2003 to reflect the new timetable;*
- (iv) *endorsing the required processes to facilitate the Independent Organisational Review to commence immediately; and*
- (v) *as a basis, uses the Terms of Reference as distributed to Elected Members (and Executive Officers), as shown below;*

**“Terms of Reference**

1. *Examine Council’s Strategic Plans, identify critical issues and determine the capacity of the Council to achieve stated objectives given staffing structure, resources and timelines. Prepare a draft strategic plan for discussion.*
2. *Review the organisational structure and reporting lines including staffing levels to determine cost effectiveness and capacity to deliver the strategic and operational objectives of Council.*
3. *Examine Council in terms of;*
  - 3.1 *Agenda preparation, quality and timeliness of reports;*
  - 3.2 *Preparation and research of documentation through from the Executive Group to Council;*
  - 3.3 *Measurable outcomes and commitment to follow through on Council decisions by the Executive Group.*

4. *Review the employment contracts, letters of offer for all Senior Executives including;*
    - 4.1 *Current Executive performance management methodology against Key Performance Indicators (KPIs);*
    - 4.2 *Performance incentive arrangements and practices;*
    - 4.3 *Effectiveness and measurement of any Enterprise Bargaining Agreements (EBAs) or Work Place Agreements (WPAs);*
    - 4.4 *Remuneration review practices.*
  
  5. *Examine financial arrangements in direct measurement to;*
    - 5.1 *Budget performance preparation, management and performance;*
    - 5.2 *Performance against industry benchmarks/best practice in government and commerce;*
    - 5.3 *Financial reporting at the Elected Members, Executive Group and operational levels;*
    - 5.4 *Audit performance.*
  
  6. *Review level of commercial acumen and awareness of business and financial transactions as they relate to;*
    - 6.1 *Outsourced contracts;*
    - 6.2 *Council trading enterprises (i.e. revenue generating activities);*
    - 6.3 *Internal/External Service Level Agreements.*
  
  7. *Review the extent to which Senior Executives are suited to meet the future requirements of the organisation.*
  
  8. *Survey the level of staff satisfaction covering;*
    - 8.1 *Councillors;*
    - 8.2 *Senior Executives;*
    - 8.3 *Available resources;*
    - 8.4 *Implementation of objectives;*
    - 8.5 *Follow through on stated initiatives;*
    - 8.6 *Satisfaction with Management.*
  
  9. *On site review to be completed in six (6) weeks and final report to be delivered within four (4) weeks.”*
- 

**Moved by Cr Piper, Seconded by Cr Ker**

*That the recommendation be adopted.*

Debate ensued.

**Moved by Cr Piper, Seconded by Cr Hall**

*That clauses (7) to (10) inclusive be DEFERRED until the Ordinary Meeting of Council to be held on the 22nd October 2002.*

Debate ensued.

**Amendment withdrawn by Mover Cr Piper and with the consent of the Seconder, Cr Hall.**

**Debate ensued.**

**Moved by Cr Piper, Seconded by Cr Hall**

*The following amendments be made:*

*Clause (1) be amended to read as follows:*

- (1) *as required by the Town of Vincent Local Law relating to Standing Orders, Clause 3.21 (3), the Council CONSIDERS the Terms of Reference and RECEIVES the Statement of Impact prepared by the Chief Executive Officer, as detailed in this report before voting on a motion to revoke or change a decision of the Council;*

*Clause (2) be deleted.*

*Clause (3) be deleted.*

*Clause (4) - delete the word "APPROVES" and substitute the word "CONSIDERS" in its place.*

*Clause (5) be deleted.*

*Clause (6) be deleted.*

*Clauses (7) to (10) inclusive be DEFERRED to the Ordinary Meeting of Council to be held on the 22nd October 2002.*

**Debate ensued.**

**Cr Piper withdrew her amendment relating to Clause (4) and the Seconder, Cr Hall consented to this change.**

**Debate ensued.**

**Cr Piper agreed to change her amendment to allow Clause (2) to remain and read as follows:**

- (2) *the Council ACKNOWLEDGES the advice of the Chief Executive Officer that it is recognised "Best Practice" procedure to carry out a review of the Council's Strategic Plan prior to conducting an independent Organisational Review.*

**The Seconder, Cr Hall consented to this change.**

**Debate ensued.**

**The mover of the amendment, Cr Piper agreed that Clause (3) will remain and this is subject to the deletion of the word "tender" where it appears in line 2. The Seconder of the amendment, Cr Hall consented to this change.**

**Mayor Catania ruled that he would require a separate vote on each clause amendment.**

*Clause (1) amended to read as follows:*

- (1) *as required by the Town of Vincent Local Law relating to Standing Orders, Clause 3.21 (3), the Council CONSIDERS the Terms of Reference and RECEIVES the Statement of Impact prepared by the Chief Executive Officer, as detailed in this report before voting on a motion to revoke or change a decision of the Council;*

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

*Clause(2) amended to read as follows:*

- (2) *the Council ACKNOWLEDGES the advice of the Chief Executive Officer that it is recognised “Best Practice” procedure to carry out a review of the Council’s Strategic Plan prior to conducting an independent Organisational Review.*

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

*Clause (3) amended to read as follows:*

- (3) *the Council determines and APPROVES of Project Objectives and Outcomes, Project Brief and Selection Criteria prior to carrying out the Independent Organisational Review.*

**CARRIED AS AMENDED (6-3)**

<b><u>For</u></b>	<b><u>Against</u></b>
Cr Chester	Mayor Catania
Cr Drewett	Cr Cohen
Cr Franchina	Cr Doran-Wu
Cr Hall	
Cr Ker	
Cr Piper	

*Clause (5) be deleted.*

**CARRIED (8-1)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Cohen
Cr Chester	
Cr Doran-Wu	
Cr Drewett	
Cr Franchina	
Cr Hall	
Cr Ker	
Cr Piper	

*Clause (6) be deleted*

**CARRIED (8-1)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Doran-Wu
Cr Chester	
Cr Cohen	
Cr Drewett	
Cr Franchina	
Cr Hall	
Cr Ker	
Cr Piper	

*Clauses (7) - (10) inclusive be DEFERRED to the Ordinary Meeting of Council to be held on 22nd October 2002.*

**CARRIED (9-0)**

8.08pm Moved by Cr Drewett, Seconded by Cr Ker

*That Standing Orders be suspended to discuss Clause (4) relating to the Terms of Reference, without the constraints of debate.*

**CARRIED (9-0)**

8.09pm Cr Chester departed the Chamber.

Debate ensued.

8.11pm Cr Chester returned to the Chamber.

Debate ensued.

8.12pm Cr Doran-Wu departed the Chamber.

8.13pm Cr Doran-Wu returned to the Chamber.

Debate ensued.

8.25pm Cr Hall departed the Chamber.

Debate ensued.

8.29pm Cr Hall returned to the Chamber.

8.45pm Moved by Cr Ker, Seconded by Cr Hall

*That Standing Orders be resumed.*

**CARRIED (9-0)**

Mayor Catania ruled that each Term of Reference would be separately moved and voted upon.

Clause 4.1 Moved by Cr Ker, Seconded by Cr Hall

*That Clause 4.1 be amended to read as follows:*

***“4.1 Examines Councils current Strategic Plan 2000-2002 and proposed Strategic Plan to 2002-2007.***

***4.1.1 identifying critical issues;***

***4.1.2 determining the capacity of the Council to achieve stated objectives given the current staffing structure, resources and timelines; and***

- 4.1.3 *analysing the extent to which the goals of the organisation are pursued and aligned with Key Performance Indicators specified in the Town's Adopted Strategic Plan and the Principal Activities Plan."*

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

Clause 4.2 **Moved** by Cr Hall, **Seconded** by Cr Ker

*That Clause 4.2 be adopted.*

**CARRIED (9-0)**

Clause 4.3 **Moved** by Cr Hall, **Seconded** by Cr Doran-Wu

*That Clause 4.3 be amended to read as follows:*

*"4.3 Examine Council systems, procedures and processes in terms of;*

- 4.3.1 *agenda preparation, quality, accuracy and timeliness of reports (including notification to persons who have matters listed on the Council Agenda or have submitted an objection/comment);*
- 4.3.2 *preparation and research of documentation;*
- 4.3.3 *measurable outcomes and follow through on Council decisions by the Executive Management Team (including the thoroughness of implementing Council decisions); and*
- 4.3.4 *alignment of decisions by the Council in relation to the Officer Recommendations, legislation, Council Policies and Guidelines and strategic direction of the organisation."*

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

Clause 4.4 **Moved** by Cr Ker, **Seconded** by Cr Cohen

*That Clause 4.4 be adopted.*

**CARRIED (9-0)**

Clause 4.5 **Moved** by Cr Ker, **Seconded** by Cr Piper

*That Clause 4.5 be amended to read as follows:*

*"4.5 Examine financial arrangements in direct measurement to;*

- 4.5.1 *budget performance preparation, management and performance;*
- 4.5.2 *performance against industry benchmarks/best practice in government and where appropriate commerce;*
- 4.5.3 *financial reporting at the Elected Members, Executive Group and operational levels; and*
- 4.5.4 *audit performance."*

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

**Clause 4.6 Moved by Cr Ker, Seconded by Cr Doran-Wu**

*That Clause 4.6 be adopted.*

**CARRIED (9-0)**

**Clause 4.7 Moved by Cr Ker, Seconded by Cr Hall**

*That Clause 4.7 be amended to read as follows:*

*“4.7 Survey the level of staff satisfaction covering;*

- 4.7.1 communication with Elected Members;*
- 4.7.2 Senior Executives;*
- 4.7.3 available resources;*
- 4.7.4 implementation of objectives;*
- 4.7.5 work environment; and*
- 4.7.6 satisfaction with management.”*

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

**Clause 4.8 Moved by Cr Doran-Wu, Seconded by Cr Ker**

*That Clause 4.8 be amended to read as follows:*

*“4.8 Review the organisational structure, administrative practices and procedures and decision making processes for matters requiring Council approval (e.g. development approvals, building licences, permits and licences) in direct measurement to;*

- 4.8.1 reporting to the Council;*
- 4.8.2 Council decisions;*
- 4.8.3 extent of delegation;*
- 4.8.4 performance against industry benchmarks/best practice in like local governments; and*
- 4.8.5 determining the extent of customer satisfaction regarding quality, accessibility, clarity and accuracy of information provided to ratepayers/residents and also developers.”*

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

**Clause 4.9 Moved by Cr Ker, Seconded by Cr Hall**

*That Clause 4.9 be amended as follows:*

*“4.9 Report on the Independent Organisational Review cost implications to the Council in terms of;*

- 4.9.1 any increased costs or cost savings as a result of any proposed recommendations/findings;*
- 4.9.2 implementation of any recommendations/findings;*
- ~~*4.9.3 improved efficiencies in the level of service to the community; and*~~
- ~~*4.9.4 reduced level of service to the community (which may occur as a result of the review).*~~
- 4.9.3 impact on the level of service to the Community.”*

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

**Moved by Cr Ker, Seconded by Cr Drewett**

*That a new Clause 4.10 be included as follows:*

*“4.10 Review the requirements for Senior Executives to meet the future requirements of the Organisation.”*

**CARRIED (7-2)**

<b><u>For</u></b>	<b><u>Against</u></b>
Mayor Catania	Cr Cohen
Cr Chester	Cr Doran-Wu
Cr Drewett	
Cr Franchina	
Cr Hall	
Cr Ker	
Cr Piper	

**Moved by Cr Ker, Seconded by Cr Hall**

*The existing Clause 4.10 be renumbered to 4.11 and amended to read as follows:*

*“4.11 The Independent Organisational ~~on site~~ Review to be completed ~~in six (6) weeks~~ and a final report to be delivered within ~~four (4) ten (10) weeks.~~”*

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

**Moved by Cr Piper, Seconded by Cr Drewett**

*That the Project Selection Criteria will include the following;*

*“The proposed Independent Organisational Review to be undertaken with a minimum of disruption to the organisation.”*

**AMENDMENT CARRIED (9-0)**

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

**COUNCIL DECISION ITEM 6.4**

*That;*

- (1) as required by the Town of Vincent relating to Standing Orders, Clause 3.21 (3), the Council CONSIDERS the Terms of Reference and RECEIVES the Statement of Impact prepared by the Chief Executive Officer, as detailed in this report before voting on a motion to revoke or change a decision of the Council;*
- (2) the Council ACKNOWLEDGES the advice of the Chief Executive Officer that it is recognised “Best Practice” procedure to carry out a review of the Council’s Strategic Plan prior to conducting an independent Organisational Review;*
- (3) the Council determines and APPROVES of Project Objectives and Outcomes, Project Brief and Selection Criteria prior to carrying out the Independent Organisational Review;*

- (4) *the Council APPROVES of the following AMENDED TERMS OF REFERENCE for the Proposed Independent Organisational Review;*
- 4.1 *Examines Councils current Strategic Plan 2000-02 and proposed Strategic Plan to 2002-2007;*
- 4.1.1 *identifying critical issues;*
- 4.1.2 *determining the capacity of the Council to achieve stated objectives given the current staffing structure, resources and timelines; and*
- 4.1.3 *analysing the extent to which the goals of the organisation are pursued and aligned with Key Performance Indicators specified in the Town's Adopted Strategic Plan and the Principal Activities Plan.*
- 4.2 *Review the organisational structure and reporting lines including staffing levels to determine;*
- 4.2.1 *cost effectiveness;*
- 4.2.2 *capacity to deliver the strategic and operational objectives of the Council; and*
- 4.2.3 *service level delivery to the community.*
- 4.3 *Examine Council systems, procedures and processes in terms of;*
- 4.3.1 *agenda preparation, quality, accuracy and timeliness of reports (including notification to persons who have matters listed on the Council Agenda or have submitted an objection/comment);*
- 4.3.2 *preparation and research of documentation;*
- 4.3.3 *measurable outcomes and follow through on Council decisions by the Executive Management Team (including the thoroughness of implementing Council decisions); and*
- 4.3.4 *alignment of decisions by the Council in relation to the Officer Recommendations, legislation, Council Policies and Guidelines and strategic direction of the organisation.*
- 4.4 *Review the system of remuneration and performance assessment of Council Officers and employees, including;*
- 4.4.1 *current performance management methodology against Key Performance Indicators (KPIs);*
- 4.4.2 *performance incentive arrangements and practices;*
- 4.4.3 *effectiveness and measurement of any Enterprise Bargaining Agreements (EBAs) or Work Place Agreements (WPAs); and*
- 4.4.4 *remuneration/performance review procedures.*
- 4.5 *Examine financial arrangements in direct measurement to;*
- 4.5.1 *budget performance preparation, management and performance;*

- 4.5.2 *performance against industry benchmarks/best practice in government and where appropriate commerce;*
- 4.5.3 *financial reporting at the Elected Members, Executive Group and operational levels; and*
- 4.5.4 *audit performance.*
- 4.6 *Review performance outcomes of;*
  - 4.6.1 *outsourced contracts;*
  - 4.6.2 *Council trading enterprises (i.e. revenue generating activities);*
  - 4.6.3 *Internal/External Service Level Agreements;*
  - 4.6.4 *the Council's philosophy, policies and expectation for cost recovery of services, cost of services and service delivery; and*
  - 4.6.5 *internal/external services to eliminate duplication.*
- 4.7 *Survey the level of staff satisfaction covering;*
  - 4.7.1 *communication with Elected Members;*
  - 4.7.2 *Senior Executives;*
  - 4.7.3 *available resources;*
  - 4.7.4 *implementation of objectives;*
  - 4.7.5 *work environment; and*
  - 4.7.6 *satisfaction with management.*
- 4.8 *Review the organisational structure, administrative practices and procedures and decision making processes for matters requiring Council approval (e.g. development approvals, building licences, permits and licences) in direct measurement to;*
  - 4.8.1 *reporting to the Council;*
  - 4.8.2 *Council decisions;*
  - 4.8.3 *extent of delegation;*
  - 4.8.4 *performance against industry benchmarks/best practice in like local governments; and*
  - 4.8.5 *determining the extent of customer satisfaction regarding quality, accessibility, clarity and accuracy of information provided to ratepayers/residents and also developers.*
- 4.9 *Report on the Independent Organisational Review cost implications to the Council in terms of;*
  - 4.9.1 *any increased costs or cost savings as a result of any proposed recommendations/findings;*
  - 4.9.2 *implementation of any recommendations/findings;*
  - 4.9.3 *impact on the level of service to the Community.*
- 4.10 *Review the requirements for Senior Executives to meet the future requirements of the Organisation.*
- 4.11 *The Independent Organisational Review to be completed and a final report to be delivered within ten (10) weeks.*

- (5) *the Project Selection Criteria will include the following;*

*“The proposed Independent Organisational Review to be undertaken with a minimum of disruption to the organisation.”*

*The following Clauses (6) - (9) inclusive be DEFERRED to the Ordinary Meeting of Council to be held on 22nd October 2002;*

- (6) *the Council, at its Ordinary Meeting held on 23 July 2002 (Item No. 10.2.4.) decided (inter alia);*

**COUNCIL DECISION ITEM 10.2.4**

*“That the Council APPROVES the attached 2002/2003 Capital Works Schedule subject to the Angove Street Upgrade Works being moved from December (to avoid the festive season) and the project commence in October; ...*

*Independent Organisation Review: February – May 2003”;*

- (7) *Councillors Chester, Doran-Wu, Drewett, Franchina, Hall and Piper MOVE a motion to change the decision by;*

*“changing the timeline proposed for the Independent Organisation Review scheduled for February – May 2003”;*

- (8) *in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996 as referred to in Section 5.25(e) of the Local Government Act 1995, Councillors Chester, Doran-Wu, Drewett, Franchina, Hall and Piper, being more than one third of the number of offices of members of the Council, support this motion; and*

- (9) *the Council RESOLVES BY AN ABSOLUTE MAJORITY to change the decision by;*

(i) *changing the Independent Organisational Review timeline scheduled for February – May 2003;*

(ii) *carrying out the Independent Organisational Review scheduled for October – December 2002;*

(iii) *changing the Capital Works Schedule 2002-2003 to reflect the new timetable;*

(iv) *endorsing the required processes to facilitate the Independent Organisational Review to commence immediately; and*

(v) *as a basis, uses the Terms of Reference as distributed to Elected Members (and Executive Officers), as shown below;*

**“Terms of Reference**

1. *Examine Council’s Strategic Plans, identify critical issues and determine the capacity of the Council to achieve stated objectives given staffing structure, resources and timelines. Prepare a draft strategic plan for discussion.*

2. *Review the organisational structure and reporting lines including staffing levels to determine cost effectiveness and capacity to deliver the strategic and operational objectives of Council.*
  3. *Examine Council in terms of;*
    - 3.1 *Agenda preparation, quality and timeliness of reports;*
    - 3.2 *Preparation and research of documentation through from the Executive Group to Council;*
    - 3.3 *Measurable outcomes and commitment to follow through on Council decisions by the Executive Group.*
  4. *Review the employment contracts, letters of offer for all Senior Executives including;*
    - 4.1 *Current Executive performance management methodology against Key Performance Indicators (KPIs);*
    - 4.2 *Performance incentive arrangements and practices;*
    - 4.3 *Effectiveness and measurement of any Enterprise Bargaining Agreements (EBAs) or Work Place Agreements (WPAs);*
    - 4.4 *Remuneration review practices.*
  5. *Examine financial arrangements in direct measurement to;*
    - 5.1 *Budget performance preparation, management and performance;*
    - 5.2 *Performance against industry benchmarks/best practice in government and commerce;*
    - 5.3 *Financial reporting at the Elected Members, Executive Group and operational levels;*
    - 5.4 *Audit performance.*
  6. *Review level of commercial acumen and awareness of business and financial transactions as they relate to;*
    - 6.1 *Outsourced contracts;*
    - 6.2 *Council trading enterprises (i.e. revenue generating activities);*
    - 6.3 *Internal/External Service Level Agreements.*
  7. *Review the extent to which Senior Executives are suited to meet the future requirements of the organisation.*
  8. *Survey the level of staff satisfaction covering;*
    - 8.1 *Councillors;*
    - 8.2 *Senior Executives;*
    - 8.3 *Available resources;*
    - 8.4 *Implementation of objectives;*
    - 8.5 *Follow through on stated initiatives;*
    - 8.6 *Satisfaction with Management.*
  9. *On site review to be completed in six (6) weeks and final report to be delivered within four (4) weeks.”*
-

**BACKGROUND:**

At the Ordinary Meeting of Council held on 8 October 2002, the Council considered an item relating to a proposed Independent Organisational Review and resolved (unconfirmed Minutes) as follows;

*“That;*

- (1) the Council RECEIVES the report relating to the Motion to Change a Council Decision concerning the adopted Capital Works Schedule - Independent Organisational Review;*
- (2) the Council NOTES that;*
  - (a) in accordance with the Town of Vincent Local Law relating to Standing Orders, Clause 3.21(3), the Council cannot vote on a Motion to Change a Council Decision without having first considered a Statement of Impact prepared by the Chief Executive Officer of the legal and financial consequences of the proposed change; and*
  - (b) a Statement of Impact, in accordance with the Town's Standing Orders, will be submitted to a Special Meeting of the Council to be held on 15 October 2002;*
- (3) the Council considers the process, timelines, terms of reference, relationship to the Strategic Planning Process and the Impact Statement at a Special Meeting of the Council to be held on 15 October 2002, including a report from the Chief Executive Officer on all these matters.*
- (4) in accordance with the Town of Vincent Local Law relating to Standing Orders, Clause 3.8(1), a Motion be moved “THAT THE QUESTION – CLAUSES (4), (5), (6) AND (7) – BE DEFERRED” to a Special Meeting of the Council to be held on 15 October 2002;*
- (5) the Council, at its Ordinary Meeting held on 23 July 2002 (Item No. 10.2.4.) decided (inter alia);*

**COUNCIL DECISION ITEM 10.2.4**

*“That the Council APPROVES the attached 2002/2003 Capital Works Schedule subject to the Angove Street Upgrade Works being moved from December (to avoid the festive season) and the project commence in October; ...*

*Independent Organisation Review: February – May 2003”;*

- (6) Councillors Chester, Doran-Wu, Drewett, Franchina, Hall and Piper MOVE a motion to change the decision by;*

*“changing the timeline proposed for the Independent Organisation Review scheduled for February – May 2003”;*
- (7) in accordance with Regulation 10 of the Local Government (Administration) Regulations 1996 as referred to in Section 5.25(e) of the Local Government Act 1995, Councillors Chester, Doran-Wu, Drewett, Franchina, Hall and Piper, being more than one third of the number of offices of members of the Council, support this motion; and*
- (8) the Council RESOLVES BY AN ABSOLUTE MAJORITY to change the decision by;*
  - (i) changing the Independent Organisational Review timeline scheduled for February – May 2003;*

- (ii) *carrying out the Independent Organisational Review scheduled for October – December 2002;*
- (iii) *changing the Capital Works Schedule 2002-2003 to reflect the new timetable;*
- (iv) *endorsing the required processes to facilitate the Independent Organisational Review to commence immediately; and*
- (v) *as a basis, uses the Terms of Reference as distributed to Elected Members, as shown below;*

*“Terms of Reference*

1. *Examine Council’s Strategic Plans, identify critical issues and determine the capacity of the Council to achieve stated objectives given staffing structure, resources and timelines. Prepare a draft strategic plan for discussion.*
2. *Review the organisational structure and reporting lines including staffing levels to determine cost effectiveness and capacity to deliver the strategic and operational objectives of Council.*
3. *Examine Council in terms of;*
  - 3.1 *Agenda preparation, quality and timeliness of reports;*
  - 3.2 *Preparation and research of documentation through from the Executive Group to Council;*
  - 3.3 *Measurable outcomes and commitment to follow through on Council decisions by the Executive Group.*
4. *Review the employment contracts, letters of offer for all Senior Executives including;*
  - 4.1 *Current Executive performance management methodology against Key Performance Indicators (KPIs);*
  - 4.2 *Performance incentive arrangements and practices;*
  - 4.3 *Effectiveness and measurement of any Enterprise Bargaining Agreements (EBAs) or Work Place Agreements (WPAs);*
  - 4.4 *Remuneration review practices.*
5. *Examine financial arrangements in direct measurement to;*
  - 5.1 *Budget performance preparation, management and performance;*
  - 5.2 *Performance against industry benchmarks/best practice in government and commerce;*
  - 5.3 *Financial reporting at the Elected Members, Executive Group and operational levels;*
  - 5.4 *Audit performance.*
6. *Review level of commercial acumen and awareness of business and financial transactions as they relate to;*
  - 6.1 *Outsourced contracts;*
  - 6.2 *Council trading enterprises (i.e. revenue generating activities);*
  - 6.3 *Internal/External Service Level Agreements.*

7. *Review the extent to which Senior Executives are suited to meet the future requirements of the organisation.*
8. *Survey the level of staff satisfaction covering;*
  - 8.1 *Councillors;*
  - 8.2 *Senior Executives;*
  - 8.3 *Available resources;*
  - 8.4 *Implementation of objectives;*
  - 8.5 *Follow through on stated initiatives;*
  - 8.6 *Satisfaction with Management.*
9. *On site review to be completed in six (6) weeks and final report to be delivered within four (4) weeks."*

### **Capital Works Schedule 2002-2003**

At the Ordinary Meeting of Council held on 12 March 2002 (Item 10.4.5), the Council resolved inter-alia as follows;

*"That; ...*

- (ii) *the Council considers allocating funds for an independent review of all Management areas in the 2002/03 Budget."*

### **Formulation of Capital Works Schedule**

In formulating the Council's annual Capital Works Schedule, the Town's Executive Management Team carefully programs the various projects. Consideration is given to;

- (a) Council decisions for specific requirements or projects;
- (b) budget constraints and funding timelines;
- (c) priority/urgency of projects;
- (d) staff resources and capacity to deliver;
- (e) orderly implementation of works to minimise costs;
- (f) public holidays;
- (g) staff leave;
- (h) involvement of other organisations (e.g. government departments);
- (i) impact on businesses/residents (e.g. festive season).

Full consultation and liaison with Section Managers and Supervisors is carried out. The Capital Works Schedule is then submitted to the Council for approval.

At the Ordinary Meeting of Council held on 23 July 2002, the Council considered the Capital Works Schedule 2002/2003 and resolved as follows;

*"That the Council APPROVES the attached 2002/2003 Capital Works Schedule, subject to the Angove Street Upgrade Works being moved from December (to avoid the festive season) and the project commence in October."*

The Capital Works Schedule at Page 8 lists "inter alia" the following;

### **Executive Management**

*Independent Organisational Review – Budget: \$75,000 – Time: mid-February to mid-May 2003.*

*Strategic Plan – Budget: \$8,500 – Time: October-December 2002.*

*Lot 118 Marmion Avenue (Tamala Park Studies) – Budget: \$50,000 – Timeline: Ongoing.*

The Chief Executive Officer is not aware of any reasons for the Independent Organisational Review to be brought forward.

## **ORGANISATIONAL REVIEW PROCESS:**

It is essential that the process for any Organisational Review be carefully considered and include;

### **1. Objectives and Outcomes**

It is essential that there are clear Objectives and required Outcomes by the Council, Elected Members and Chief Executive Officer.

These have not been identified or detailed – Elected Members should be given the opportunity to submit their comments and objectives. Similarly, the Chief Executive Officer should also be given this opportunity. The Council should approve of Project Objectives and Outcomes and these must form part of the Project Brief. Failure to do so will result in;

- (a) possible increased costs by the Review consultants;
- (b) ambiguity of what is required;
- (c) possible delays in completing the review within the specified time.

Objectives and outcomes can include;

1. improve the delivery of services to the ratepayers and residents;
2. examine the level of service to the community;
3. eliminate duplication;
4. review and streamline delegation; and
5. reduce corporate financial costs.

This list is not exhaustive and it is recommended that the Objectives and Outcomes be prepared in consultation between the Chief Executive Officer and the Council.

The Terms of Reference can be re-drafted to achieve the desired objectives.

### **2. Key Issues**

It is very important that the key issues be identified and there is a clear understanding of the key issues and how these will be addressed as part of the review.

Due to the limited time available to prepare this report, the key issues have not been identified. However, these could include;

1. consideration of benchmarking with like organisations and a review of “best practice”;
2. utilising competitive tendering, Business or Service Units, Trading Enterprises, or Contracting Out as a means of promoting value for money;
3. focusing on performance outputs to produce clearer standards and improved quality of service;

4. promoting improved accountability and responsiveness by more emphasis on the customer/provider relationship;
5. encouraging greater innovation in service delivery;
6. achieving greater efficiency and effectiveness of services by improved monitoring of outputs and performance measures; and
7. an audit of skills and personal development within the Town's workforce to improve work practices, service delivery and productivity.

However, the above will need to be also considered taking cognisance of the Council's philosophy of providing a "community Service obligation", whereby the Council does not impose or recover the true or actual cost of a service.

An Organisational Review will inevitably result in changes, which may include;

- (a) organisational structure;
- (b) processes and procedures;
- (c) staffing levels;
- (d) elimination or creation of positions.

Change also causes uncertainty, particularly where full consultation with all involved does not take place.

### **3. Consultation**

It is paramount that full consultation occurs at all levels in the organisation prior to the review being carried out.

It will also be necessary to consult with the three unions which represent the Town's workforce. Industrial legislation requires the Unions to be informed. Failure to do so may jeopardise the Town's harmonious industrial relations.

Change in organisations has become a part of the continual improvement process. However, if not properly managed may adversely impact on current service delivery, staff morale, staff turnover and this should be avoided at all costs.

### **4. Methodology**

The methodology to carry out the Organisational Review needs to be carefully considered in order that;

- (a) all stakeholders are fully informed and consulted. (As previously stated, this includes the relevant Unions that represent the Town's employees.);
- (b) the process used is clear to all stakeholders, (e.g. SWOT analysis (strengths, weaknesses, opportunities and threats), expectations);
- (c) staff have "ownership" of the review;
- (d) the method for collating and analysing information is clearly defined (e.g. surveys, forums, interviews);
- (e) the resources required are to be clearly specified to ensure that the review is carried out within the specified contract price and the outcomes are achieved; and
- (f) independence, accountability and transparency is maintained throughout the review.

## 5. Project Brief and Selection Criteria

Preparation of a Project Brief and Selection Criteria for the appointment of an independent consultant is essential. Failure to carefully specify requirements may invariably lead to cost escalations for “extras” identified during the review. The proposed methodology will need to be identified by the project consultants. The Council may wish to give some direction in this matter.

Due to the limited time available to prepare this report, a Project Brief and Selection Criteria could not be prepared.

## 6. In-House Expertise

In 1999/2000, the Chief Executive Officer carried out and successfully completed studies in Public Sector Management at Flinders University and is well acquainted with change management, strategic planning and organisational review, benchmarking and best practice.

All of the Town’s Executive Managers and many of the Section Managers possess post-graduate qualifications. This in-house expertise can be used as it may save on consultants’ fees.

### ORGANISATIONAL REVIEW TIMELINE – INDICATIVE:

An indicative timeline is shown below. This is based on the assumption that the Chief Executive Officer devotes the majority of his time to this project over the next few months.

It is also based on the assumption that feedback from Elected Members is not delayed.

<b>Item</b>	<b>Time Period</b>
Prepare Project Objectives, Outputs, Project Brief and Selection Criteria – in consultation with Elected Members	2-3 weeks
Adoption of above by Council	1 week
Prepare Tender Documentation	2 weeks
Advertise Tender	2-3 weeks
Assessment of Tender (depending upon the number of tenders received)	2 weeks
Council to Award Tender	1 week
On-site Independent Organisational Review	6 weeks
Independent Organisational Review – Preparation of Report	4 weeks
<b>TOTAL</b>	<b>20-22 weeks</b>

### STRATEGIC PLAN TIMELINE - INDICATIVE:

On 23 September 2002, a memorandum was sent to all Councillors relating to the Strategic Plan, advising of;

indicative timeline

selection criteria to be used in the selection of the consultants.

The indicative timeline is;

Item	Timeline	Indicative hours
1. Advertise quotation	21 September	By Town
2. Issue of Background Papers	23 September – 4 October	By Town
3. Quotations Close	2pm Tuesday 8 October 2002	By Town
4. Assessment of Quotations	8 – 15 October 2002	By Town
5. Council Decision to appoint Consultant	22 October 2002	By Town
6. Initial briefing with CEO/Mayor	23-30 October 2002	1hr approx
7. Meeting with CEO and Executive Managers	26 October - 9 November 2002 Saturday	1hr approx
8. Meeting with Elected Members and key staff (full day or equivalent evenings)	26 October - 9 November 2002 Saturday	4-5hrs approx
9. Meeting with Community/Stakeholders	Mid to late November Evening	2-3hrs approx
10. Joint Meeting with Elected Members/Key Staff/Community Stakeholders (Evening)	Late November 2002	2hrs approx
11. Preparation of Draft Strategic Plan with strategies, action plan timeline and submission of electronic version within 14 days of joint meeting.	Late November 2002 – early December 2002	
12. Adoption of Draft Strategic Plan by Council	17 December 2002	By Town
13. Advertising of Draft Strategic Plan	18 December 2002 to 14 February 2003	By Town
14. Adoption of Final Strategic Plan	25 February 2003	By Town

### STRATEGIC PLAN:

In accordance with the Town's adopted Capital Works Schedule 2002-2003, an advertisement was placed in "The West Australian" newspaper on 21 September 2002 calling for quotations to be submitted for a review of the Town's Strategic Plan. Quotations were required to be submitted by 8 October 2002.

On 23 September 2002, a memorandum was sent to all Elected Members with copies to Executive Managers and Managers outlining the indicative program and selection criteria and requesting comment on dates to carry out group sessions with Elected Members and Staff.

The following are relevant parts of the report (Item 10.4.3) which was submitted to the Ordinary Meeting of Council held on 12 February 2002;

*"That;*

- (i) the Progress Report on the Town of Vincent 2000-2002 Strategic Plan be received; and*
- (ii) an amount of \$8,500 be listed for consideration in the 2002/2003 Draft Budget for the Strategic Plan to be completely reviewed.*

### BACKGROUND:

*The Council's Strategic Plan 2000-2002 was adopted on 24 October 2000. Over the previous two years, there have been periodic reports to Council on the progress of completing the strategies and action plans.*

*The process would include;*

1. *workshops with Elected Members and Council's Senior Officers;*
2. *workshops with various community and business groups;*
3. *workshops with ratepayers and residents;*
4. *extensive consultation and advertising;*
5. *printing and distribution of plan.*

*It is proposed to carry out this review in the last quarter of 2002.*

### **Quotations Received**

Documentation was requested from (16) consultants and at the close of the quotation period (8 October 2002), eight (8) quotations were received as follows;

	<i>COMPANY</i>	<i>QUOTED AMOUNT (Incl GST)</i>
1	<u>Bessen Consulting Services</u> PO Box 879 Fremantle WA 6160	\$4,895.00
2	<u>GSM – Governance Systems Management</u> Suite 2 / 11 Ventnor Ave West Perth WA 6005	\$5,000.00
3	<u>Ernst &amp; Young</u> Central Park 152 St Georges Tce Perth WA 6000	\$5,500.00
4	<u>Liz Pattison Pty Ltd</u> 22 Brisbane Tce Northbridge WA 6003	\$7,392.00
5	<u>Murray Jorgensen &amp; Associates</u> PO Box 1211 Canning Bridge WA 6153	\$8,470.00
6	<u>AIM – Australian Institute of Management</u> 76 Burkdale St Floreat WA 6014	\$13,200.00
7	<u>PFK Corporate Finance</u> Level 7, BGC Centre 28 The Esplanade Perth WA 6000	\$15,000.00
8	<u>Consulting Communities</u> 14 Lagonda Place Marangaroo WA 6064	\$15,675.00

These are currently being assessed and a report is proposed to be submitted to the Ordinary Meeting of Council to be held on 22 October 2002 (time permitting to assess the quotations) or on 5 November 2002.

### **RELATIONSHIP TO THE STRATEGIC PLANNING PROCESS:**

#### **Best Practice**

It is considered “Best Practice” that a review of an organisation’s Strategic Plan should be carried out prior to an Organisational Review. The Strategic Plan determines the future strategic direction of the organisation.

Changes in strategic directions, objectives, priorities and goals should be decided upon by the Council, in liaison with the Town's Senior Staff as part of the review of the Strategic Plan. The Executive Management Team would then work in collaboration with the Section/Functional Managers to set objectives for their activities, draft action plans and arrange resources to achieve those agreed objectives and goals.

An Independent Organisational Review will then identify any organisation resources, staff and requirements necessary to achieve the strategies identified in the Strategic Plan.

### **Local Government – Precedence**

The "Report of the Inquiry into the City of South Perth" - Finding 11 - made reference to the fact that any organisational restructuring should be the subject of coherent strategic planning. The correlation is made between Strategic Planning, Organisational Review and Organisational Restructuring.

The "City of South Perth Inquiry Report – 22 November 2000 - by Gary Martin" at Page 100 – "Outcome vs Process" states;

*"Government decision making and operations must be based upon due process to provide the necessary level of accountability."*

It is very evident that coherent strategic planning is essential as part of the process.

### **Local Government Practices**

Discussions with the Chief Executive Officers of two of Perth's largest Local Governments both express, in their opinion, that it is essential that the strategic planning process should be carried out prior to carrying out an Organisational Review.

The Town's Chief Executive Officer is strongly of the opinion that the Strategic Plan review should be carried out prior to an Organisational Review.

### **TERMS OF REFERENCE:**

The original Terms of Reference provided as part of the Motion have been reviewed and the following is advised;

#### **1. Strategic Plan**

*Examine Council's Strategic Plans, identify critical issues and determine the capacity of the Council to achieve stated objectives given staffing structure, resources and timelines. Prepare a draft strategic plan for discussion.*

#### Chief Executive Officer's Comments:

The aim of this Term of Reference is generally satisfactory, however requires rewording. The Town's current Strategic Plan was prepared in late 1999 and after extensive community consultation was adopted by Council on 22 August 2000.

At the Ordinary Meeting of Council held on 12 February 2002, the Council adopted a report which advised that the Strategic Plan needs to be reviewed, as it is almost outdated. Furthermore, since the adoption of the current Strategic Plan, one third of the Council has changed with Mayor Catania and Councillors Cohen and Doran-Wu being appointed in May 2001.

To conduct an Organisational Review and use the current Strategic Plan would be considered inappropriate and of little value as many aspects of the current Strategic Plan have been completed. Many are in need of review.

As the review of the Town's Strategic Plan is proposed to be carried out separately, it is recommended that the words; "*Prepare a draft strategic plan for discussion.*" should be deleted from the Term of References as it will be a duplication of the Strategic Plan review and may result in costing savings.

This Term should also be expanded to examine the Key Performance Indicator alignment with the Town's Strategic Plan and Principal Activities Plan. This is considered "Best Practice".

**CEO's Recommended Amended Term of Reference:**

- 1. Examine Council's Strategic Plans in terms of,**
  - 1.1 identifying critical issues;**
  - 1.2 determining the capacity of the Council to achieve stated objectives given current staffing structure, resources and timelines; and**
  - 1.3 analysing the extent to which the goals of the organisation are pursued and aligned with Key Performance Indicators specified in the Town's Adopted Strategic Plan and the Principal Activities Plan.**

2. *Review the organisational structure and reporting lines including staffing levels to determine cost effectiveness and capacity to deliver the strategic and operational objectives of Council.*

**Chief Executive Officer's Comments:**

No change to the wording is recommended. The Term has been made easier to read.

**CEO's Recommended Amended Term of Reference:**

- 2. Review the organisational structure and reporting lines including staffing levels to determine;**
  - 2.1 cost effectiveness;**
  - 2.2 capacity to deliver the strategic and operational objectives of the Council; and**
  - 2.3 service level delivery to the community.**

3. *Examine Council in terms of;*
  - 3.1 Agenda preparation, quality and timeliness of reports;*
  - 3.2 Preparation and research of documentation through from the Executive Group to Council;*
  - 3.3 Measurable outcomes and commitment to follow through on Council decisions by the Executive Group.*

**Chief Executive Officer's Comments:**

It is recommended the introduction of the words "systems, procedures and processes: into the title identifies what is to be actually reviewed.

- 3.1 Agenda preparation, “*systems, procedures and processes*”.
- 3.2 Delete – “*through from the Executive Group to Council*”. The original term is considered too restrictive as many reports are prepared and generated at officer and Section Manager level.

- 3.4 Insert a new clause as follows;

*“validity of decisions by Council in relation to the officer recommendations, policy guides and strategic direction of the organisation.”*

Decisions of Council, especially where they differ from the Officer Recommendation, legislation, Council Policies and Guidelines, impact, sometimes significantly, on the organisation workload, costs and service delivery (e.g. appeals, legal expenses).

**CEO’s Recommended Amended Term of Reference:**

- 3. Examine Council systems, procedures and processes in terms of;**
  - 3.1 agenda preparation, quality and timeliness of reports;**
  - 3.2 preparation and research of documentation;**
  - 3.3 measurable outcomes and follow through on Council decisions by the Executive Management Team; and**
  - 3.4 validity of decisions by the Council in relation to the Officer Recommendations, legislation, Council Policies and Guidelines and strategic direction of the organisation.**

4. *Review the employment contracts, letters of offer for all Senior Executives including;*
  - 4.1 *Current Executive performance management methodology against Key Performance Indicators (KPIs);*
  - 4.2 *Performance incentive arrangements and practices;*
  - 4.3 *Effectiveness and measurement of any Enterprise Bargaining Agreements (EBAs) or Work Place Agreements (WPAs);*
  - 4.4 *Remuneration review practices.*

**Chief Executive Officer’s Comments:**

The review should include all Council Officers and Employees and not only be restricted to Senior Officers (i.e. Chief Executive Officers and Executive Managers). The Town’s Managers and key staff (such as supervisors) are also critical to day to day operations and should also be included.

The deletion of the words “*employment contracts, letters of offer for Senior Executives*” is to reflect the recommended change to this Term of Reference.

The Chief Executive Officer, Executive Managers and Managers are all employed under contract. The Chief Executive Officer’s contract has two years remaining and Executive Managers 2.5 years of their contracts remaining. The Managers have approximately 3years remaining. To review these contracts at this stage appears to have little logic or value.

- 4.1 Delete – “*Executive*” to reflect the recommended change
- 4.4 Delete the word “*practices*” and insert “*performance review procedures*”.

**CEO’s Recommended Amended Terms of Reference:**

- 4. Review the system of remuneration and performance assessment of Council Officers and employees, including;**
  - 4.1 current performance management methodology against Key Performance Indicators (KPIs);**
  - 4.2 performance incentive arrangements and practices;**
  - 4.3 effectiveness and measurement of any Enterprise Bargaining Agreements (EBAs) or Work Place Agreements (WPAs); and**
  - 4.4 remuneration/performance review procedures.**

- 5. *Examine financial arrangements in direct measurement to;*
  - 5.1 *Budget performance preparation, management and performance;*
  - 5.2 *Performance against industry benchmarks/best practice in government and commerce;*
  - 5.3 *Financial reporting at the Elected Members, Executive Group and operational levels;*
  - 5.4 *Audit performance.*

**Chief Executive Officer’s Comments:**

No change is recommended.

- 6. *Review level of commercial acumen and awareness of business and financial transactions as they relate to;*
  - 6.1 *Outsourced contracts;*
  - 6.2 *Council trading enterprises (i.e. revenue generating activities);*
  - 6.3 *Internal/External Service Level Agreements.*

**Chief Executive Officer’s Comments:**

Delete the words “*level of commercial acumen and awareness of business and financial transactions as they relate to*” and insert “*performance outcomes of*”.

The words “*commercial acumen*” refer to one’s “*quickness of perceptions, mental acuteness, keen insight*”. This focuses on individual persons, whereas the emphasis should be on “*performance outcomes*” – after all, the end result (outcome) is what is important to the organisation.

“6.4 *The Council’s philosophy and expectation for cost recovery, cost of services and service delivery;*”

The Chief Executive Officer believes that a Council’s philosophy determines many costs which are charged or imposed on the Town’s ratepayers, residents and users of facilities. A “community service obligation” component, whereby the Council does not impose or recover the true/actual cost, determines in many cases where a service is operated at a profit (e.g. Loftus Recreation Centre), is cost neutral (i.e. breaks even) or does not generate revenue (e.g. Library, Community Development Services, Waste Management).

*“6.5 Internal/external services to eliminate duplication.”*

Duplication of services is an unnecessary expense which should be eliminated. This will also involve services which are currently provided by the Council and also the State or Federal Government or other organisations.

**CEO’s Recommended Amended Terms of Reference:**

- 6. Review performance outcomes of;**
  - 6.1 outsourced contracts;**
  - 6.2 council trading enterprises (i.e. revenue generating activities)**
  - 6.3 Internal/External Service Level Agreements;**
  - 6.4 the Council’s philosophy, policies and expectation for cost recovery of services, cost of services and service delivery; and**
  - 6.5 internal/external services to eliminate duplication.**

7. *Review the extent to which Senior Executives are suited to meet the future requirements of the organisation.*

**Chief Executive Officer’s Comments:**

This Term of Reference is considered vague and very subjective. Since the Town’s current Strategic Plan is almost out of date, it would be difficult to assess what are the *“future requirements of the organisation.”* Furthermore, it is directed specifically at the Chief Executive Officer and Executive Managers, which is contrary to the comments expressed by many of the Elected Members that this Organisational Review is not aimed at any individuals.

**It is recommended that it be deleted.**

8. *Survey the level of staff satisfaction covering;*
  - 8.1 *Councillors;*
  - 8.2 *Senior Executives;*
  - 8.3 *Available resources;*
  - 8.4 *Implementation of objectives;*
  - 8.5 *Follow through on stated initiatives;*
  - 8.6 *Satisfaction with Management.*

**Chief Executive Officer’s Comments:**

It is recommended that “Elected Members” be inserted in place of “Councillors”. This will also then include the Mayor (as the Mayor is not a Councillor).

Insert *“work environment”* as this has a direct correlation on staff satisfaction and morale. Delete *“follow through on stated initiatives”* as this is covered in Term of Reference 3.3.

**CEO's Recommended Amended Terms of Reference:**

- 7. Survey the level of staff satisfaction covering;**
  - 7.1 Elected Members;**
  - 7.2 Senior Executives;**
  - 7.3 available resources**
  - 7.4 implementation of objectives;**
  - 7.5 work environment; and**
  - 7.6 satisfaction with management.**

**New Recommended Terms of Reference**

- 8. Review the Organisational structure, administrative practices and procedures and decision making processes for approvals in direct measurement to;**
  - 8.1 reporting to the Council;**
  - 8.2 extent of delegation;**
  - 8.3 performance against industry benchmarks/best practice in like local governments.**

**Chief Executive Officer's Comments:**

This Term of Reference has the potential benefit to streamline procedures and processes. It may also reduce the workload of the administration and Elected Members. The extent of delegation should be independently reviewed, as it would also impact on workload, processes and procedures.

- 9. Report on the cost implications to the Council in terms of;**
  - 9.1 any increased costs or cost savings as a result of any proposed recommendations/findings,**
  - 9.2 implementation of any recommendations/findings; and**
  - 9.3 improved efficiencies in the level of service to the community.**

**Chief Executive Officer's Comments:**

This Term of Reference is considered essential as all too often consultant reports do not identify or quantify the cost implication as a result of their review/findings. The Town's ratepayers and residents should be informed, as this may directly impact on service costs, charges or future rates to be imposed.

- 10. On site review to be completed in six (6) weeks and final report to be delivered within four (4) weeks.*

**Chief Executive Officer's Comments:**

No change to the Term of Reference is recommended.

However, it is recommended that the Project Brief include a requirement that the written report be provided in an electronic form acceptable to the Town's Chief Executive Officer and 14 printed copies be provided.

The electronic form will enable it to be installed onto the Town's computer system, to enable day to day access to the document by officers. The number of hard copies will enable a copy to be given to all Elected Members, Chief Executive Officer and Executive Managers and a copy for Council records.

### **STATEMENT OF IMPACT:**

In accordance with the Town's Standing Orders, the Chief Executive Officer is required to prepare a "Statement of Impact" of the legal and financial consequences of the proposed revocation or change.

#### **1. Legal Consequences**

It is one of the Chief Executive Officer's prime functions to provide advice and information to the Council, as required by S.5.41(a) and (b) of the Local Government Act 1995. To date, neither the Chief Executive Officer nor any of the Town's Staff have had any input into the preparation of the Terms of Reference. The opportunity to have input into the proposed "Terms of Reference" is in accordance with the Chief Executive Officer's functions.

#### **2. Financial Consequences**

##### **2.1 Capital Works Projects**

In view of the short duration provided in preparing this report, a full assessment of the impact on capital works projects and their completion cannot be made at this point of time. Executive Managers reviewed their specific areas of responsibilities and have provided a report. These reports are summarised later in this report.

##### **2.2 Amended Capital Works Program**

A review of the Capital Works Program may result in a rescheduling of programs to avoid any cost increases, which will impact on the Town's Budget. It is difficult to provide these details, at this stage, until the full details of the proposed Independent Organisational Review have been assessed. However, an obvious matter is the timing of the proposed review of the Council's Strategic Plan.

##### **2.3 Day to Day Operational Matters and Service Delivery**

- (a) The impact on day to day operational matters and service delivery has been carefully assessed to ensure that it is maintained at its current high level and there is no inconvenience to our ratepayers and residents.
- (b) The Town's staff leave roster has been reviewed to ensure that adequate staffing levels are maintained, particularly in key operational areas. A review of the staff leave roster to ensure that Senior Officers and key staff will be available to participate in the review, has also been carried out as any delay will extend the consultancy with resultant cost increases. This has identified that a number of staff will be on leave during October 2002 to January 2003, in accordance with their entitlement.

It will be necessary to engage temporary staff to cover absences and maintain service delivery. Details are shown in the following Division reports.

### **Implications for the Corporate Services Division:**

Should an organisational review be undertaken, it is considered the Executive Manager of Corporate Services and Managers within the Division would have to allocate significant time during the period to provide relevant information to the respective consultants.

### **Project Postponement**

The following projects will need to be postponed to assist with the requirements of the organisational review:

computer desktop upgrade;  
customer satisfaction survey; and  
policy and procedures manual- Leederville Gardens Retirement Village.

The implementation of a new Corporate System which was live from July 2002 requires extensive development and support for its first six months of implementation. This is a critical financial year for the Manager Financial Services and officers in the Financial Services Section as they actively liaise with computer supplier, Civica, for continuing set-up and the introduction of additional modules in the early stages. Given the exclusive knowledge and skills required for the management of the project, it is not feasible to postpone this work neither is it possible to provide extra staffing to do the work required of the Manager.

The Principal Activities Plan which is coordinated by the Executive Manager Corporate Services will be undertaken in November 2002 which is critical for the Budget preparation process, which commences from January to March 2003. This work will be delayed. Again this role will not be easily resolved through the provision of additional staff.

### **Beatty Park Leisure Centre**

Beatty Park Leisure Centre's 40th Birthday Celebrations cannot be postponed and given that this is a significant project, extra staffing resources will be required to assist if the Manager and key staff are required to assist with the organisational review. The period of October and November 2002 will see the commencement of approximately 10 - 15 casual summer staff being recruited. An intensive in house training program is conducted with the new staff during this period to ensure they are fully competent by December and the peak period to follow. A number of senior staff are involved in this induction and training process. If staff are required to participate in a review during this period, additional staff hours would be required.

The period of December 2002 to March 2003 is Beatty Park Leisure Centre's peak period. As a rule the Centre actively avoids major planning projects during this period as they need to be available and proactive in responding to day to day operational issues which arise during this period. If staff are required to participate in a review, additional staff hours would be required.

### **Implications for the Environmental & Development Services Division:**

It is assumed that the Independent Organisational Review will mainly consume the time of the Executive Management Team (comprising the Chief Executive Officer and Executive Managers) and to a lesser extent, the Managers.

It is expected that the Division Officers, other than the Executive Manager Environmental and Development Services and the Section Managers, involvement with the Independent Organisational Review will be mainly responding to the survey of the level of staff satisfaction.

Notwithstanding the above, it appears that a significant amount of data collection, collation and possibly analysis will be required, such as data relating to key performance indicators, timing of agenda preparation and work flows.

Additionally, in the Customer service areas (within all sections of the Division), administration for the review in terms of keeping staff informed of requirements of the review, such as data collection or undertaking, and completing surveys, will require an unknown amount of time, and remove the staff from their function of service provision and delivery to the customer.

Overall, it is expected that there will be some impact on the operations of the Division, which currently operates at a level, close to its capacity, and any significant demands on staff time may result in reduced service delivery. It is recommended that the following matters should be addressed to minimise the impact on the operations of the EMT and the Managers during the Independent Organisational Review:

Appointment of temporary administrative staff, say 1-2 full-time officers for the 6 weeks "on-site review" period, to collect, collate and possibly analyse relevant data, particularly in the Planning and Building Services Section.

Development and implementation of procedures and practices, including possibly more delegations to the Managers and other Officers, if required, to ensure that the functions of the Executive Management Team and Managers are fully operational and not unduly disrupted by the time consumed with the Review.

In Library Services, it will be necessary to extend the hours of part time staff (librarians and /or professional) to ensure full coverage of desk rosters.

#### **Implications for the Technical Services Division:**

Should an organisational review be undertaken it is envisaged that the Executive Manager Technical Services, Managers and Supervisors within the Division, based on the draft terms of reference, would be required to allocate a significant amount of time during the period to provide relevant information to the respective consultants as required.

Depending on the amount of time required by key personnel during the review some capital works projects, including other ongoing and specific tasks, may be impacted upon. Depending on the timing of the Review, some critical deadlines may not be achieved e.g. funding submissions, agenda preparation, providing information which needs to be researched, to residents in a timely manner

Operationally, the Technical Services Division has a full Capital Works Program which requires an ongoing commitment by the Executive Manager Technical Services, Division Managers and Supervisors to ensure it is completed on time and on budget. In addition the large number of ongoing requests received which require extensive investigation, in some instances, also require our constant attention.

“Have your Say” surveys consume a large part of our time in investigating, actioning, and responding.

To maintain an acceptable "level of service" to our customers during the review, additional temporary resources may possibly be required, however this will need to be determined at the time.

Work Implications:

The Review may have some impact (in terms of time) on some of the following;

Preparation of mid-year Budget review, including updating programs;  
Funding submissions to be submitted early 2003;  
Attendance at Mindarie Regional Council Technical and Strategic Working Group meetings, Local Area Management Working Group meetings and various In House Working Groups;  
Day to day liaison with Operational matters through the Principal Supervisor Engineering Services, staff liaison and day to day miscellaneous tasks/duties.

On the assumption that the personnel undertaking the review will require unfettered access to staff for extended periods there is potential that the review will impact upon the areas identified by the Executive Manager Technical Services and more specifically the following;

Capital works project implementation, i.e. Engineering Technical Officer Design and Surveying on-call (during office hours) to setout and assist, could result in down time for works crew.

Processing permit applications, normally 24 hour notice for inspection and approval may be delayed.

With the imminent commencement of several major capital works projects i.e. Leederville Oval redevelopment, it is anticipated that Engineering Design Services will play a crucial role in receiving and disseminating digital information from the various consultants (design and construction drawings) and provide other assistance/services as required. It is anticipated that this increase in workload will coincide with the proposed review and therefore there is potential for conflicting priorities. Additional staff will need to be engaged or the work outsourced to private enterprise.

**State Sporting Facilities Projects:**

The Town's Chief Executive Officer (and Senior Officers) have been progressing these projects, which have a combined total value of \$19,320,000, in partnership with the State Government of Western Australia. These require considerable time and input. Recent progress reports to the Council have specified timelines. Careful consideration will need to be given to these adopted timelines and "critical dates", as any delay will have significant cost escalations to these projects. This has been referred to the Project Architects and Consultants and the following is advised;

Leederville Oval Redevelopment

This timeline was approved by the Council at its Ordinary Meeting of Council held on 24 September 2002.

Project	Weeks Duration	Start Date	Finish Date
Preliminary Sketch Design	16	15 April 2002	14 August 2002
Approval to proceed with working drawings		14 August 2002	
Prepare working drawings	12	14 August 2002	14 November 2002
Steering Committee Decision		17 September 2002	
Council Decision – Application to CSRFF		24 September 2002	
<b>Tender Period</b>	<b>3-4</b>	<b>9 November 2002</b>	<b>31 November 2002</b>
<b>Tender Assessment</b>	<b>1</b>	<b>1 December 2002</b>	<b>7 December 2002</b>
<b>Council Meeting/Award Contract</b>		<b>17 December 2002</b>	
Construction Period	46	18 December 2002	31 October 2003
<u>Stage 2</u>			
Installation of Lights	12	1 July 2003	1 October 2003
Construction of toilets and other works	12	1 July 2003 (or as soon as the final decision is made)	1 October 2003
<u>Stage 3</u>			
Completion of Public Open Space and Carparks	16	1 January 2004 (or sooner if possible)	1 April 2004

Comment:

The timeline for this project is very tight and critical and any delay in assessing and approving the working drawings, tender specification or tender evaluation will invariably cause an increase in project costs. More importantly, any delay in this timeline will delay commencement of building works and this will result in Leederville Oval not being available for use as a West Australian Football League Oval. East Perth Football Club will need to find an alternative oval for playing and training. It is understood that if this occurs, they will not only be required to pay for ground hire, but may also not receive gate takings.

The Project Architect, Oldfield Knott Architects Pty Ltd, has been requested to provide comment on the impact on this project, if an Independent Organisational Review is brought forward and has advised of the following;

*“14 October 2002*

*John Giorgi  
Town of Vincent  
PO Box 82  
LEEDERVILLE WA 6902*

*Dear John*

***REDEVELOPMENT OF LEEDERVILLE OVAL***

*I am in receipt of your fax concerning the Independent Organisational Review.*

*Whilst I am not aware of the nature of this Review I am most concerned that it is possible that it may cause delay in your responses to our queries.*

*As you are aware, we are on a very tight program to complete documentation, call tenders, assess results and report back to Council in time for the 17 December 2002 Ordinary Meeting.*

*Should we not continue to receive quick responses to our ongoing questions there is no doubt that delay to this tight program would have the following consequences:*

*Failure to provide accommodation for East Perth and Subiaco Football Clubs at Leederville Oval in time for the start of 2003 season would necessitate finding an alternative venue for the teams to train and play their scheduled home games. It is impossible to quantify the cost of this scenario other than to say it would be a substantial cost which is in no way allowed for in our contingency sum.*

*Delay in letting the contract would also attract escalation costs in line with the projected increases in the Consumer Price Index, currently running at 3% per annum. This would equate to an additional cost to the project of approximately \$10,000.00 per month of delay.*

*There would no doubt be claims from ourselves and our sub-consultants for additional fees and costs due to the extended hours required to complete the consultancy, including out of sequence work. It is not possible to quantify the additional costs at this stage.*

*Please let us know as soon as possible if the Review is brought forward so that we can make every effort to minimise the delay and consequential additional costs to the budget.*

*Yours sincerely*

*HUGH GILL  
OLDFIELD KNOTT ARCHITECTS PTY LTD"*

#### Multi Purpose Rectangular Sports Stadium and Perth Oval Redevelopment

This timeline was approved at the Ordinary Meeting of Council held on 23 July 2002.

<b>Project</b>	<b>Timeframe</b>
Consultation	April 2002 - August 2002
Planning	August 2002 - September 2002
<b>Preparation of Design Brief</b>	<b>September/October 2002</b>
Preparation of Working Drawings	<b>November 2002</b> - February 2003
Advertising of Tender	March 2003
Tender Assessment and Award of Contract	March/April 2003
Construction - Stage 1	April 2003 - October 2003
Construction - Stage 2	April 2004 - October 2004
Construction - Stage 3 (if required)	April 2005 - October 2005
Construction - Stage 4 (if required)	April 2006 - October 2006

#### Comment:

This project is in the final stages of the Design Brief and the project is currently being costed. The Chief Executive Officer has had three meetings since the last three weeks with the Project Architect and Quantity Surveyor to review costs. This work is critical at this stage as any delay will invariably result in cost increases.

The Project Architect has been requested to provide comment on the impact of this project, if an Independent Organisational Review is brought forward, and has advised of the following;

*“14 October 2002*

*Town of Vincent  
246 Vincent Street  
LEEDERVILLE WA 6007*

*Attention: Mr John Giorgi*

*Dear Sir*

*RE: PERTH OVAL REDEVELOPMENT*

*In response to your letter of 10<sup>th</sup> October we comment as follows:*

*The Perth Oval Redevelopment is on a critical time line because there are only set dates that construction can occur, namely, April to September 2003.*

*In order to meet this time frame, it is critical that we receive quick responses to the numerous matters that will arise during design, financial and budget issues, client and authority approvals, liaison with Council and Government departments, etc.*

*We feel that if you are not available to provide responses to queries quickly, we may not be able to meet the proposed timelines that are critical to Government, Council, Community and User groups of the new stadium.*

*Obviously if the project is delayed to the following year, there would be additional escalation costs for which additional funding will need to be found.*

*We trust the above clarifies the matter and awaits your further advice.*

*Yours faithfully  
CON LAMPROPOULOS  
PETER HUNT ARCHITECT”*

State Indoor Multi Use Sports Centre

This timeline was approved at the Ordinary Meeting of Council held on 23 July 2002.

<b>Project</b>	<b>Timeframe</b>
Consultation	April 2002 - November 2002
Planning	November 2002 – March 2003
Preparation of Design Brief	March 2003 – June 2003
Preparation of Working Drawings	June 2003 – September 2003
Advertising of Tender	October 2003
Tender Assessment and Award of Contract	October/November 2003
Construction	January 2004 – December 2004

Comment:

The impact on this project is considered minimal, due to the relatively long planning stage (i.e. November 2002 to March 2003.)

Project Manager

Should an Independent Organisational Review be carried out during the period October 2002 to January 2003 or the Chief Executive Officer be required to devote a considerable amount of time to the preparation of the necessary documentation, it will be necessary to provide

additional resources to assist the Chief Executive Officer. This will ensure that the critical projects are properly resourced.

As Elected Members are aware, the previous year has been very busy and hectic, necessitating long hours to be worked by the Chief Executive Officer, Executive Managers and Managers. Many hours are performed outside normal working time.

The employment of a Project Manager will be necessary to maintain the current timelines, ensure the adopted Capital Works Schedule projects are not delayed and also that the redevelopment of Leederville Oval and the proposed Multi Purpose Rectangular Sports Stadium projects are not delayed or compromised.

A Project Manager employed on a contract basis would cost approximately \$81,000 per annum, as follows;

Salary	\$75,000
Vehicle Allowance	\$ 3,000
Administration Costs	\$ 1,500
Advertising/Recruitment costs	\$ 1,500
<b>Total</b>	<b>\$81,000</b>

Assuming that a Project Manager will be required for at least 6 months to cover the critical period, the immediate direct cost to the Council would be \$40,500. It may also be necessary to employ the Project Manager afterwards, to enable the Chief Executive Officer to implement any review recommendations.

It should be noted that the majority of the time spent on preparing this report, to ensure that it is ready for consideration at the Special Meeting of Council on 15 October 2002 has necessitated the Chief Executive Officer working considerable personal time outside normal working hours. In view of the importance of this matter, this has been willingly done.

There are no funds listed on the Budget 2002-2003 for a Project Manager.

### **Impact on Budget 2002-2003**

The impact on the Budget 2002-2003 has been identified as follows;

1. Direct Staff Costs

Project Manager (6 months)	\$40,500
Three temporary Officers (6 weeks)	\$13,500
	<u>\$54,000</u>

2. Possible Increase in State Sporting Facility Projects

\*Refer to Architects' letters.

3. Indirect Costs

Due to the limited time available to prepare this report, the indirect cost such as postponement of projects, project delay and impact on service delivery has not been costed.

**ADVERTISING/CONSULTATION:**

A tender will need to be advertised, in accordance with the Local Government (Functions and General) Regulations 1996, seeking consultants to carry out this Independent Organisational Review.

**FINANCIAL/BUDGET IMPLICATIONS:**

An amount of \$75,000 is included in the Budget 2002/2003 to carry out an Independent Organisational Review.

**Local Government (Functions and General) Regulations 1996**

*“Tenders to be invited for certain contracts*

*11.(1) Tenders are to be publicly invited according to the requirements of this Part before a local government enters into a contract for another person to supply goods or services if the consideration under the contract is, or is expected to be, more, or worth more, than \$50,000 unless subregulation (2) states otherwise.” (Underlining added.)*

**LEGAL/POLICY:**

The Local Government (Functions and General) Regulations 1996 requires a criteria to be specified in writing under which the tender will be assessed and awarded.

The Chief Executive Officer expresses strong concerns that he has not had any input, prior liaison or consultation in the preparation of the Terms of Reference, particularly as the Local Government Act Section 5.41 prescribes the Chief Executive Officer’s functions and these include providing advice and information to the Council. The Chief Executive Officer’s functions are;

*“5.41 The CEO’s functions are to –*

- (a) advise the council in relation to the functions of a local government under this Act and other written laws;*
- (b) ensure that advice and information is available to the council so that informed decisions can be made;*
- (c) cause council decisions to be implemented;*
- (d) manage the day to day operations of the local government;*
- (e) liaise with the mayor or president on the local government’s affairs and the performance of the local government’s functions;*
- (f) speak on behalf of the local government if the mayor or president agrees;*
- (g) be responsible for the employment, management, supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees);*
- (h) ensure that records and documents of the local government are properly kept for the purposes of this Act and any other written law; and*

- (i) *perform any other function specified or delegated by the local government or imposed under this Act or any other written law as a function to be performed by the CEO.”*

### **The Role of the Council**

“2.7. (1) *The Council –*

- (a) *directs and controls the local government’s affairs; and*
  - (b) *is responsible for the performance of the local government’s functions.*
- (2) *Without limited subsection (1), the council is to –*
- (a) *oversee the allocation of the local government’s finances and resources; and*
  - (b) *determine the local government’s policies.”*

### **The Role of the Mayor or President**

“2.8. (1) *The mayor or president –*

- (a) *presides at meetings in accordance with this Act;*
- (b) *provides leadership and guidance to the community in the district;*
- (c) *carries out civic and ceremonial duties on behalf of the local government;*
- (d) *speaks on behalf of the local government;*
- (e) *performs such other functions as are given to the mayor or president by this Act or any other written law; and*
- (f) *liaises with the CEO on the local government’s affairs and the performance of its functions.”*

### **The Role of Councillors**

“2.10 *A councillor –*

- (a) *represents the interests of electors, ratepayers and residents of the district;*
- (b) *provides leadership and guidance to the community in the district;*
- (c) *facilitates communication between the community and the council;*
- (d) *participates in the local government’s decision-making processes at council and committee meetings; and*
- (e) *performs such other functions as are given to a councillor by this Act or any other written law.”*

Comment:

It is not the role of a Councillor to contact a private organisation to obtain Terms of Reference or indicative costs. There has not been any previous Council decision authorising this. The Local Government Act specifically prescribes the role of the Council, Mayor, Councillors and Chief Executive Officer, as detailed in this report. It is not the role of Councillors to involve themselves with the day to day operations of the local government.

Furthermore, the Chief Executive Officer is of the view that the company involved has compromised its impartiality in the proposed review and therefore should not be considered in the tender process.

**Standing Orders**

The Town of Vincent Local Law Relating to Standing Orders, Clause 3.21(3) states as follows;

*“(3) The Council or a committee shall not vote on a motion to revoke or change a decision of the Council or committee whether the motion of revocation or change is moved with or without notice, if at the time the motion is moved or notice is given –*

- (a) action has been taken to implement the decision; or*
- (b) where the decision concerns the issue of an approval or the authorisation of a licence, permit or certificate and where that approval or authorisation of a licence, permit or certificate has been put into effect by the Council in writing to the applicant or the applicant’s agent by an employee of the Council authorised to do so;*

*without having considered a statement of impact prepared by or at the direction of the CEO of the legal and financial consequences of the proposed revocation or change.* (Underlining added.)

The implementation of the adopted Capital Works Schedule 2002-2003 has commenced and a progress report will be submitted to the Ordinary Meeting of Council to be held on 22 October 2002, detailing the first quarter of the schedule.

**STRATEGIC IMPLICATIONS:**

The Town's Strategic Plan 2000/2002 - Key Result Area 4: Leadership and Management and in particular, 4.2 states: *"introduce mechanisms to ensure continuous improvements in our service delivery."*

An Independent Organisational Review is not specifically identified in the Town's Strategic Plan.

**COMMENTS:**

It is essential that the Council determines and approves of the Project Objectives and Outcomes, Project Brief and Selection Criteria for this important project.

The amended Terms of Reference have been prepared by the Chief Executive Officer in consultation with the Executive Managers and Managers. It is considered that these will enable the review to be carried out in an objective and transparent manner.

In view of the increased costs, possibly delay in some Capital Works projects and the impact on day to day operations and service delivery, it is recommended that the Council not change its adopted Capital Works Schedule 2002-2003 and the Independent Organisational Review be carried out as previously approved by the Council.

The Chief Executive Officer considers that an Independent Organisational Review could yield positive results for the organisation should it be carried out in accordance with the appropriate Terms of Reference and follow the due process, as detailed in this report.

**8. CLOSURE**

Presiding Member, Mayor Nick Catania JP, declared the Meeting closed at 9.02pm with Councillors Drewett, Chester, Cohen, Doran-Wu, Franchina, Hall, Ker and Piper, Chief Executive Officer, John Giorgi JP, Executive Manager Environmental & Development Services, Rob Boardman, Ryan Sturman Journalist, Jenny D'Anger Journalist and 2 members of the public present.

These Minutes were confirmed by the Council as a true and accurate record of the Special Meeting of the Council held on 15 October 2002.

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