



CITY OF VINCENT

ORDINARY COUNCIL MEETING

7 February 2017

Notice of Meeting and Agenda

Notice is hereby given that an Ordinary Meeting of the Council of the City of Vincent will be held at the Administration and Civic Centre, at 244 Vincent Street (corner Loftus Street) Leederville, on **Tuesday 7 February 2017** at 6:00pm.

Len Kosova
CHIEF EXECUTIVE OFFICER

7 February 2017

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PROCEDURE FOR PUBLIC SPEAKING TIME The City of Vincent Local Law Relating to Standing Orders prescribes the procedure for persons to ask questions or make public statements relating to a matter affecting the City, either verbally or in writing, at a Council meeting.

Questions or statements made at an Ordinary Council meeting can relate to matters that affect the City. Questions or statements made at a Special Meeting of the Council must only relate to the purpose for which the meeting has been called.

1. Shortly after the commencement of the meeting, the Presiding Member will ask members of the public to come forward to address the Council and to give their name, address and Agenda Item number (if known).
2. Public speaking time will be strictly limited to three (3) minutes per member of the public.
3. Members of the public are encouraged to keep their questions/statements brief to enable everyone who desires to ask a question or make a statement to have the opportunity to do so.
4. Public speaking time is declared closed when there are no further members of the public who wish to speak.
5. Questions/statements are to be directed to the Presiding Member and are to be made politely in good faith and are not to be framed in such a way as to reflect adversely or be defamatory on a Council Member or City Employee.
6. Where the Presiding Member is of the opinion that a member of the public is making a statement at a Council meeting, that does not affect the City, he may ask the person speaking to promptly cease.
7. Questions/statements and any responses will be summarised and included in the Minutes of the Council meeting.
8. Where practicable, responses to questions will be provided at the meeting. Where the information is not available or the question cannot be answered, it will be *"taken on notice"* and a written response will be sent by the Chief Executive Officer to the person asking the question. A copy of the reply will be included in the Agenda of the next Ordinary meeting of the Council.
9. It is not intended that public speaking time should be used as a means to obtain information that would not be made available if it was sought from the City's records under Section 5.94 of the Local Government Act 1995 or the Freedom of Information (FOI) Act 1992. The CEO will advise the member of the public that the information may be sought in accordance with the FOI Act 1992.

RECORDING OF COUNCIL MEETINGS

- ◆ All Ordinary and Special Council Meetings are electronically recorded (both visual and audio), except when the Council resolves to go behind closed doors;
- ◆ All recordings are retained as part of the City's records in accordance with the General Disposal Authority for Local Government Records produced by the Public Records Office;
- ◆ A copy of the recorded proceedings and/or a transcript of a particular section or all of a Council meeting is available in accordance with Policy No. 4.2.4 – Council Meetings – Recording and Access to Recorded Information.

ORDER OF BUSINESS

1. (a) **Declaration of Opening**
 - (b) **Acknowledgement of Country Statement**

“Today we meet on the lands of the Nyoongar people and we honour them as the traditional custodians of this land”.
 2. **Apologies/Members on Approved Leave of Absence**
 3. (a) **Public Question Time and Receiving of Public Statements**
 - (b) **Response to Previous Public Questions Taken On Notice**
 4. **Applications for Leave of Absence**
 - 4.1 Cr Topelberg requested a leave of absence from 13 February 2017 to 14 February 2017 due to personal commitments.
 5. **The Receiving of Petitions, Deputations and Presentations**
 - 5.1 Petition submitted by Mr B Dainton, of Harley Street, Highgate along with 146 signatures requesting that Council *“urgently collaborate with the Federal Government of Australia and the State Government of Western Australia to provide a multi-purpose outdoor sports, basketball, netball and futsal facility at southern side of Birdwood Square near Brisbane Street, Perth or a similar location. A multi-purpose facility will not only provide a venue for local children and adult sporting programs, but also much needed facilities for overflow demand from Highgate Primary School.”*
 - 5.2 Petition submitted by Mr A Parolo, Chair of the Cleaver Precinct Action Group Inc, along with 421 signatures, opposing the proposed Rosewood Care Group six storey development at 67 Cleaver Street, West Perth. The petitioners believe that the proposed development will have a major impact on the amenity of the precinct, with particular concern for:
 - *‘Excessive height and bulk to the building, which will reduce the amenity and privacy of homes to the south and the east, and cause excessive overshadowing;*
 - *Significant pressure on traffic and parking in the precinct, which is already under growing pressure from commuters; and*
 - *Introduction of further commercial operations within a residential precinct, including consulting rooms, 40 seat café, pharmacy and medical centre.*

The petitioners also note that *‘under the City of Vincent’s new Built Form Policy, currently out for final public comment, the maximum height permitted for this development would be four storeys’.*
 6. **Confirmation of Minutes**
 - 6.1 Ordinary Meeting of Council held on 13 December 2016.
 - 6.2 Special Council Meeting held on 19 December 2016.
 7. **Announcements by the Presiding Member (Without Discussion)**
 8. **Declarations of Interest**
-

9. Reports

As listed in the Index.

10. Motions of which Previous Notice has been given

Nil.

11. Questions by Members of which Due Notice has been given (Without Discussion)

Nil.

12. Representation on Committees and Public Bodies

Nil.

13. Urgent Business

Nil.

14. Confidential Items/Matters for which the Meeting May be Closed ("Behind Closed Doors")

15. Closure

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9.1 DEVELOPMENT SERVICES

9.1.1 Nos. 22-28 (Lot: 24; D/P: 12501) Angove Street, North Perth – Proposed Amendment to Previous Approval and Extension of the Term of Approval: Change of Use from Eating House & Office to Small Bar (Unlisted Use) (Retrospective)

Ward:	North	Date:	25 January 2017
Precinct:	Precinct 9 – North Perth Centre	File Ref:	5.2016.232.1
Attachments:	1 – Consultation and Location Map 2 – Previous Planning Approval and Plans 3 – Applicant’s Justification 4 – Summary of Submissions		
Tabled Items:	Nil		
Reporting Officer:	S Laming, Statutory Planning Officer		
Responsible Officer:	J Corbellini, Director Development Services		

RECOMMENDATION:

That Council in accordance with the provisions of the City of Vincent’s Town Planning Scheme No. 1 and Metropolitan Region Scheme, **APPROVES BY ABSOLUTE MAJORITY** the retrospective application to amend the conditions and extend the period within which the development must be substantially commenced for planning approval (5.2012.165.1) granted on 24 July 2012 for Change of Use from Eating House & Office to Small Bar (Unlisted Use) at Nos. 22-28 (Lot: 24; D/P: 12501) Angove Street, North Perth subject to the following:

1. All conditions and advice notes detailed on planning approval 5.2012.165.1 granted on 24 July 2012 included in Attachment 2 continue to apply to this approval, except as follows:

- a) Condition 2 of the planning approval is deleted; and
- b) Condition 3 of the planning approval is modified as follows:

The hours of operation of the ‘courtyard’ shall be limited to:

DAY	HOURS OF OPERATION
Friday and Saturday	7:00am – 11:00pm
Sunday to Thursday	7:00am – 10:00pm

c) Additional condition 14 is included on the planning approval as follows:

“14. The development must be substantially commenced within three years from the date of this approval.”

PURPOSE OF REPORT:

To consider an application to amend the planning approval for a change of use from Eating House and Office to Small Bar (Unlisted Use) at 22-28 Angove Street, North Perth.

BACKGROUND:

Landowner:	A, S & I, A & A Ntoumenopoulos
Applicant:	Bruce Arnold Architect
Date of Application:	10 June 2016
Zoning:	MRS: Urban TPS1: Commercial TPS2: District Centre
Existing Land Use:	Small Bar
Proposed Use Class:	Small Bar – “Unlisted Use”
Lot Area:	551m ²
Right of Way (ROW):	Northern side, sealed, 3 metres width
Heritage List:	No

The subject site is located on Angove Street, North Perth and is situated between Fitzgerald Street and Woodville Street. A location plan is included as **Attachment 1**. The site is located within the North Perth Town Centre and is surrounded by a mix of commercial developments to the east, west and south which include shops, restaurants, licensed premises and other commercial uses. There is existing residential development at the rear of the property on the opposite side of the right-of-way.

On 24 July 2012 Council approved a change of use from eating house and office to small bar (unlisted use) at the subject property. The planning approval, including the condition applied and approved plans is included as **Attachment 2**. The small bar commenced operation in March 2015. During this time the City has received no complaints in relation to the use.

Condition 1 of planning approval limited the hours of operation of the small bar as follows:

- “1. *The hours of operation of the small bar shall be limited to:*

DAY	HOURS OF OPERATION
<i>Monday to Thursday</i>	<i>7:00am to 11:00pm</i>
<i>Friday and Saturday</i>	<i>7:00am to 12:00 midnight</i>
<i>Sunday</i>	<i>7:00am to 10:00pm”</i>

Condition 2 of planning approval limited the hours of operation of the small bar where alcohol can be sold/and or served and the approval period as follows:

- “2. *The hours of operation of the small bar where alcohol can be sold and/or served shall be limited to:*

DAY	HOURS OF OPERATION
<i>Monday to Thursday</i>	<i>11:00am to 11:00pm</i>
<i>Friday and Saturday</i>	<i>11:00am to 12:00 midnight</i>
<i>Sunday</i>	<i>11:00am to 10:00pm”</i>

Condition 3 of planning approval limited the hours of operation of the courtyard area as follows:

- “3. *The outdoor eating area (courtyard) is approved for a period of 12 months at which time the applicant may reapply for a continuation of the use. The hours of operation of the outdoor eating area (courtyard) shall be limited to:*

DAY	HOURS OF OPERATION
<i>Friday to Saturday</i>	<i>7:00am – 11:00pm – alcohol can be served from 11:00am to 11:00pm</i>
<i>Sunday to Thursday</i>	<i>7:00am – 10:00pm – alcohol can be served from 11:00am to 10:00pm</i>

Approval for the outdoor eating area (courtyard) use lapsed on 24 July 2013. However, the applicant did not lodge a renewal application for the use until 10 June 2016 following an investigation from the City's Compliance Services and the use has continued to operate since this time. The applicant has advised that the delay in lodging the application was an error on their part. As a result, this application is retrospective and retrospective fees have been paid.

This proposal is to obtain retrospective approval for the continuation of the use of the outdoor eating area (courtyard) as part of the small bar and to amend the start time when alcohol can be served in the morning from 11:00am to 7:00am.

It is noted that the premises predominately operates as a restaurant and has a small bar component. However, the Department of Racing Games and Liquor (DRGL) cannot issue a dual liquor licence (eating house and small bar) in the same premises. Therefore the applicant obtained planning approval for a small bar in 2012 in order to obtain a small bar liquor licence.

DETAILS:

The applicant proposes to increase the hours where alcohol can be sold and/or served in the small bar during the morning from 11:00am (approved) to 7:00am (proposed) Monday to Sunday. The applicant has advised that they wish to extend the hours where alcohol can be served in order to cater for morning events such as a 'light champagne breakfast' or a 'morning corporate launch' and other types of 'soft' functions, which the applicant has not been able to offer to interested clientele due to the condition of planning approval restricting service of alcohol to commence from 11:00am. The applicant's justification is included as **Attachment 3**.

The applicant also seeks to obtain retrospective approval for commencing operation more than two years after the date of the planning approval and for continuing the use of the outdoor eating area (courtyard) beyond the 12 month period originally approved. The applicant proposes to use this space in the same way and during the same hours as originally approval under Condition 3 of the previous planning approval, being:

- Friday and Saturday – 7:00am to 11:00pm
- Sunday to Thursday – 7:00am to 10:00pm.

CONSULTATION/ADVERTISING:

The proposal was advertised for a period of 14 days in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*, from 22 September 2016 until 13 October 2016. The method of advertising included 23 letters mailed to the owners and occupiers adjacent to the subject site, as shown on **Attachment 1**, a sign on site and a notice being placed in the local newspaper in accordance with the City's Policy No. 4.1.5 – Community Consultation.

A total of 3 submissions were received, including one objection and two in support. The main concerns raised by the objection are as follows:

- An increase in hours where alcohol can be served will increase car parking congestion in the area.
- Increasing the hours where alcohol can be served will encourage people to come to the premises from other venues after the close to continue drinking alcohol, which will have a negative impact on the area.

A summary of the submissions received and Administration's response to each concern raised is contained within **Attachment 4**.

Design Advisory Committee (DAC):

Referred to Design Advisory Committee: No

LEGAL/POLICY:

- *Planning and Development Act 2005;*
- *Planning and Development (Local Planning Schemes) Regulations 2015*
- City of Vincent Town Planning Scheme No. 1;
- Policy No. 4.1.5 – Community Consultation;
- Policy No. 7.1.9 – North Perth Centre Precinct;
- Policy No. 7.5.7 – Licensed Premises; and
- Policy No. 7.7.1 – Parking and Access.

The applicant will have the right to have Council's decision reviewed by the State Administrative Tribunal (SAT) in accordance with Part 14 of the *Planning and Development Act 2005*.

Delegation to Determine Applications:

This matter is being referred to Council as the original planning application was determined by Council, and this proposal results in changes to the conditions of that approval.

RISK MANAGEMENT IMPLICATIONS:

It is Administration's view that there are minimal risks to Council and the City's business function when Council exercises its discretionary power to determine a planning application.

STRATEGIC IMPLICATIONS:

The City's Strategic Plan 2013-2023 states:

"Natural and Built Environment

1.1 *Improve and maintain the natural and built environment and infrastructure."*

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The small bar has been in operation for 22 months and during this time the City has not received any complaints regarding the development. Given that no complaints have been received regarding the use of the outdoor eating area (courtyard) as part of the small bar and the subject property is located in the North Perth Town Centre and is surrounded by other commercial uses, the continuation of the use of the courtyard is considered appropriate.

During community consultation the City received one objection raising concerns with the impact that extending the hours that alcohol could be served would have on car parking congestion in the area and those it would attract to the area. Given that the small bar currently operates from 7:00am and the proposal is only seeking to allow alcohol to be served during the existing morning operating hours, from 7:00am to 11:00am, so that champagne breakfasts can occur, the proposal will not increase car parking congestion in the area or attract people from other venues after they close during the night.

It is recommended that Council conditionally approves this proposal to allow the small bar to continue to use the courtyard and to operate during the previously approved hours. Accordingly, it is recommended that Condition 2 of planning approval ~~is~~ be deleted and Condition 3 be modified to allow the sale and service of alcohol during the originally approved operating hours of the small bar.

9.1.2 Unit 7, No. 117 (Lot: 61; STR: 32978) Brisbane Street, Perth – Change of Use from Office to Consulting Rooms – Non Medical (Skin Clinic) (Use Not Listed)

Ward:	South	Date:	25 January 2017
Precinct:	Precinct 3 – Beaufort	File Ref:	5.2016.412.1
Attachments:	1 – Location Plan and Consultation Map 2 – Development Application Plans 3 – Determination Advice Notes		
Tabled Items:	Nil		
Reporting Officer:	R Sklarski, Senior Planning Officer		
Responsible Officer:	J Corbellini, Director Development Services		

RECOMMENDATION:

That Council, APPROVES BY ABSOLUTE MAJORITY under Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application for Change of Use from Office to Consulting Room Non-Medical (Skin Clinic) (Unlisted Use) at Unit 7, No. 117 (Lot: 61; STR: 32987) Brisbane Street, Perth in accordance with plans shown on Attachment 2, subject to the following conditions, with the associated determination advice notes in Attachment 3:

1. **Interactive Front**

Windows, doors and adjacent areas fronting Brisbane Street shall maintain an active and interactive relationship with the street. Darkened, obscured, mirror or tinted glass or the like is prohibited;

2. **External Fixtures**

All external fixtures and building plant, including air conditioning units, piping, ducting and water tanks, shall be located so as to minimise any visual and noise impact on surrounding landowners, and screened from view from the street, and where practicable from adjoining buildings;

3. **Use of Premises**

3.1 The development shall be used in accordance with the definition of ‘Non-Medical Consulting Rooms’ set out under the City’s Policy No. 7.5.22 – Consulting Rooms;

3.2 The use shall be limited to a maximum of two skin therapy consultants operating at any one time; and

3.3 The hours of operation shall be limited to the following times:

- 8:00am to 9:00pm Monday to Friday;
- 8:00am to 5:00pm Saturday;
- 11:00am – 5:00pm Sundays and Public Holidays (except Christmas Day, Good Friday and Anzac Day); and
- CLOSED Christmas Day, Good Friday and Anzac Day;

3.4 This approval for Non-Medical Consulting Room (Skin Clinic) is for a period of 12 months only and should the applicant wish to continue the use after that period, it shall be necessary to reapply to and obtain approval from the City prior to continuation of the use;

4. Car Parking and Access

A minimum of two car bays shall be provided as shown on the approved plans; and

5. General

Where any of the above conditions have a time limitation for compliance, and the condition is not met in the required time frame, the obligation to comply with the requirements of the condition continues whilst the approved development exists.

PURPOSE OF REPORT:

To determine an application for development approval for a change of use from Office to Non-Medical Consulting Room (Skin Clinic) at Unit 7, No. 117 Brisbane Street, Perth.

BACKGROUND:

Landowner:	Indo-Raya Holdings Pty Ltd
Applicant:	Zheng Jing Yin
Date of Application:	27 September 2016
Zoning:	MRS: Urban TPS1: Zone: Residential/Commercial R-Code: R80
Existing Land Use:	Vacant (formerly Office)
Use Class:	Consulting Room - Non-Medical – Unlisted Use
Site Area:	100m ²
Right of Way (ROW):	Not applicable
Heritage List:	No

The subject site has frontage to both Brisbane Street and Robinson Street, Perth. The site is zoned 'Residential/Commercial' R80. The location of the subject site is illustrated in **Attachment 1**.

The subject site contains a two storey building complex which is comprised of 62 commercial tenancies operating as a mix of shops, offices and showrooms uses.

The adjoining properties to the east share the same zoning as the subject site. The adjoining properties to the west are zoned 'Commercial'. All of the properties that adjoin the subject site contain a variety of commercial uses.

The application proposes a change of use to one of the existing tenancies which is referred to as Unit 7. This tenancy is located on the ground floor and is situated fronting Brisbane Street. The subject tenancy is adjoined by a shop on the west, a driveway which services the complex on the east, and a covered car parking area to the south. This car parking area services a large proportion of the complex as tenant parking. The subject tenancy is currently vacant, and was formerly used as an 'Office' prior to becoming vacant.

DETAILS:

The applicant proposes to operate a 'skin clinic' business from the tenancy. The business offers dermal and beauty type therapies and treatments such as skin laser treatment, lip and eyebrow tattooing, hair removal and skin rejuvenation, which will be undertaken by two therapists. The business will also employ a receptionist, resulting in 3 full time employees operating from the premises.

The application also proposes some minor internal upgrades to the tenancy through the installation of stud wall partitions to create two separate consulting rooms, some minor electrical work for lighting, and some cabinetry in the front portion of the tenancy to create a reception area. The tenancy contains existing ablution facilities and a small kitchen area in the rear part of the unit.

The definition of 'Consulting Rooms' in TPS1 means *"any building or part thereof used in the practice of a profession by a legally qualified medical practitioner or dentist, or by a physiotherapist, a masseur, a chiropractor, a chiropodist, or a person ordinarily associated with a medical practitioner in the investigation or treatment of physical or mental injuries or ailments but does not include a hospital"*.

The proposed use does not relate to the investigation or treatment of physical or mental injuries or ailments and as such it is not considered to meet the definition of a 'Consulting Room' under TPS1.

The City's Policy No. 7.5.22 – Consulting Rooms defines 'Non-medical Consulting Rooms' as *"any building or part thereof used in the practice of a qualified beauty technician, touch therapist, natural massage therapist or the like"*. The use is considered to fall within the above definition, which is an 'Unlisted Use' in TPS1.

Summary Assessment

The table below summarises the planning assessment of the proposal against the provisions of the City of Vincent Town Planning Scheme No. 1 and the City's policies. In each instance where the proposal requires the discretion of Council, the relevant planning element is discussed in the section of the report following from this table.

Planning Element	Use Permissibility/ Deemed-to-Comply	Requires the Discretion of Council
Land Use		✓
Parking & Access		✓

Detailed Assessment

The deemed-to-comply assessment of the elements that require the discretion of Council is as follows:

Land Use	
Deemed-to-comply Standard	Proposal
Town Planning Scheme No. 1	
"P" Use	Unlisted Use – Non-Medical Consulting Room
Policy No. 7.7.1 – Parking and Access	
4 car bays	2 car bays
Policy No. 7.7.1 – Parking and Access	
2 Bicycle bays (Class 3)	Nil

The above elements of the proposal do not meet the specified deemed-to-comply standards. This is discussed in further detail in the comments section below.

CONSULTATION/ADVERTISING:

Consultation was undertaken for a period of 21 days in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015*, from 2 December 2016 until 12 January 2017 (excluding days that fell within the Christmas/New Year period as per the City's Policy No. 4.1.5 – Community Consultation). A total of 93 letters were sent to owners and occupiers within close proximity of the subject site, as shown in **Attachment 1**, in accordance with the City's Policy No. 4.1.5 – Community Consultation. A notice was also included in a local newspaper, "The Voice".

No submissions were received during the advertising period.

Design Advisory Committee (DAC):

Referred to Design Advisory Committee: No

LEGAL/POLICY:

- *Planning and Development Act 2005*;
- *Planning and Development (Local Planning Schemes) Regulations 2015*;
- City of Vincent Town Planning Scheme No. 1;
- Policy No. 4.1.5 – Community Consultation;
- Policy No. 7.1.13 – Beaufort Precinct;
- Policy No. 7.5.2 – Signs and Advertising;
- Policy No 7.5.22 – Consulting Rooms; and
- Policy No. 7.7.1 – Parking and Access.

The applicant will have the right to have Council's decision reviewed by the State Administrative Tribunal (SAT) in accordance with Part 14 of the *Planning and Development Act 2005*.

Delegation to Determine Applications:

This matter is being referred to Council for determination as the proposal is for an 'Unlisted Use' which requires an Absolute Majority decision.

RISK MANAGEMENT IMPLICATIONS:

It is Administration's view that there are minimal risks to Council and the City's business function when Council exercises its discretionary power to determine a development application.

STRATEGIC IMPLICATIONS:

The City's Strategic Plan 2013-2023 states:

"Natural and Built Environment

1.1 *Improve and maintain the natural and built environment and infrastructure."*

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

Land Use

The subject site is zoned Residential/Commercial as are the surrounding properties to the south and east. The adjoining properties to the west are zoned Commercial. The proposed use is consistent with the types of land uses which occur on the surrounding properties given it proposes a low impact commercial use which is compatible with its setting.

The use cannot reasonably be determined as falling within the definition of 'Consulting Rooms' in TPS 1 and is therefore considered an 'Unlisted Use'. The use is considered to meet all of the requirements of the City's Policy No. 7.5.22 – Consulting Rooms relating to non-medical consulting rooms including the hours of operation, accredited qualification of employees and car parking.

The Consulting Rooms policy provides that an approval for a Non-Medical Consulting Room will be restricted to a period of 12 months only. Implementation of the 12 month approval restriction for the application as per the Policy is considered warranted in this instance. The time limited approval will provide the City with scope to assess any complaints should they be received during the early stages of operation once the business has been established. It will also assist the City in considering the long term suitability of the use should the applicant re-apply and obtain Planning Approval following the 12 month period.

Parking

The proposed use requires the provision of four parking bays under the City's Policy No. 7.7.1 – Parking. The complex provides two car parking bays at the rear of the tenancy for the exclusive use of the occupants of Unit 7, thus resulting in a shortfall of two parking bays as per the Policy.

The two car bays provided are considered adequate for staff, with customers having close parking and direct access from the Brisbane Street Public Car Park, which is within 250 metres of the site and contains 228 parking bays, and the immediately adjacent ticketed 2 hour parking on Brisbane Street. Additionally, the scale and intensity of the proposed use for non-medical consulting rooms is relatively low and unlikely to generate a level of demand for car parking that would foreseeably exceed the capacity of the parking facilities both on site and in the immediate locality. On this basis it is considered the proposed two car bay shortfall is appropriate.

Bicycle Parking

The bicycle parking bay shortfall is considered acceptable in this instance as the proposal involves a change of use for an existing tenancy unit within an established commercial premises where the retrofitting of the tenancy with bicycle bays within the allotted strata unit entitlement area for the unit would not be physically achievable.

Conclusion

The proposed use is considered to be appropriate and consistent with existing land uses within the precinct. The proposal is recommended for approval subject to conditions.

9.1.3 No. 448 (Lot: 50; D/P: 53964) Fitzgerald Street, North Perth – Proposed Amendment to Previous Approval: Change of Use from Ground Floor Office to Recreational Facility (Gym)

Ward:	South	Date:	25 January 2017
Precinct:	Precinct 9 – North Perth Centre	File Ref:	5.2016.403.1
Attachments:	1 – Consultation and Location Map 2 – Previous Planning Approval and Plans		
Tabled Items:	Nil		
Reporting Officer:	R Narroo, Senior Statutory Planning Officer		
Responsible Officer:	J Corbellini, Director Development Services		

RECOMMENDATION:

That Council, in accordance with the provisions of the City of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, **APPROVES** the application to delete condition 1.5 of planning approval 5.2013.534.1 granted 24 June 2014 for Change of Use from Ground Floor Office to Recreational Facility (Gym) at No. 448 (Lot 50; D/P: 53964) Fitzgerald Street, North Perth, subject to the following:

1. All conditions and advice notes detailed on planning approval 5.2013.534.1 granted on 24 June 2014 and included in Attachment 2 continue to apply to this approval, except as follows:
 - a) Condition 1.5 of the planning approval is deleted.

PURPOSE OF REPORT:

To consider an application to amend the current planning approval for a change of use from office to recreational facility at Lot 50, Fitzgerald Street.

BACKGROUND:

Landowner:	Innocenzo Tizzano
Applicant:	MGA Town Planners
Date of Application:	15 September 2016
Zoning:	MRS: Urban TPS1: Zone: District Centre TPS2: Zone: District Centre
Existing Land Use:	Recreational Facility
Proposed Use Class:	Recreational Facility – “AA”
Lot Area:	Lot 50 = 1,089 m ²
Right of Way (ROW):	Not applicable
Heritage List:	Not applicable

The subject site is located at 448 Fitzgerald Street North Perth, on the corner Wasley Street, as shown in **Attachment 1**. The site is occupied by a four storey commercial development, which includes offices, eating house and recreational facility (gym). There is a public car park on the eastern side of the site and the surrounding area along this portion of Fitzgerald Street is zoned ‘District Centre’ and comprises commercial development.

On 25 March 2014 Council refused an application for change of use from office to gym. The Council decision was subject to an appeal at the State Administrative Tribunal (SAT). At the invitation of the SAT, under Section 31 of the *State Administrative Tribunal Act 2004*, the Council reconsidered and conditionally approved the application at its meeting of 24 June 2014. The planning approval, including the approved plans, is included as **Attachment 2**.

Condition 1.5 of the development approval reads as follows:

“1.5 This approval for Recreational Facility (Gym) is for a period of thirty six (36) months only and should the applicant wish to continue the use after that period, it shall be necessary to reapply to and obtain approval from the City prior to the continuation of the use;”

The recreational facility occupies an area of 242m² on the ground floor of the existing commercial development. The ground floor is also occupied by an eating house and offices. The upper floors are occupied by offices. The recreational facility operates 24 hours, seven days a week. No other modifications are proposed to the previous approval, which is included in **Attachment 2**.

DETAIL:

The 24 hour gym has operated from the subject site for the past year and a half. The original approval by the City granted a 36 month approval for the operation of the 24 gym. This current application seeks a permanent approval by deleting condition 1.5 of the original approval, which limited the approval period to 36 months.

The applicant has provided the following statement for the request to remove condition 1.5 of from the existing planning approval:

“The applicant wishes to continue the gym use beyond the 36 month period approved and a fresh development approval is sought, based on the same management strategy and operation as described in the previous application.”

CONSULTATION/ADVERTISING:

Following receipt of this application to amend the development approval, consultation on the proposal was undertaken for a period of 14 days in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015*, from 25 November 2016 until 8 December 2016. The method of advertising included 256 letters mailed to all owners and occupiers within a radius 200 metres from the subject site, as shown on **Attachment 1**, in accordance with the City's Policy No. 4.1.5 – Community Consultation. It is noted that letters were sent to the same land owners and/residents when the recreational facility was initially advertised in January 2014. At the conclusion of advertising no submissions were received.

Design Advisory Committee (DAC):

Referred to Design Advisory Committee: No

LEGAL/POLICY:

- *Planning and Development Act 2005*;
- City of Vincent Town Planning Scheme No. 1;
- Policy No. 4.1.5 – Community Consultation;
- Policy No. 7.1.9 – North Perth Precinct; and
- Policy No. 7.7.1 – Parking and Access.

The application to amend a development approval can be considered in accordance with Clause 77 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Clause 77 (4) provides that the application can be approved with or without conditions or refused.

The applicant will have the right to have Council's decision reviewed by the State Administrative Tribunal (SAT) in accordance with Part 14 of the *Planning and Development Act 2005*.

Delegation to Determine Applications:

This matter is being referred to Council as the application was previously determined by Council.

RISK MANAGEMENT IMPLICATIONS:

It is Administration's view that there are minimal risks to Council and the City's business function when Council exercises its discretionary power to determine a planning application.

STRATEGIC IMPLICATIONS:

The City's Strategic Plan 2013-2023 states:

"Natural and Built Environment

1.1 *Improve and maintain the natural and built environment and infrastructure."*

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The condition limiting the validity of the development approval to 36 months was originally imposed by the City to verify the suitability of the use for the subject property. The recreational facility has operated from the subject site 24 hours, seven days a week for the past year and a half. During this time the City has not received any complaints from surrounding owners, residents or businesses regarding the operation of the 24 hour gym. This proposal seeking permanent approval of the 24 hour gym, was advertised for public comment to surrounding owners, residents and business and did not attract any submissions.

The subject site is located within the 'District Centre' zone of the North Perth Town Centre. The proposed use is considered to be appropriate and consistent with both existing land uses within the Town Centre and the objectives of the City's Town Planning Scheme No. 1. Given the above, it is recommended that Condition 1.5 of Planning Approval be deleted in order to grant a permanent approval for the 24 hour gym, subject to all other conditions previously imposed by Council being maintained.

9.1.4 Delegated Authority – Public Health Act 2016 and Health (Asbestos) Regulations 1992

Ward:	-	Date:	25 January 2017
Precinct:	-	File Ref:	SC2642
Attachments:	1 – Proposed Delegations ‘No. 4.10: <i>Public Health Act 2016 – Designation of Authorised Officers</i> ’ and ‘No. 4.11: <i>Health (Asbestos) Regulations 1992 – Appointment of Authorised and Approved Officers</i> ’		
Tabled Items:	Nil		
Reporting Officer:	W Pearce, Manager Health Services		
Responsible Officer:	J Corbellini, Director Development Services		

RECOMMENDATION:

That Council **DELEGATES BY ABSOLUTE AUTHORITY** the functions listed in delegations ‘No. 4.10: *Public Health Act 2016 – Designation of Authorised Officers*’ and ‘No. 4.11: *Health (Asbestos) Regulations 1992 – Appointment of Authorised and Approved Officers*’ as shown in Attachment 1 and lists the delegations in the City’s Delegated Authority Register 2016 – 2017.

PURPOSE OF REPORT:

To consider:

1. Delegating the Chief Executive Officer (CEO) the power to designate a person or class of persons as authorised officers in accordance with Section 24 of the *Public Health Act 2016*; and
2. Appointing authorised and approved officers the power to issue, extend payment and withdraw infringement notices under the *Health (Asbestos) Regulations 1992*.

BACKGROUND:

The *Public Health Act 2016* received Royal Assent on 25 July 2016 and will replace the *Health Act 1911* over the next three to five years through a staged implementation process.

The new Act proposes to promote public health through the following key features:

- Promoting public health and wellbeing in the community;
- Help prevent disease, injury, disability and premature death;
- Inform individuals and communities about public health risks;
- Encourage individuals and their communities to plan for, create and maintain a healthy environment;
- Support programs and campaigns intended to improve public health;
- Collect information about the incidence and prevalence of diseases and other public health risks for research purposes; and
- Reduce the health inequalities in public health of disadvantaged communities.

The *Health (Asbestos) Regulations 1992* were amended on 24 January 2017 to allow local governments to issue infringement notices for alleged offences relating to the management of asbestos cement products and materials containing asbestos.

DETAILS:

Under the provisions of the previous *Health Act 1911*, environmental health officers (EHOs) employed by Local Governments were required to be 'authorised' by the Department of Health's Executive Director, Public Health. Approval by the Executive Director Public Health could take up to several weeks leaving newly employed EHOs 'unauthorised' during this period.

Section 21 of the new *Public Health Act 2016* provides an enforcement agency (local government) with the ability to designate authorised officers and delegate this power to the CEO. The new Act is being delivered in stages, with the first stage focussed on securing the necessary delegations, policies and processes to allow a smooth transition to the new requirements of the Act. During this first stage the provision of the previous *Health Act 1911* will continue to apply with not change to the City's health functions.

In relation to the amended *Health (Asbestos) Regulations 1992*, local government now have the power to appoint authorised officers and approved officers to issue infringements for offences including:

- Selling, supplying or using an asbestos cement product;
- Breaking, damaging, cutting, repairing or removing material containing asbestos without taking safety measures; and
- Failing to inform a person that a material contains asbestos.

CONSULTATION/ADVERTISING:

Nil.

LEGAL/POLICY:

- *Public Health Act 2016*;
- *Health Act (Miscellaneous Provisions) Act 1911*;
- *Health (Asbestos) Regulations 1992*;
- Delegated Authority Register 2016 - 2017; and
- City of Vincent Policy Manual.

RISK MANAGEMENT IMPLICATIONS:

The DOH requires Local Governments to have relevant designations in place in order to minimise the impact of the Act on their communities. There is a risk that if certain steps are not taken at the time the Act coming into effect, the City will not be in a position to effectively enforce the new legislation.

STRATEGIC IMPLICATIONS:

The City's Strategic Plan 2013 – 2023 states:

"Leadership, Governance and Management

4.1.2 Manage the organisation in a responsible, efficient and accountable manner."

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The next stage of the new *Public Health Act 2016* along with amended *Health (Asbestos) Regulations 1992* came into operation on 24 January 2016. The changes to the Act and regulations allow local governments to appoint authorised persons to implement this legislation rather than relying on the Executive Director Public Health to appoint authorised officers. This change will streamline the appointment of new environmental health officers (EHOs) and allow local governments to implement health legislation efficiently and effectively.

Delegation of these powers to the CEO are needed to enable the appointment of authorised officers for both the purpose of implementing the existing *Health Act 1911*, new *Public Health Act 2016* and the amended *Health (Asbestos) Regulations 1992*. The proposed delegations are included as **Attachment 1**. Delegation 4.10 will enable the CEO to designate authorised officers for the purposes of the new *Public Health Act 2016* and will also provide the CEO with the power to issue a certificate of authority to authorised officers. Delegation 4.11 will enable the City to appoint authorised officers for the purposes of issuing infringements for asbestos related offences. This power has been sought from the Local Government sector since the Regulation's adoption and is long overdue as a valuable tool in protecting public safety.

9.1.5 Submission on Draft Design WA

Ward:	Both	Date:	25 January 2017
Precinct:	All	File Ref:	SC654
Attachments:	1 – City of Vincent Submission on Draft Design WA		
Tabled Items:	Nil		
Reporting Officer:	S Smith, Coordinator Policy & Place		
Responsible Officer:	J Corbellini, Director Development Services		

RECOMMENDATION:

That Council:

1. **ENDORSES Attachment 1 as the City of Vincent’s submission on the draft Design WA suite of documents subject to the following amendments being made to Attachment 1, to the satisfaction of the Director Development Services:**
 - a) **Comment and Recommendation 6.2 be expanded to clarify that the City supports the entire Design Review process occurring prior to lodgement for all major development applications, in line with that set out in Design WA, provided at least one Design Review meeting is mandatory;**
 - b) **Comment and Recommendation 6.2 include a recommendation that major developments that do not participate in the Design Review process prior to lodgement of a development application will have an increased assessment timeframe of 120 days where deemed necessary by the City to allow an appropriate design review process to be undertaken;**
 - c) **Comment and Recommendation 6.4 be expanded to clarify the fundamental importance of, and the City’s support for, collaborative discussions occurring between the DAC and applicants in DAC meetings, noting that the final set of advice and recommendations on a proposal are to be provided to the City following these discussions; and**
 - d) **Comment and Recommendation 6.3 be expanded to clarify that although the City recommends that a representative of the local government act as the overall presiding member for Design Review meetings, the City supports Design WA’s recommendation for the Design Review Panel to be chair by a member of the that Panel, and for this chair to lead and control the Design Review discussions with applicants; and**
2. **NOTES that Administration will forward the submission included as Attachment 1 to the Western Australian Planning Commission.**

PURPOSE OF REPORT:

To consider the City’s submission on the draft Design WA Plan suite of documents.

BACKGROUND:

The State Government released a suite of draft documents for public comment on 19 October 2016 called Design WA. The suite of documents released for public comment includes:

- Draft State Planning Policy 7 – Design of the Built Environment;
- Draft Apartment Design Policy;

- Draft Design Review Guide;
- Design Skills Discussion Paper; and
- A brochure, media statements and promotional video clip.

Due to the scale and public availability of the documents they have not been included as attachments to this report, however they are available from: <https://www.planning.wa.gov.au/publications/designwa.aspx>.

The documents form part of the State Government's Planning Reform Phase 2 agenda and aim to ensure that good design is at the centre of all development, from the early stages right through to delivery. The documents aim to provide:

- Increased consistency across local governments in how design is considered in the planning and development process;
- Greater flexibility for site specific design response in development;
- A benchmark for design quality;
- A consistent approach to design review; and
- A focus on improving design skills.

A set of draft comments on the documents have been prepared for Council's consideration. Public comments closed on 20 December 2016 however the City was granted an extension until 10 February 2017.

DETAILS:

A summary of the key themes and major proposed changes that impact the City of Vincent are provided below.

General

Stage one of Design WA includes:

- Draft State Planning Policy for Design of the Built Environment (SPP 7) – This is the lead policy that establishes the requirement for design quality across the whole built environment. It includes 10 principles for good design and sets up the requirement for expert design review as a part of the evaluation process.
- Draft Apartment Design Policy (ADP) – This policy focuses on design guidance for apartments and mixed-use developments and will replace Part 6 of the Residential Design Codes (R Codes).
- Draft Design Review Guide (DRG) – A guide to assist local governments to establish and operate design review panels, and improve the consistency of design review processes already in operation across the State.
- Design Skills Discussion Paper – This discussion paper seeks public views on whether the State should apply requirements for skilled design practitioners to design complex developments.
- Implementation and training program.

The draft stage one documents set a new framework for the planning and design of development throughout Western Australia. The City understands that further documents on neighbourhood design, precinct design and house design will form subsequent stages of the proposed Design WA framework and will be developed and advertised for public comment in the same way as stage one.

Local Development Standards

Section 1.1 of the draft ADP sets out the relationship of Design WA with local planning policies. It states that local governments should ensure that local planning policies and schemes maximise consistency with the ADP but still allows appropriate local modifications where they are consistent with the guidance in the ADP and are approved by the Western

Australian Planning Commission (WAPC). It suggests that local governments should review existing local planning policies where they are inconsistent with the ADP and states that the ADP provisions will supersede any inconsistent local government policy provisions once the ADP becomes operational.

Under Design WA local level planning documents such as local planning policies, local development plans and activity centre plans may amend, with the approval of the WAPC, the provisions of the ADP relating to:

- Streetscape character types;
- Plot ratio;
- Building height;
- Building depth;
- Building separation;
- Street setbacks;
- Side and rear setbacks; and
- Incentive based development standards.
- All other design criteria may also be amended through a local planning policy, local development plan or activity centre plan where it can be demonstrated to the satisfaction of the WAPC that the proposed amendment:
 - Is warranted due to a specific local need;
 - Is consistent with the objectives of the ADP;
 - Can be implemented and audited by the decision maker as part of the building approval process; and
 - Augments the ADP with local objectives relating to other aspects of apartment development that is not provided for under the ADP.

Performance Based Approach & New Framework

Clause 5, Objective 2 in draft SPP 7 states that an objective of the policy is for good design outcomes that meet government and community expectations through a performance based approach to policy.

The 'About This Document' section of the ADP states that planning is often focussed on compliance with specific standards and metrics, but there are limits to how these prescriptive controls can respond to site specific design requirements. It suggests that more flexible performance based controls promote positive development outcomes rather than simply defending against negative impacts.

The provisions of the ADP are generally structured into four categories:

1. Intent – Which provides an explanation of an element's role and importance;
2. Objectives – Which describe the desired design outcome;
3. Design Criteria – Which, where applicable, provide specific, measurable requirements for how an objective can be achieved (similar to the Deemed To Comply provisions in the current R-Codes); and
4. Design Guidance – Which provide advice on how the objectives and design criteria can be achieved through appropriate design responses, or in cases where the Design Criteria cannot be met (similar to the Design Principles in the current R Codes).

Application

Section 1.1 of the ADP states that it applies to multiple dwelling and mixed use development and activity centres. It also states that the decision maker shall have regard to the policy objectives in assessing and determining proposals for apartment development and residential components of mixed use development. This is consistent with both Part 6 of the current R-Codes and the *Planning and Development (Local Planning Schemes) Regulations 2015*, which require decision making to have regard to all applicable state planning policies.

Discretion & Bonuses

Table 1 – Primary Controls Table, in the ADP provides a plot ratio limit and height limit. It also provides a further plot ratio limit and height limit where bonuses are applicable, similar to the City's former Exercise of Discretion for Development Variations Policy. The bonus plot ratio and building heights included in the ADP are a suggested range only and do not apply unless they are formalised by local governments in a planning instrument such as local planning policy, local development plan or activity centre plan.

The provisions in Section 2.11 set out considerations for local governments when establishing or reviewing incentive based standards. Incentive based standards are intended to establish the terms by which flexibility can be applied to primary controls in exchange for an exemplary design outcome that delivers a significant community benefit. This approach is intended to facilitate negotiation of development outcomes with higher standards than the State Government considers can realistically be mandated.

The ADP suggests that local governments set these incentive based height and plot ratio bonuses through detailed precinct planning in order to achieve unrelated outcomes such as affordable housing, removing vehicle access from a major road, vegetation retention, public art, energy efficient design or water sensitive design. Where these bonuses apply, advice from a design review panel or an equivalent process is required by the ADP to determine if the exemplary achievement of the ADP's design principles has been achieved by the proposed development.

Design Review

Section 6 in SPP 7 requires local governments to establish and operate design review processes to review applications of certain thresholds set out in the draft DRG. Design review is intended to be a complementary process to performance based assessment approach and is intended to be a way of gaining expert advice on the interpretation of design principles and objectives. The draft DRG provides guidance on the establishment and operation of design review panels. It intends to provide clarity on:

- Role definition;
- Membership;
- Timing and number of reviews;
- Meeting format and procedures;
- Reporting; and
- Funding and remuneration.

Section 5 of the draft DRG sets out how to establish design review processes. It states that the number of reviews needed will vary depending on the complexity of a proposal and suggest that three reviews are typically needed for the process to be effective. It also suggests that the meeting chairperson should be a member of the design review panel. Section 6 encourages panel members to provide individual comments on proposals, engage in discussion during the meeting and provide advice and recommendations directly to applicants.

The Design Review Threshold Table in the draft DRG indicates the types of development that requires review and the level of review that is required. Projects of state significance and public works of state significance are recommended for review from the state design review panel. Public works of regional significance may be required to undertake state and/or local design review. The following application types are recommended for review by a local design review panel:

- Commercial development;
- Apartment development that meets the Development Assessment Panel (DAP) threshold;
- Apartment development equal to or greater than 10 dwellings; and
- Activity centre plans and structure plans.

The DRG also suggests that a City architect or 'as required' design review consultant may be used for other development, or where a design review panel does not exist.

Implementation

The draft ADP is intended to be implemented by local governments when assessing and determining development applications for multiple dwelling and mixed use development in a similar way to the current R-Codes. This includes an assessment of development application against the 90 individual Planning Objectives compared to the 34 design principles in the current R-Codes. Some of these Planning Objectives, such as the solar and daylight access Planning Objective in Section 4.1, include new complex deemed-to-comply assessments that will require additional local government resource to both confirm at the application stage and then review as part of compliance auditing.

Section 5 in the draft DRG states that local governments are responsible for the funding and remuneration of design review panels. Entitlements for design review panel members include remuneration and the payment of expenses. The document suggests that the operating costs for a design review panel vary from \$12,000 to \$120,000, depending on the number of proposals that require review and the frequency of meetings.

There are three funding models proposed in the draft DRG:

1. Local government appropriated funds;
2. Proponent funded; and
3. A balance of local government appropriated funding and proponent fee.

The document suggests paying panel members standard professional rates per hour for the duration of the design review, plus one hour of preparation. The chairperson, a design review panel member, is suggested to be paid an above standard fee due to the additional responsibility of the role, plus preparation and time spent advising and reporting. The Office of the Government Architect is to be contacted for guidance on current recommended rates.

CONSULTATION/ADVERTISING:

Required by Legislation:	No	Required by City of Vincent Policy:	No
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Following the Council Briefing Session on 31 January, the City met with a number of the City's Development Advisory Committee members to discuss the City's draft submission on Design WA and in particular the Design Review Guide. The DAC members provided valuable feedback on the detailed workings of the Design Review process and as a result of this feedback the following changes are recommended to **Attachment 1** to clarify the intent of the City's comments and future direction of the City's DAC process:

- Comment and Recommendation 6.2 be expanded to clarify that the City supports the entire Design Review process occurring prior to lodgement for all major development applications, in line with that set out in Design WA, provided at least one Design Review meeting is mandatory;
- Comment and Recommendation 6.2 include a recommendation that major developments that do not participate in the Design Review process prior to lodgement of a development application will have an increased assessment timeframe of 120 days where deemed necessary by the City to allow an appropriate design review process to be undertaken;
- Comment and Recommendation 6.4 be expanded to clarify the fundamental importance of, and the City's support for, collaborative discussions occurring between the DAC and applicants in DAC meetings, noting that the final set of advice and recommendations on a proposal are to be provided to the City following these discussions; and
- Comment and Recommendation 6.3 be expanded to clarify that although the City recommends that a representative of the local government act as the overall presiding member for Design Review meetings, the City supports Design WA's recommendation for the Design Review Panel to be chair by a member of the that Panel, and for this chair to lead and control the Design Review discussions with applicants.

LEGAL/POLICY:

- *Planning and Development (Local Planning Schemes) Regulations 2015;*
- State Planning Policy 3.1: Residential Design Codes;
- Town Planning Scheme No. 1; and
- Policy No. 7.1.1 – Built Form.

RISK MANAGEMENT IMPLICATIONS:

Low: There may be a risk to the City if the comments included in the City's submission are not incorporated into the finalised Design WA documents.

STRATEGIC IMPLICATIONS:

The City's Strategic Plan 2013-2023 states:

"1.1. Improve and maintain the natural and built environment and infrastructure."

SUSTAINABILITY IMPLICATIONS:

The City's Sustainable Environment Strategy 2011 – 2016 states:

"K. Encourage the incorporation of sustainable design principles and features in existing and new development within the City as standard practice."

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The two key areas of importance for the City of Vincent are the impact that the proposed Design WA suite of documents would have on the design of development in the City and the processing of applications. The City has considered the proposals put forward by Design WA in the context of both the current local planning policies, namely the City's recently adopted Local Planning Policy No. 7.7.1 – Built Form (Built Form Policy), and the current review of the City's existing Design Advisory Committee process. Administration's comments on the draft suite of Design WA documents are included as **Attachment 1** and are proposed to be forwarded to the WAPC if adopted by Council. A summary of the seven key comments are included below.

General

As a growing inner city local government the introduction of detailed State Government objectives and standards for medium and high density residential and mixed use development is strongly supported. The City supports the principles of good design, and has included all of these design principles in its new Built Form Policy. However, the City has a number of concerns with the current content and format of Design WA that are outlined below.

If introduced Design WA would have a significant impact on the assessment and determination of multiple dwelling and mixed use development. It will set new standards for design of these types of development and will introduce a new state design review process, in addition to the City's existing design review process. It would also have significant implications for local planning policies including the recently adopted Built Form Policy.

The City recommends that the Design WA suite of documents be adopted in a modified form to address the City's concerns that are outlined in this submission.

Local Development Standards

The ADP proposes that on adoption, all of the ADP's development standards, such as building heights and setbacks, will automatically supersede any inconsistent standards set out by local government policy. If adopted this will significantly change the development standards that apply to the City's various Built Form Areas, such as the maximum deemed-to-comply height and setbacks. This is of serious concern to the City, given the detailed and robust process followed, including research, planning and community consultation, in setting the City's current development standards.

The City acknowledges that the draft ADP seeks to provide consistency across local government areas. However, local communities where existing local planning policies exist will expect that the City's local development standards, such as the maximum height permitted in a particular area, will not be changed by a State policy such as the ADP. On this basis it is strongly recommended that local development standards, such as height and setbacks, set by local government policies continue to apply. In addition, a transitional provision should be included to give local governments the opportunity to review their local planning frameworks in light of the new ADP.

The City is also very concerned with the requirement for all local planning policies which propose local development standards different to those included in the ADP to be approved by the WAPC. While it is useful to have some consistency between local governments it is absolutely necessary to have local development standards, such as area based maximum heights that respond to the local area and community and address local matters. The role of Design WA should be to address regional issues and establish a framework for local governments to develop local development standards in a consistent manner, without the need for approval from the WAPC.

In addition, there is a potential inconsistency between the proposed ADP requirement for WAPC approval and Section 2, Clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (Regulations) which requires the local government to be the determining authority for local planning policies. The local planning policy approval process in the Regulations is appropriate as it requires the City to notify the WAPC of inconsistencies with state planning policy, however maintains local government as the determining authority for local planning policies that address local matters.

The City recently consulted with the WAPC in relation to an amendment to a local planning policy to vary the landscaping requirements of the R Codes. This policy requires the approval of the WAPC pursuant to Clause 7.2 of the R Codes. As a result of this consultation the City understands that there are no supporting processes or timeframes for the assessment and determination of local planning policies by the WAPC and the City is concerned that the implementation of this requirement is not resourced at a State Government level.

The City recommends that the last paragraph in Section 1.1 of the draft ADP be removed to ensure that existing local planning policies continue to apply. The City also recommends that the requirement for the WAPC to approve local planning policies in Section 1.1 be removed. It is critical that these issues are resolved prior to the final adoption of the proposed documents.

Performance Based Approach & New Framework

The City is concerned that a number of the requirements of the ADP do not include clear and measurable deemed-to-comply standards. Such an approach will result in all applications requiring the exercise of discretion by decision makers, removing certainty for developers, land owners and the community and allowing provisions to be open to interpretation which results in the potential for poor design outcomes.

The City agrees that it is necessary to embed flexibility into the planning framework. However, the proposed approach fails to ensure a minimum standard of development and in so doing does not mandate good design and provide the certainty necessary to stop poor quality proposals from being approved, particularly where a developer does not seek to engage with

the design review process. The strongly performance based approach may be successful where a developer is genuinely seeking an excellent design outcome. However, if the developer is driven by factors other than design, such as cost, then the performance based criteria may not be sufficient to enforce a satisfactory outcome.

It is acknowledged that the current development assessment approach provided for under the R-Codes has resulted in poor development outcomes in some instances. However, these instances are not due to the current framework of the R-Codes but are rather due to a lack of expertise at the policy implementation stage and the difficulty for local governments in developing local development standards under the R-Codes. Neither of these issues can be resolved through the proposed performance based approach, which fails to address both the need to build capacity in policy implementation and restricts local governments from developing area based local development standards.

The existing performance based approach in the R-Codes is considered more appropriate to mitigate against poor outcomes by providing a base standard for compliance whilst still allowing good innovative design that meets design principles. It is recommended that the revised ADP include Design Criteria for every objective; includes education on the implementation of the planning policy; and allows local governments to apply local development standards that align with the objectives of the ADP.

Commercial Development

The City understands that the draft ADP is not intended to apply to commercial development outside of activity centres. The City recommends that the ADP be modified to apply to both commercial and residential development to ensure that consistent built form standards are applied to both commercial and residential/mixed use development.

Discretion & Bonuses

The development bonus/incentive based approach proposed by the ADP is at odds with the operation of the City's existing planning framework and is not supported. The City's previous local planning framework did allow for development bonuses in a similar way to that suggested by the ADP. It provided that where an application was granted Design Excellence from the City's DAC and did not impact the amenity of the locality it would be able to gain additional building height under the Exercise of Discretion for Development Variations Policy. However, in practice, the incentive based bonuses and requirement for Design Excellence resulted in several issues for the City.

The broad flexibility of the City's previous policy requirements for exercising discretion, similar to those proposed by the ADP, meant that land owners and developers assumed bonus development standards such as height were permitted as-of-right. This was reflected in land values and investment decisions and resulted in developers expecting the bonus height to be granted to make their investment viable. In addition, it resulted in proposals for additional building height being assessed against requirements, such as sustainable design features, that did not ensure the additional building height impacts were addressed. This has resulted in poor development outcomes for the community.

The City reviewed the impact of the Exercise of Discretion for Development Variations Policy on height and discretion in planning decisions at the City. The review showed that prior to the adoption of the Exercise of Discretion for Development Variations Policy, development proposals were generally either equal to or within two storeys of the permitted as-of-right height. Following the introduction of the Policy applicants generally applied for bonus heights set by the policy, which were generally within two storeys of the maximum permitted in the local planning framework. This resulted in significantly higher buildings than intended in certain local areas.

An example of this is the development at 330 Charles Street North Perth. This development was for the construction of a seven storey mixed use development comprising of four offices and 47 multiple dwellings. The maximum height provided for in the local planning framework

for this area was five storeys, with the Exercise of Discretion for Development Variations Policy allowing an additional two storey bonus where the development received design excellence, did not impact on the amenity of the locality and achieved one of the set sustainability standards. Administration recommended refusal of this application as the proposed building height was higher than the five storeys provided in the local planning framework, the development did not meet the requirements of the R-Codes and the height, bulk and scale of the proposal was not considered to align with the current or future planning framework for the area. The Metro West Joint Development Assessment Panel approved this application at seven storeys despite the City's recommendation for refusal based in part on the building height permitted by the Exercise of Discretion for Development Variations Policy, which was considered by some DAP members to establish a seven storey height as the planning framework for the area. This was despite the fact that the development was never granted Design Excellence and was considered by the City to impact on the amenity of the community.

The City is of the view that good design should be inherent in all development and that the incentive for good design should be to gain development approval, rather than seek development bonuses. If implemented correctly using both deemed-to-comply provisions and design principles, the existing planning framework is capable of ensuring good design without the need for development bonuses or incentives. This approach provides sufficient certainty to developers and the community on the development standards for an area and ensures that applications which seek to depart from the deemed-to-comply provisions relating to height are assessed against design principles that address that element of the development, rather than being assessed against unrelated provisions such as sustainable design.

Elements such as sustainable design are considered a necessary element of good design and should be required as deemed-to-comply requirements with associated design principles, as is set out in the ADP. This will ensure these outcomes are mandatory and assessed in isolation of any other requirements rather than provided as 'trade-offs' for additional building height.

The City recommends that the bonuses provided for in Table 1 – Primary Controls Table and all of Section 2.11 of the draft ADP be removed.

Design Review

The City is supportive of incorporating design review into the development assessment process to improve the quality of design in development. The City has recently reviewed its existing design review process, which has been operating since 2011, and has several comments on the design review process proposed in the draft DRG, which is similar to the City's current approach.

Role Description

The DRG describes the role of the design review panel as providing design advice to local government, decision makers, developers and designers. The DRG and ADP also state that design review panels should discuss and negotiate with developers on the design of proposals. The provision of expert design advice to local government and decision makers is considered essential for the delivery of positive development outcomes. However, the role of the design review panel should not be to provide design advice directly to applicants, nor should it be to negotiate with applicants on their proposals. This impacts on the independence of the design review panel and misrepresents their role as providers of advice rather than the responsible assessing, reporting and decision making authority.

There is a need to regulate the information that is provided to applicants throughout the development assessment process. It is very important that the chair of the Design Review Panel is an officer from the City to ensure that the process is facilitated correctly according to the City's development assessment and determination process. While it is essential that Design Review Panel provide comments and engage in discussion with applicants on design matters it is also important that the role of the Design Review Panel as an independent panel

providing advice to the City is maintained. It is considered that providing direct advice and recommendations to an applicant through a Chairperson who is also one of the Design Review Panel members undermines this role. This does not restrict the panel from asking questions and engaging in detailed discussions with applicants regarding the design of proposals and ideas/options for improvements. However, any final advice and recommendations should be provided directly to the City who can then provide a full list of comments to the applicant including the statutory planning requirements and other technical advice. This allows applicants to then consider their changes in the full context and streamlines the process.

The City recommends that Section 5 – Roles and Responsibilities and Section 6 – Running a Successful Design Review Panel of the draft DRG be modified to clarify that the role of the design review panel is to provide expert design advice to the determining authority rather than negotiate with and provide advice directly to applicants.

Chairperson

Clauses 4 and 7.3 of the City's current DAC Policy outlines the role of the DAC chairperson and implies that the chairperson will be a DAC member. The DRG also recommends that the chairperson of the design review panel be a panel member and not a representative of the local government. However, as the role of the design review panel is to provide the local government and decision maker with advice on a proposal, it is considered more appropriate for chair of a meeting to be a representative of that local government. This ensures that the local government receives the advice needed and that all relevant issues are considered by the design review panel. This is also supported by Clause 4 of the City's Advisory Groups Policy, which requires a senior city officer to be the chairperson for advisory groups.

The City recommends that Section 5 – How to Establish Design Review Processes be modified to clarify that the design review panel chairperson is a local government representative.

Timing and Number of Reviews

The City's current Design Advisory Committee Policy does not provide certainty on the number of times that an application should be considered at a design meeting. In practice, this has caused confusion for applicants and resulted in applicants frustrated by the number of meetings necessary to address the design experts concerns and applicants who do not wish to engage at all. The City supports the DRG's suggestion of three design review meetings, with the first two being voluntary pre-lodgement meetings and the third being a required meeting following lodgement. This will more closely align with the development approval process and timeframes in the *Planning and Development (Local Planning Schemes) Regulations 2015* and recognises that the pre-lodgement process is voluntary.

The City recommends that Section 5 – How to Establish Design Review Processes be amended to clarify that the first two design review meetings are voluntary pre-lodgement meetings and the third meeting is a required meeting following lodgement.

State Design Review Panel

The City is also concerned with the lack of detail provided on the proposed state design review process. It is unclear which projects of State significance will be required to undertake the State design review process and how this review will integrate with the local design review process. Further detail on the state design review process must be provided.

Implementation

The draft ADP will have a significant resource impact on the City in administering the policy provisions and undertaking intensive detailed precinct based planning to determine detailed development standards. In the City's experience with its Character Retention Area Policy this requires a significant level of detailed planning research; comprehensive engagement with the

local community; and the development of prescriptive and detailed planning provisions. This precinct based approach is highly resource intensive and the State Government has not provided any information regarding how the funding and resourcing of this implementation will be met. On this basis it is assumed that local governments will provide the resources necessary to implement this precinct based approach set out in the draft ADP.

In addition to the resource implications the City is concerned with the logistics of implementing the proposed development assessment approach within the statutory timeframe required under the Regulations given the significant increase in number and complexity of planning requirements and the requirement for design review for many proposals. The City recommends reviewing the draft ADP to find opportunities to consolidate provisions and simplify processes where possible. This will streamline the development assessment process for local governments and applicants.

In addition, the City recommends that the State Government provide funding and/or resources to assist local governments in implementing the policies and process that they put in place.

Conclusion

Administration recommends that Council endorse the comments provided in **Attachment 1** on the draft suite of Design WA documents which will form the basis of a submission to be forwarded to the WAPC.

9.1.6 Outcomes of Advertising – Policy No. 7.5.15 – Character Retention Areas

Ward:	Both Wards	Date:	20 January 2017
Precinct:	All Precincts	File Ref:	SC1343
Attachments:	<p>1 – Draft Policy No. 7.5.15 – Character Retention Areas as advertised</p> <p>2 – Summary of Submissions</p> <p>3 – Amended Policy No. 7.5.15 – Character Retention Areas (with tracked changes)</p> <p>4 – Amended Policy No. 7.5.15 – Character Retention Areas (without tracked changes)</p> <p>5 – Proposed further amended Policy No 7.5.15 – Character Retention Areas (with tracked changes)</p> <p>6 – Harley Street Heritage Area Assessment</p>		
Tabled Items:	Nil		
Reporting Officers:	A Fox, Strategic Planning Officer J O’Keefe , Manager Policy and Place		
Responsible Officer:	J Corbellini, Director Planning Services		

RECOMMENDATION:

That Council:

1. **PROCEEDS** with the amendment to Local Planning Policy No. 7.5.15 – Character Retention Areas with modifications as shown in Attachment 4;
2. **NOTES** the submissions received in relation to the advertising of the amendment to Local Planning Policy No. 7.5.15 – Character Retention Areas and **ENDORSES** Administration’s responses to those submissions included as Attachment 2;
3. **PREPARES** an amendment to Local Planning Policy No. 7.5.15 – Character Retention Areas to designate Harley Street as a Heritage Area, as shown in Attachment 5; and
4. **NOTES** that the proposed designation of Harley Street as a Heritage Area and the amendment to Local Planning Policy No. 7.5.15 – Character Retention Areas included in Attachment 5 will be advertised for a period of 28 days pursuant to Clauses 4 and 9 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and Policy No. 4.1.5 – Community Consultation.

PURPOSE OF REPORT:

To consider the outcomes of the public consultation period for the amendment of Local Planning Policy No. 7.5.15 – Character Retention Areas and whether to proceed with the amended Policy, and advise a further amendment to the policy to designate Harley Street as a Heritage Area.

BACKGROUND:

On 30 May 2016 the City received a petition signed by landowners representing 55% of the properties in Harley Street in support of a nomination of Harley Street as a Character Retention Area. Following the petition, the City engaged with Harley Street residents on two occasions to inform the preparation of a set of Character Retention Area Guidelines for Harley Street. A draft set of Guidelines, along with a number of other administrative and structural changes to the City’s Local Planning Policy No. 7.5.15 – Character Retention Areas, were presented to the Ordinary Council Meeting of 18 October 2016, where they were endorsed for the purposes of advertising.

The advertised amendment affected the following elements of the Local Planning Policy No. 7.5.15 – Character Retention Areas:

- Changes to the policy structure and various administrative changes, consistent with the City's new Built Form Policy; and
- Inclusion of draft Harley Street Character Guidelines as Appendix 2, to provide built form guidance for new development on the street.

The amendment to the Local Planning Policy No. 7.5.15 – Character Retention Areas was advertised from 14 November 2016 to 12 December 2016.

DETAILS:

Harley Street includes a level of original detailing, form and roofscape that results in an excellent representation of a Federation streetscape. The more detailed characteristics of the area are summarised as follows:

- The area is a highly intact example of late nineteenth to early twentieth century residential development comprising good examples of modest, single storey dwellings and two storey terrace houses constructed in the Federation style of architecture;
- The overall form, style, height and selection of materials of the dwellings contribute to the uniformity of the streetscape, providing a consistent and coherent character;
- A high level of retained original detail including street facing verandahs, decorative gables, chimneys, windows and front fences;
- Lot widths are generally consistent, with some half-width lots accommodating terrace housing built at the time of the Chatsworth Estate, many of which are now listed on the City's Municipal Heritage Inventory;
- Front setbacks are generally consistent, reinforcing the building edge, maintaining consistent pattern of development and allowing viewlines along the fronts of all dwellings;
- Front fences are low and or visually permeable with an absence of solid, obtrusive front fences; and
- The street has an absence of car bays and carports to property frontages due to access from a Right of Way and the abundance of on street parking.

The provisions contained in the draft Harley Street Guidelines are proposed to be used to assess development applications lodged for the area. The 'deemed-to-comply' requirements set out in the guidelines are proposed to replace those set out in the City's Built Form Policy and the State Government's Residential Design Codes (R-Codes). The Guidelines also established 'Local Housing Objectives' which will be considered as part of the assessment of development applications.

The provisions of the Guidelines were drafted in consultation with the community to reflect and protect the prevailing character of the streetscape for any new development. There are no elements of these Guidelines which require the approval of the Western Australian Planning Commission.

In addition to the draft Harley Street Guidelines, the proposed amendment to the Local Planning Policy No. 7.5.15 – Character Retention Areas also includes a number of structural and formatting changes. These include:

- Splitting the policy into a Part 1 and Part 2, with Part 1 setting out the purpose and objectives of the policy and Part 2 setting out the framework and process for the nomination of a Character Retention Area and preparation of Guidelines;
- Clarifying the head of power for the policy, the relationship to other planning documents and removing any ambiguity regarding the purpose and application of the local planning policy. This is consistent with the City's new Built Form Policy, which is now considered best practice for the City's local planning policies; and
- Refining the 'Application of Policy and Development Standards' to ensure all terminology is correct and aligned with the Residential Design Codes (where appropriate).

CONSULTATION/ADVERTISING:

The formal advertising of the amendment to the Local Planning Policy No. 7.5.15 – Character Retention Areas was undertaken for a period of 28 days from 14 November 2016 to 12 December 2016. Consultation was undertaken in accordance with Schedule 2, Part 2, Clauses 4 and 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the City’s Policy No. 4.1.5 – Community Consultation and included:

- Written notification to landowners in affected areas;
- Adverts in the Guardian and the Perth Voice newspapers;
- Notice on the City’s website; and
- Copies displayed at City of Vincent Administration and Civic Building and Library and Local History Centre.

The City received six submissions during the advertising period including:

- Two written objections;
- Two written submissions of support (one including a number of minor modifications);
- A petition in support containing 43 signatories; and
- A submission not stating a position but with recommended changes.

A breakdown of the petition in support of the proposed amendment has been provided below indicating who has signed the petition and what percentage of properties that represents.

Signatory	Total Number of Properties Represented (out of 33)	Percentage of Total Properties
Direct Owners	19	57.5%
Non-owner	12	36.4%
Absent	2	6.1%
TOTAL	33	100%

The main issues raised in the submissions related to:

- the Guidelines dictating specific styles and materials and reducing the ability to build modern style homes if desired;
- Concern that the Guidelines would create more red tape and go over and above the requirements of the R-Codes; and
- a number of minor amendments proposed for consideration by the City to further refine or clarify various provisions.

A summary of the submissions received and Administration’s response to each is contained in **Attachment 2**.

LEGAL/POLICY:

- *Planning and Development Act 2005*;
- *Planning and Development (Local Planning Schemes) Regulations 2015*;
- City of Vincent Town Planning Scheme No. 1; and
- City of Vincent Policy No. 4.1.5 Community Consultation.

RISK MANAGEMENT IMPLICATIONS:

The risk of not progressing an adequate character retention policy framework is that the City will be unable to appropriately deal with development issues in the area and this may result in unintended development outcomes, resulting in the loss of character streetscapes that create attractive and desirable places to live.

STRATEGIC IMPLICATIONS:

The City's Strategic Plan 2013-2023 states:

"1.1.1 Develop and implement a Town Planning Scheme and associated policies, guidelines and initiatives that deliver the community vision.

1.1.2 Enhance and maintain the character and heritage of the City.

4.1.4 Plan effectively for the future.

4.1.5 Focus on stakeholder needs, values, engagement and involvement."

SUSTAINABILITY IMPLICATIONS:

Nil

FINANCIAL/BUDGET IMPLICATIONS:

Expenditure to progress this policy amendment will be paid from the operating budget.

COMMENTS:

Specification of styles and materials

Two letters of objection were received during the advertising period. They raised a number of concerns that the Guidelines would 'dictate' specific styles, materials and would reduce the ability to build modern style homes if desired. Concern was also raised that the Guidelines would create more red tape and go over and above the requirements of the R-Codes.

The proposed Guidelines do not 'dictate' styles or materials but rather sets several paths of assessment of a development application in the area. This includes a set of deemed-to-comply standards based on the existing character of the area. Where an applicant proposes a different form of development, assessment is to be made against the design principles contained in the R-Codes, the local housing objectives of the draft Guidelines and the Harley Street Character Objectives.

There is already a policy framework in place for all developments in Vincent and the draft Guidelines will replace certain elements of the existing framework not add to them. In addition the guidelines do not vary anything that is not permitted to be varied by the R Codes and does not require the approval of the Western Australian Planning Commission. On this basis it is considered that the proposed Guidelines operate within the planning framework of the R-Codes established by the State Government.

Minor Amendments

Two written submissions in support of the Guidelines were received with one containing a number of minor amendments to be considered by the City to further refine or clarify various provisions. Another submission was made which did not disclose a position but suggested a range of amendments to be considered.

As a result of the submissions received, minor changes are proposed to both the substantive policy and the Guidelines. These are summarised below and highlighted in **Attachment 3**:

- A number of minor wording changes to the policy to clarify the application and objectives of the policy;
- Changes to Clause 1.7 so there is no roof pitch requirements where the roof cannot be seen from the street;

- Inclusion of a new objective to encourage a high standard of architectural and sustainable design solutions for additions to existing buildings and new buildings;
- Relocation of O1.2.1 from a Local Housing Objective to a 'Deemed to Comply' provision;
- Relocate wording from the 'note' into the Deemed to Comply' provision for C1.3.1 relating to plate height;
- Increasing building heights by one metre to accommodate the height permitted through the previous provision relating to plate height;
- Removal of the word 'habitable' from C1.5.2;
- Reduction of visually permeable fences from 50% to 40%;
- Increase in the maximum width of piers to 470mm;
- Improvements in the wording of clause 1.8 – Building Design;
- Correction to remove reference to Part 6 of the R-Codes which does not apply to Harley Street.

Heritage Areas

Following the advertising of the draft Character Retention Area Guidelines and as part of a separate initiative, the City met with Harley Street residents again in late January 2017 to discuss whether there was an appetite for the street to be designated as a 'Heritage Area' which is empowered by state planning regulations.

Heritage Areas are places that need special planning controls to conserve and enhance the cultural heritage significance and character of that area, similar to Character Retention Areas, with the only difference being that buildings within a Heritage Area may require development approval prior to demolition occurring. This provides a greater level of protection to selected buildings which contribute to the heritage value of the area but are not individually registered on the City's or State's Heritage List.

A total of 14 residents attended the meeting, representing approximately one third of the properties in Harley Street. Two attendees did not provide an opinion on the proposal, 12 attendees stated their strong support and one attendee stated they did not object to the proposal but was there to seek further information.

The City has undertaken a heritage assessment of Harley Street and is satisfied it meets the criteria to be included as a 'Heritage Area', in accordance with the *State Heritage Office Criteria for the Assessment of Local Heritage Places and Areas*, Clause 9 (1) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and Clause 6.3 of the City's Policy No. 7.6.2 – Heritage Management – Assessment. This assessment is contained in **Attachment 6**.

The City's heritage assessment identifies that the street has *moderate aesthetic value* through its dominant display of single storey residences constructed in the Federation style of architecture and has *moderate historic value* as an almost complete example of a 19th century streetscape, with residences that were predominantly built in the late 1980s – 1910s providing a rare historic record of the accommodation of people in this period. Each dwelling within the area is considered to have *moderate contribution* to the significance of Harley Street, with the exception of Nos. 1A-1C Harley Street, Nos. 15A-15B Harley Street and No. 30 Harley Street. In addition Nos. 2 and 14 Harley Street also have no contribution as they are vacant sites.

Given the results of the heritage assessment and the high level of community support provided in the recent workshop, it is recommended that the designation of Harley Street as a Heritage Area be advertised for public comment. It is also recommended that a draft amendment be prepared to the Harley Street Character Retention Area Guidelines to include the proposed Heritage Area designation, as included in **Attachment 5**. In relation to those properties not considered to contribute to the significance of Harley Street, being Nos. 1A-1C; 2; 14; 15A-15B; and 30 Harley Street it is recommended that the Guidelines still be applicable to these identified properties in order to guide future built form in the area, but that demolition of these properties be exempt from requiring development approval.

Under the state planning regulations, the proposed designation of a Heritage Area is required to be initiated and advertised by the local government to affected property owners. Administration will undertake this process in accordance with the Regulations to ensure all owners have the opportunity to provide comments on the proposal.

Conclusion

The consultation relating to the character retention area displayed a high level of engagement and support by the local community guidelines for the area. On this basis, it is considered that there is adequate support for the guidelines as presented. A number of modifications are proposed to the draft amended policy as a result of the feedback received during the consultation period. Given the above, it is recommended that the advertised amendment to the Local Planning Policy No. 7.5.15 – Character Retention Areas be adopted with modifications.

The City has also discussed a proposal to designate Harley Street as a Heritage Area with the community and given the level of support shown it is recommended that the proposal be formally advertised. It is recommended that a Heritage Area amendment be prepared for Local Planning Policy No. 7.5.15 – Character Retention Areas and be advertised together with the proposal to designate Harley Street as a Heritage Area.

9.1.7 LATE ITEM: Leederville Growers Market – Consideration of a Request to Waive Fees by Market Operator

Ward:	South	Date:	2 February 2017
Precinct:	Oxford Centre	File Ref:	SC2797
Attachments:	Confidential Attachment - Report from Market Operator		
Tabled Items:	Nil		
Reporting Officers:	D Doy, Place Manager M Bancroft, Property Leasing Officer		
Responsible Officer:	J Corbellini, Director Development Services		

RECOMMENDATION:

That Council **AUTHORISES** the Chief Executive Officer to prepare a Deed of Variation of Licence relating to the Leederville Growers Market to:

1. **Include a deferred payment period between 9 February 2017 and 9 April 2017 with the balance licence fee to be paid following the deferred payment period over the duration of the licence agreement;**
2. **Item 9 of the information table to be amended to permit the market to use the space for up to six hours on Sundays between the hours of 6.30am and 6.00pm; and**
3. **Include a new clause that requires a report to be presented to the City of Vincent every 2 months, outlining the stall holder mix, pedestrian numbers, changes in stall holder turnover (by percentage), number of events/activities held, and any further details relating to the financial viability and performance of the market.**

PURPOSE OF REPORT:

To consider a request from the Leederville Growers Market (pSquared Communications') to waive the balance of its 2017 license fee, which is \$16,087.

BACKGROUND:

At the 17 December 2013 Ordinary Meeting of Council (OMC) Council resolved to grant planning approval for an outdoor market (unlisted use) at No. 663 Newcastle Street, Leederville (Leederville Village site), with a condition limiting the operation of the market for one year. This market was branded as the Leederville Farmers Market.

At the 16 December 2014 OMC, Council resolved to renew the planning approval for the Leederville Farmers Market at the Leederville Village site with a condition limiting the operation of the market for a further 5 years.

The operator of the Leederville Farmers Market approached the City in early 2014 with a proposal to relocate the Market from the Leederville Village site to the Frame Court Car Park. At the 28 July 2015 OMC Council authorised the Chief Executive Officer (CEO) to negotiate a licence agreement with the operator of the Market to enable the relocation to the Frame Court Car Park subject to the following minimum conditions being enshrined within the licence:

- The licence agreement shall not exceed 18 months;
- The Market being permitted to use the space on Sundays only between 6.30am and 12.30pm;
- A fee of \$19,305 being payable;
- The costs of all utilities to be borne by the Market;
- Payment of a bond as determined by the City;
- All relevant default, penalties and indemnity clauses; and
- Any other condition deemed to be appropriate by the City.

At the 25 August 2015 OMC Council then granted a planning approval for a Farmers Market (unlisted use) at the Frame Court Car Park, Leederville with a condition limiting the operation of the Farmers Market to an 18 month period.

The operator of the Leederville Farmers Market then advised the City that they would not proceed with the Leederville Farmers Market due to the conditions of the licence.

At its 28 June 2016 OMC Council resolved to approve an amendment to the planning approval granted on 25 August 2015 by removing conditions relating to the approval timeframe and the need for market guidelines from the former applicant.

In August 2016, the City conducted an Expression of Interest (EOI) process to attract another Market operator at the Frame Court Car Park. The City received three responses, one of which proposed a reduced licence fee and then subsequently pulled out of the process prior to the completion of the EOI assessment process. The two responses were presented to Council at its 20 September 2016 OMC where Council authorised the CEO to negotiate a license agreement with pSquared Communications to operate and manage a Farmers Market at Frame Court Car Park subject to the following minimum conditions:

- The licence agreement not exceeding 12 months;
- The Market being permitted to use the space on Sundays between 6.30am and 12.30pm;
- Paying a fee of \$19,305;
- The Market operator paying any additional and relevant fees in accordance with the Schedule of Fees and Charges 2016/17;
- The market not including stalls that sell coffee or hot drinks;
- Meeting all requirements outlined in the Expression of Interest document as shown in Attachment 1;
- Complying with all relevant default, penalties and indemnity clauses; and
- Meeting any other conditions deemed to be appropriate by the City.

Following Council's resolution on 20 September 2016 the City prepared and entered into a license agreement with pSquared Communications in respect to the use of a portion of the Frame Court Carpark as a Farmers Market (Licence). The key terms of the Licence included all of the conditions adopted by Council at the 20 September 2016 OMC, listed above.

The market commenced on Sunday 27 November 2016. In the lead up to the market the City also:

- assisted pSquared Communications to promote the Growers Market through the City's social media channels;
- provided on-site signage to reduce the incidence of cars being left over in the Frame Court Car Park from the night before;
- demarcated the market area by using distinct line-marking; and
- provided staff to manage any parking issues.

The City received written correspondence (email) on 20 December 2016 from pSquared Communications which outlined a series of concerns about the market and its ongoing viability. These concerns included:

- Sunday as a trading day;
- the feasibility/viability of the market and a request to waive the fee for 6 months;
- the stallholder permit fee amount and separate permits being required for different markets;
- the need for stallholder parking permits; and
- the lack of storage on-site for chairs and other market equipment.

The City also observed a variety of factors that may have contributed to concerns about the financial viability of the Growers Market. These include:

- only one fresh food stall operating at the market undermining the perception of the market being a Growers Market, and provides an unsatisfactory range of fresh produce and prices;
- the market layout; and
- lower pedestrian numbers across the Leederville Town Centre on Sunday mornings due to only a portion of shops being open.

In response to pSquared Communications' correspondence on 20 December 2016 the City requested the market operator submit a detailed report outlining the strategies and actions that would be undertaken to make the market more viable. This report in association with a request to waive the remaining license fee, was provided to the City by pSquared Communications on 27 January 2017 and is contained in **Attachment 1**.

Administration has consistently made it clear to the market operator that the licence fee cannot be waived without the license first being amended. Given Council adopted conditions that formed the basis for the licence, it is appropriate for Council to consider this request and options for the ongoing operation of the market.

DETAILS:

The detailed report submitted by the market operator to the City requests that the balance of the annual license fee (\$16,087) be waived to allow the market operator to invest in more marketing and promotion while also facilitating a reduction in the weekly stallholder market fee.

To justify this request the market operator also provided the following information in the detailed report:

- ***An outline of the low attendance numbers at the Growers Market:***
pSquared Communications informed the City that visitation for the markets on 27 November, 11 December, 18 December 2016 and 8 January 2017 were between 50 and 100 people. Only 12 people visited the 4 December 2016 Market which was held during the setup of the Light-Up Leederville Carnival.
- ***An outline of how this lack of visitation is affecting the financial viability of the Growers Market;***
pSquared Communications have stated that there are many interested stall holders who would be willing to participate after seeing an increase in foot traffic, but are not willing to participate during the early consolidation of the market.
'pSquared are aware, that there is a requirement to increase the diversity of the Fruit and Vegetable vendors at the market as well as introduce more food provedore style stalls; and although there are business' interested in attending they are aware that it is currently extremely quiet and therefore not a viable decision for them to trade'
- ***An outline of the markets current financial position;***
pSquared Communications have provided an outline of the Leederville Growers Market financial position which is included in **Attachment 1**.
- ***Feedback from a variety of stallholders about the performance of the market and their experience;***
The report in **Attachment 1** provides a number of testimonies from stallholders who have participated or considered participating in the market. Many of the stallholders explain how the market is not financially viable for them to participate in due to the low levels of visitation.

- ***A strategy for greater investment into marketing and promotion and the reduction of the market stallholder fee.***

pSquared Communications have outlined the following two strategies to improve the viability of the market:

1. Reduction of stallholder fee: The stallholder fee charged by pSquared Communications is currently \$50 a week. This fee enables pSquared Communications to cover the licence fee. Waiving the licence fee would enable pSquared to lower stallholder fees.
2. Marketing: pSquared Communications primary strategy to improve the Growers Market is via an expanded marketing regime. Below is an outline of the marketing undertaken to date, and the extra marketing and promotion that will occur should the licence fee be waived.

Below is a list of marketing activities to date:

- 2 x large format banners
- Facebook and Instagram advertising
- 10,000 home letterbox drop (within the LGM catchment area)
- 3 stories in community newspaper
- Feature in the Sunday Times and the West Australian

The following marketing activities are planned should the licence fee be waived:

- Flyer Distribution (5,000 copies)
- Poster Distribution
- Signage
- The Voice – Display Advertising (fortnightly)
- Facebook Advertising
- Instagram Advertising

The market operator's request to waive the remainder of the annual fee is contradictory to the terms of the Licence and therefore Council approval to vary or enter into a new licence is required.

If the market operator ceases to pay the licence fee without a variation of the Licence or entry into a new licence approved by Council, the City may terminate the Licence.

CONSULTATION/ADVERTISING:

Administration has been in regular contact with pSquared regarding this matter including, most recently, in a meeting with pSquared on 2 February 2017 with the City's Chief Executive Officer, Director Development Services and Place Manager.

LEGAL/POLICY:

The use of land owned in freehold by the City of Vincent (Lot 1 Frame Court Car Park) is subject to the provisions of the *Local Government Act 1995* and the *Local Government (Functions and General) Regulations 1996*.

The Farmers' Market is considered an exempt disposition of property under Clause 30(2)(e) of the *Local Government (Functions and General) Regulations 1996* which states that:

“(2) A disposition of land is an exempt disposition if

- (e) *it is the leasing of land for a period of less than 2 years during all or any of which time the lease does not give the lessee the exclusive use of the land.”*

Therefore the Farmers' Market is exempt from the application of Section 3.58 of the *Local Government Act 1995* because the varied licence agreement is for less than a 12 month period and will not result in the exclusive use of the land as a Farmers Market (it is a car park from Monday through to Saturday).

RISK MANAGEMENT IMPLICATIONS:

Medium: Market operator has indicated that it is unable to comply with the terms of the Licence and therefore to avoid the market operator being in breach of the terms of the Licence, which would give rise to termination, it is essential that Council consider whether it is appropriate for the Licence terms to be varied or a new licence be entered into.

STRATEGIC IMPLICATIONS:

The City's Strategic Plan 2013-2023 states:

"2.1.3 Develop business strategies that reduce reliance on rates revenue

(c) Continue to review leases and commercial contracts to ensure the best return for the City, whilst being cognisant of its community service obligations.

3.1.3 Promote and provide a range of community events to bring people together and to foster a community way of life."

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

The balance of the licence fee is \$16,087.50 (incl GST). Therefore if the Licence is terminated the City will not receive this income, however, this loss will be offset by the parking income the City receives from the Frame Court Car Park.

COMMENTS:

Administration has identified a series of potential options for Council's consideration based on the above as follows:

- Option 1: Waive the licence fee as requested by the market operator;
- Option 2: Waive the license fee for a period of time and alter the licence to allow the market to trade during Sunday afternoons;
- Option 3: Defer the fee for a period of 2 months between 9 February 2017 and 9 April 2017 with the balance of the licence fee to be paid following the deferred payment period, over the remaining duration of the licence agreement. Alter the license to allow the market to trade during Sunday afternoons.

Each of the above options is discussed in detail below.

Option 1: Waive the licence fee as requested by the market operator

The Expression of Interest to operate and manage the Leederville Farmers Market provided licence conditions set and approved by Council, including the requirement to pay a licence fee of \$19,305. The City received three submissions on this basis, with one respondent recommending a reduced fee in order for their market to be financially viable. pSquared was awarded the contract to operate and manage the Farmers Market in preference to the other two submitters after outlining that they would run a financially viable market while

accommodating the full licence fee. Completely waiving the licence fee three months into the term of agreement is considered to be inequitable to the other EOI respondents who applied to operate the market at either the full fee set out in the EOI, or in the case of the one respondent, at a reduced fee.

pSquared have not adequately demonstrated that their strategy to reduce the stallholder fee to \$20 per market and increase their marketing and communication would result in an improved or viable Leederville Growers Market, even if the full licence fee was waived. These initiatives may reduce the costs for pSquared, but will not necessarily increase the performance of the Growers Market. Given this, and the inequity of waiving the licence fee for pSquared only three months into their licence following a competitive EOI process, it is recommended that the request from pSquared for the licence fee to be waived in full not be supported.

If the request to waive the fee in full is rejected and the market operator chooses not to pay the fee or continue operating, as is required under the license agreement, the licence will be in breach and the City will be able to approach the other EOI respondents to determine their willingness to operate a market from the site. This is not considered ideal given the relationship pSquared Communications have with the current stallholders and the marketing and communications already undertaken by the operator and stall holders.

Option 2: Waive the license fee for a period of time and alter the licence to allow the market to trade during Sunday afternoons.

It is clear that the major issue facing the Growers Market is low visitation. While the overall offer of the Leederville Growers Market is diverse, the key element – fresh fruit and vegetables – is limited to a single stall. pSquared Communications have stated that until visitation increases they will be unlikely to attract any further fresh fruit and vegetable stalls even if the licence fee is waived and the stall holder fee is reduced to \$20 per market.

pSquared Communications have admitted that extra marketing will be unlikely to attract more pedestrians given the low activity in Leederville on Sunday morning and the reduced overall offer currently provided at the market. Allowing the market to operate on Sunday afternoons would provide potential for increased visitation, given the higher level of activities in Leederville on Sunday afternoons. It would also create an opportunity for the market to rebrand and work in conjunction with the Oxford Street road closures, scheduled to occur on Sunday afternoons in March, by operating in the Oxford Street road reserve instead of the car park.

In this context waiving the licence fee could be considered reasonable if the market operator ceased to use the car park and instead operated from the Oxford Street road reserve during the road closure. This would allow the bays in the car park that would have otherwise been consumed by the market to be available for paid parking, removing the need for the City to charge a licence fee for the market.

This option has been discussed with pSquared who have stated that they are not able to fit the market in the part of the Oxford Street road reserve adjoining Oxford Park are not willing to split the market. In addition pSquared are still reliant on the full licence fee being waived for them to continue operating. On this basis Option 2 is also not recommended.

Option 3: Defer the fee for a period of 2 months between 9 February 2017 and 9 April 2017 with the balance of the licence fee to be paid following the deferred payment period over the remaining duration of the licence agreement. Alter the license to allow the market to trade during Sunday afternoons.

A change to the operating hours will provide greater flexibility for the market operator to move the Leederville Growers Market to a Sunday afternoon and capitalise on the higher levels of visitation in the Leederville Town Centre during that time. The upcoming Oxford Street Closures on Sunday afternoons in March also represents a great opportunity to increase the

exposure of the farmers market and demonstrate high visitation levels to interested fresh food stallholders. Deferring payment of the fee for the next two months, to allow the market to first increase visitation of the back of these changes and then increase stall numbers as a result of the higher visitation numbers, is considered to be a reasonable outcome that would allow the existing stalls and operator to continue without impacting on the equity of the initial EOI process. The deferred payments could then be paid back over the remainder of the licence period.

Given the above it is recommended that Council approve Option 3 and authorise the CEO to vary the licence agreement to permit the market to use the space for up to six hours between 6.30am and 6:00pm, defer payment of the licence fee between 9 February and 9 April 2016, and require the market to Report back to the City of Vincent every 2 months, outlining the stall holder mix, pedestrian numbers, improvements in stall holder turnover (by percentage), number of events/activities held, and any other concerns or changes to the financial viability of the market. This final condition will ensure the City of Vincent is kept regularly informed on the performance of the Market, with particular focus on an increase in fresh food stallholders and visitation numbers.

9.2 TECHNICAL SERVICES

9.2.1 Flood Mitigation Works – Beatty Park Reserve, North Perth

Ward:	South	Date:	20 January 2017
Precinct:	Precinct 6 - Smith's Lake	File Ref:	SC534
Attachments:	1 – Beatty Park Catchment Area 2 – Claisebrook Main Drain 3 – Flood Mitigation Works plan		
Tabled Items:	Nil		
Reporting Officer:	R Lotznicker, Director Technical Services		
Responsible Officer:	R Lotznicker, Director Technical Services		

RECOMMENDATION:

That Council:

1. **NOTES** that urgent works are required to undertake flood migration works along a portion of the northern boundary of Beatty Park Reserve;
2. In accordance with Section 6.8(1) of the *Local Government Act 1995*, **APPROVES BY AN ABSOLUTE MAJORITY** the unbudgeted expenditure of \$18,000, to undertake the urgent works as stated in recommendation 1 above; and
3. **NOTES** the following budget reallocation to facilitate the expenditure in 2 above:

	From	To
New Budget Item: Proposed Flood Mitigation works – Beatty Park Reserve		\$18,000
2016/17 Bike Network Plan Implementation	\$18,000	
Total	\$18,000	\$18,000

PURPOSE OF REPORT:

To consider providing funding for minor flood mitigation works in the Beatty Park Reserve near the Beatty Park Pavilion carpark.

BACKGROUND:

During periods of short-duration, high-intensity rain events several properties in Emmerson Street, North Perth, that gain vehicular access from the rear Right of Way, which also forms part of the Beatty Park Pavilion carpark, have experienced on-going flooding.

The flooding has been caused by a number of factors, as discussed further in the report, and following an assessment and meeting with affected residents a number of interim measures to reduce the flooding risk were implemented in 2016.

DETAILS:

The properties susceptible to flooding are located in the low point of a drainage catchment area which includes the Beatty Park Aquatic Centre buildings, carpark and surrounds, as shown at **Attachment 1**.

The drainage system in the catchment that collects stormwater runoff is old with undersized pipes that ultimately connects to the Water Corporation's Claisebrook Main Drain located in the Beatty Park Reserve near Charles Street, North Perth.

The Claisebrook Main Drain was constructed over 100 years ago and as more intensive development has occurred within the Claisebrook Main Drain catchment area* over the years, it appears that the drain cannot adequately cope with this increased stormwater runoff during certain storm events.

Note:* The Claisebrook Main Drain extends from Morley Drive (City of Stirling) to the Swan River (discharging at Claisebrook Cove) and about 60% of the City of Vincent falls within this catchment area. (Refer **Attachment 2**).

In addition, at times of heavy rainfall events mulch, leaves and debris often flow from the Beatty Park Reserve and surrounds, blocking gullies at the catchment low-point which contributes to the flooding experienced.

Interim Measures:

The following interim measures to reduce the flooding risk were implemented in 2016:

- Removal of mulch under trees and replacement with turf;
- Extension of the perimeter fence on the south side of the Beatty Park Pavilion Reserve carpark to collect leaves/debris;
- Bunding and reshaping of a portion of the Beatty Park Reserve;
- Installation of numerous gully soak wells at strategic locations within the Beatty Park Aquatic and Leisure Centre carpark;
- Strapping the lids of the existing manholes to stop the lids from 'blowing off' during large storm events; and
- Increasing the height of the kerb at the eastern side of the Beatty Park Aquatic and Leisure Centre carpark to better contain stormwater runoff.

Additional Measures:

A further measure that was suggested, but not yet implemented due to budget constraints, is the construction of a low limestone retaining wall, 600mm in height with a new fence on top, on the alignment of the existing fence. The purpose of the wall would be to contain any excessive stormwater within Beatty Park Reserve. This is supported by the affected residents. (Refer **Attachment 3**).

This work is estimated to cost \$18,000 and the funds can be sourced from savings in other 2016/17 capital works projects.

Independent Drainage Assessment:

In addition to the above, it was agreed that an independent drainage assessment would be undertaken.

A Request for Quotation was prepared and suitably qualified consultants were invited to submit a proposal to conduct a study and make recommendations on longer term measures to reduce the risk of further flooding.

A further report on the matter will be presented to Council in due course in the context of the 2017/18 draft budget.

CONSULTATION/ADVERTISING

Residents will be provided with an Information Bulletin prior to the works proceeding.

LEGAL/POLICY:

Not applicable.

RISK MANAGEMENT IMPLICATIONS:

Medium/High: Properties in the catchment low-point have experienced significant flooding in recent years and the proposed measures outlined in the report are intended to compliment recent measures undertaken to further mitigate the flooding risk.

STRATEGIC IMPLICATIONS:

In accordance with the City's *Strategic Plan 2013-2023*, Objective 1 states:

"1.1: Improve and maintain the natural and built environment and infrastructure.

1.1.4 Enhance and maintain the City's infrastructure, assets and community facilities to provide a safe, sustainable and functional environment."

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

As mentioned above, the estimated cost of this work is \$18,000 and the funds can be sourced from savings in other 2016/17 capital works projects.

COMMENTS:

As stated in the report a number of measures have been implemented in 2016 to mitigate flooding of several properties located in the catchment low-point at the rear of Emmerson Street, North Perth. These works comprised the installation of additional drainage infrastructure, including undertaking remedial measures in Beatty Park Reserve, and were funded from the 2016/17 miscellaneous drainage budget and gully soakwell budget.

There is no specific budget allocation for the proposed works as outlined in the report, which comprise the construction of a low limestone wall and associated work, with the aim to further mitigate the flooding risk. The works are listed as urgent as they need to be implemented prior to the onset of winter.

9.2.2 Proposed Parking Improvements – Albert Street, North Perth

Ward:	North	Date:	20 January 2017
Precinct:	Precinct 9 – North Perth Centre	File Ref:	SC656, SC1201
Attachments:	1 – Consultation Summary 2 – Plan No. 3340-CP-01A		
Tabled Items:	Nil		
Reporting Officer:	C Wilson, Manager Asset and Design Services		
Responsible Officer:	R Lotznicker, Director Technical Services		

RECOMMENDATION:

That Council:

- NOTES** the comments received during the consultation period for proposed parking improvements in Albert Street, North Perth, as shown in Attachment 1;
- In accordance with Section 6.8(1) of the *Local Government Act 1995*, **APPROVES BY AN ABSOLUTE MAJORITY** the unbudgeted expenditure of \$50,000 to be funded from a contribution from the WA Education Department to construct 14, 90 degree angle parking bays in the Albert Street verge adjacent the North Perth Primary School oval, as shown on Plan No. 3340-CP-01A (Attachment 2);
- NOTES** the following budget adjustments to facilitate condition 2 above; and

	Income	Expenditure
New Budget Item: Proposed angle parking bays in Albert Street, North Perth		\$50,000
Contribution from WA Education Department	\$50,000	
Total	\$50,000	\$50,000

- ADVISES** the residents of Albert Street, North Perth Primary School, the Education Department and respondents of its decision.

PURPOSE OF REPORT:

To consider the outcome of the recent consultation regarding the proposal to construct additional 90 degree angled parking spaces in the Albert Street verge adjacent the North Perth Primary School and implement location-specific parking restrictions.

BACKGROUND:

At its Ordinary Meeting of 15 November 2016 Council considered a report on the Education Departments' offer to fund the construction of additional 90 degree angle parking bays within the verge area of Albert Street, adjacent the North Perth Primary School oval, where the following decision was made:

"That Council:

- NOTES* that the Education Department has offered the City \$50,000, to be expended in the 2016/17 financial year, to construct additional 90 degree angle verge parking bays in Albert Street, North Perth, adjacent the North Perth Primary School oval, as shown on drawing 3340-CP-01 (Attachment 1).
- CONSULTS* with Albert Street residents and the North Perth Primary School, regarding the parking proposal; and

3. *RECEIVES a further report at the conclusion of the public consultation."*

DETAILS:

In 2011 the City constructed nine, 90 degree angle parking bays, at the eastern end of Albert Street, adjacent to the North Perth Primary School oval. At the time this generated some debate from the residents immediately opposite who were opposed to the construction of the parking bays.

In the latter part of 2016 the Education Department offered the City \$50,000 to construct additional verge parking in Albert Street, which is sufficient to construct 14, 90 degree angle parking bays to match the existing nine bays as shown on Plan No. 3340-CP-01A (**Attachment 2**), resulting in a total of 25 formalised parking spaces.

Further, in order to ensure that the parking is not dominated by commuters, or potentially the future employees of the proposed child care centre at 81 Angove Street, North Perth, it was proposed to implement the following restrictions in the angle parking:

- Bays 1 to 6: P5 minutes 8.00am to 9.00am and 2.30pm to 4.00pm Monday to Friday.

This restriction has proved effective in other school zones. It provides a short duration drop-off and pick-up point during the peak times close to the main school entrance. Outside these hours the parking is unrestricted which allows people on school business (and others) an opportunity to park for a maximum 5.5 hours between peak times.

- Bays 7 to 25: A 3P 8.00am to 6.00pm Monday to Friday parking restriction is proposed which is in keeping with the North Perth Parking Strategy recommendations, and which will also be applied to the existing parking bays in Albert Street, off Angove Street, adjacent the school campus.

In the remainder of the verge area, designated as a possible future Stage 3, an additional eight bays could be accommodated, as shown on Plan No. 3340-CP-01A (**Attachment 2**).

CONSULTATION/ADVERTISING:

Consultation was undertaken in accordance with the City's Community Consultation policy.

Required by legislation	No	Required by City of Vincent Policy	Yes
Consultation Period	30 November 2016 – 16 December 2016		
Comments Received	68 consultation packs were distributed. At the close of consultation five responses were received with four in favour and one against. (Refer Attachment 1).		

Discussions also took place with the principal of the North Perth Primary School. The school fully supported the proposal.

LEGAL/POLICY:

The City of Vincent Parking and Parking Facilities Local Law 2007 regulates the parking or standing of vehicles in all or specified thoroughfares and reserves under the care, control and management of the City and provides for the management and operation of parking facilities.

RISK MANAGEMENT IMPLICATIONS:

Low: This proposal will improve the level of service and the amenity for both the immediate residents and school community at no cost to the City.

STRATEGIC IMPLICATIONS:

In accordance with the City's *Strategic Plan 2013-2023*, Objective 1 states:

"Natural and Built Environment

"1.1: Improve and maintain the natural and built environment and infrastructure.

1.1.4 Enhance and maintain the City's infrastructure, assets and community facilities to provide a safe, sustainable and functional environment.

1.1.5 (a) Implement the City's Car Parking Strategy and associated Precinct Parking Management Plans."

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

The estimated cost to construct 14, 90 degree angle parking bays, with associated infrastructure (lines, signs, bollards etc.) within the verge area is in the order of \$50,000, to be fully funded by to WA Education Department, on the understanding that the works will be completed in the 2016/17 financial year.

COMMENTS:

Given that the majority of respondents were in favour of the proposal, and that the works will be fully-funded by the WA Education Department, it is requested that Council approve the recommendation.

9.2.3 Proposed Traffic Management & Safety Improvement - Intersection of Elma Street and Walcott Street, North Perth

Ward:	North	Date:	19 January 2017
Precinct:	Precinct 8 – North Perth	File Ref:	SC772, SC1201
Attachments:	1 – Consultation Summary 2 – Plan Nos. 3387-CP-01 and 3387-CP-01A		
Tabled Items:	Nil		
Reporting Officer:	C Wilson, Manager Asset and Design Services		
Responsible Officer:	R Lotznicker, Director Technical Services		

RECOMMENDATION:

That Council:

1. **NOTES** the comments received as outlined in Attachment 1, regarding a proposal for a partial obstruction of Elma Street, at the intersection of Walcott Street, North Perth, as shown on Plan No 3387-CP-01 (Attachment 2);
2. **APPROVES** conducting a 6 month trial of a '1/2 seagull island' using water filled barriers, or similar, at the Elma Street/Walcott Street intersection, as shown on attached Plan No. 3387-CP-01A (Attachment 2), and assesses the traffic and accident data collected during the trial including undertaking further consultation with potentially affected residents at the conclusion of the trial period;
3. **RECIEVES** a further report at the conclusion of the trial following the further consultation with residents; and
4. **ADVISES** all respondents of its decision.

PURPOSE OF REPORT:

To consider the outcome of the recent consultation regarding the proposed modification of the intersection of Elma Street and Walcott Street as a road safety and traffic management improvement.

BACKGROUND:

A complaint was received regarding the high volume of through-traffic using Elma Street (which runs between Walcott Street and Charles Street) and the potential for a serious accident to occur.

The complainant claimed that *"the street is not designed for such vehicles in my opinion and the traffic calming measures offer almost no deterrent to 4 wheel drives, utes with trailers, trucks and various cars that 'speed' over them often making excessive noise. This is a residential area with children, pets and families who deserve a safer area to enjoy"*.

The resident suggested that 'most' residents in the street supported measures to deter rat runners using the street.

DETAILS:

Elma Street - Description/Statistics:

Elma Street is classified as an Access Road in accordance with the metropolitan Functional Road Hierarchy. It has a posted speed on 50kph and has an allowable upper traffic volume

threshold of 3,000 vehicles per day. There are three existing low profile speed humps, one at each end of Elma Street (intersections of Walcott Street and Charles Streets), and one mid-block, at the intersection of Doris Street.

Traffic:

The traffic and speed data for Elma Street is shown in the following table:

Road	Date		Location	Vehicles per day	Ave Speed (kph)	85% Speed (kph)
	Start	Finish				
Elma St	08-Jun-16	15-Jun-16	Charles – Doris	1,007	33.4	40.0
	20-Nov-14	27-Nov-14		1,067	34.3	41.0
	27-Feb-07	06-Mar-07		937	35.6	41.8
	19-Sep-00	25-Sep-00		866	31.7	38
	08-Jun-16	15-Jun-16	Lawler – Walcott	943	41.0	48.3
	20-Nov-14	27-Nov-14		1,017	40.0	47.2
	27-Feb-07	06-Mar-07		991	41.1	48.2
	19-Sep-00	25-Sep-00		827	33.5	40

As can be seen from the above statistics, the traffic volume and peak hour traffic has remained relatively stable over the last nine years even though there has been a large increase in the number of registered vehicles in Perth over this period. The current traffic volume is well within the streets classification and the recorded speed, at which 85% of vehicles travel at, or below, (which indicates the speed environment of a road) is well below the posted speed limit.

Reported Accidents:

Walcott Street is a boundary road with the City of Stirling. The total number accidents at this location is 13 over five years (to 31/12/2015), of which nine are directly attributable to access into and out of Elma Street from the City of Stirling side. As such, the intersection meets the 'Black Spot' criteria.

With regards to reported accidents, at the Charles Street intersection there have been four reported accidents over a five year period.

The most cost effective means of eliminating accidents at the Walcott Street location would be to install a continuous median island across the intersection to prevent the right turn and straight through movements. This was discussed with the City of Stirling but they were not supportive of this as it was likely to create access issues to the wider Menora precinct.

The Officers subsequently focused on a possible solution that would not impinge upon the City of Stirling's side, as shown on Plan No. 3387-CP-01 (**Attachment 2**). This proposal would restrict the east bound movements from Elma Street to left out only onto Walcott Street. It would also prevent the straight through movement, either direction, and the right and left turn into Elma Street from Walcott Street.

CONSULTATION/ADVERTISING:

Consultation was undertaken in accordance with the City's Community Consultation policy where residents of both Elma Street and surrounding streets were asked to comment on the proposal.

Required by legislation	No	Required by City of Vincent Policy	Yes
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Consultation Period	30 November 2016 – 16 December 2016
Comments Received	155 consultation packs were distributed. At the close of consultation 38 responses were received with 12 in favour, 25 against and one neither for nor against the proposal. (Refer Attachment 1).

LEGAL/POLICY:

Elma Street is under the care, control and management of the City of Vincent.

RISK MANAGEMENT IMPLICATIONS:

Low/Medium: The recorded 85% speeds are low and the traffic volumes are well within the criteria and while, based on this data, further intervention would not be recommended the recorded accidents for the Elma Street/Walcott Street intersection are high. Therefore the proposal would reduce traffic accidents at the intersection and improve amenity for residents by better regulating traffic movements in the street.

STRATEGIC IMPLICATIONS:

In keeping with the City's *Strategic Plan 2013-2023*, Objective's 1 states:

"1.1: Improve and maintain the natural and built environment and infrastructure.

1.1.4 Enhance and maintain the City's infrastructure, assets and community facilities to provide a safe, sustainable and functional environment."

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

As there are no funds allocated in the 2016/17 budget for Elma Street this would need to be further investigated and appropriate funds allocated for Council's consideration in the 2017/18 draft budget.

However if a trial is approved, as shown on plan No Plan No. 3387-CP-01A (**Attachment 2**), this would be funded from the 2016/17 Miscellaneous Traffic Management budget allocation.

COMMENTS:

The City receives many requests for traffic management and road safety improvements. In respect to Elma Street while the traffic data does not support further intervention in it is acknowledged that the street has been used as a rat run between Charles Street and Walcott Street for many years.

The public consultation included the surrounding streets of Doris, Lawler and Hilda Streets as well as those properties fronting Charles Street and Walcott Street, between Bedford Street/Selkirk Street and Hilda Street, as all of these residents would potentially be affected by a change at the Elma Street/Walcott Street intersection.

As a consequence the majority of respondents, approximately 66%, primarily from Lawler Street and Doris Street, are opposed to the partial closure proposal as it reduces access to their properties and on occasions may require them to use a more circuitous route.

Therefore while the proposed treatment will deter 'rat runners' the most significant outcome is a likely reduction in traffic accidents at this location.

However given that the majority of respondents were against the proposal it is recommended that a six month trial of a '½ seagull island' closure as shown on Plan No. 3387-CP-01A (**Attachment 2**), after which further consultation would be undertaken, with a view to make the changes permanent if successful and supported.

If approved, the trial can be implemented in 2016/17 funded from the miscellaneous traffic management budget allocation.

9.2.4 Charles Veryard Reserve – Installation of Dog Exercise Area Fencing

Ward:	North	Date:	19 January 2017
Precinct:	Precinct 6 – Smith’s Lake	File Ref:	SC531
Attachments:	1 – Consultation Summary 2 – Fencing Plans		
Tabled Items:	Nil		
Reporting Officer:	J van den Bok, Manager Urban Green		
Responsible Officer:	R Lotznicker, Director Technical Services		

RECOMMENDATION:

That Council:

1. **NOTES** the comments received during the public consultation period for a proposal to fully or partially enclose the existing dog exercise area located at the eastern end of Charles Veryard Reserve, North Perth, as shown in Attachment 1;
2. **based on the feedback received, APPROVES** to fully enclose the existing dog exercise area at Charles Veryard Reserve area with a 900mm high ‘pool type’ fence as shown in Attachment 2; and
3. **ADVISES** the respondents of its decision.

PURPOSE OF REPORT:

To consider the outcome of the recent public consultation regarding fencing options for the existing dog exercise area located at the eastern end of Charles Veryard Reserve, North Perth.

BACKGROUND:

At the Ordinary Meeting of Council held on 21 October 2014 Council increased the dog exercise area within Charles Veryard Reserve to its entirety at all times except “*where that part of the public place is being used for a function, sports event, training or other activities approved by the local government*”.

Prior to the above Council decision the area at the eastern end of the reserve was the only area within the reserve where dogs could be exercised off leash at all times.

Several meetings have been held with dog owners at Charles Veryard Reserve over the past few years with regards to installing a physical or vegetative barrier adjacent to Bourke and Kayle Streets where the existing dedicated dog area is located.

Funding of \$15,000 was subsequently allocated in the 2016/17 budget to provide a full or partial enclosure for dogs, bordered by Bourke and Kayle Streets at Charles Veryard Reserve, North Perth.

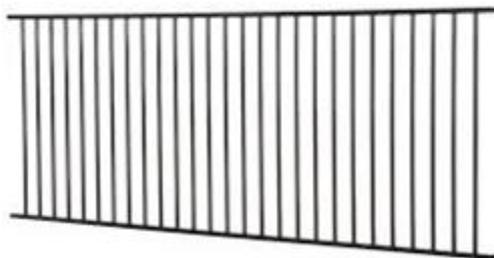
DETAILS:

The following three fencing options were provided as part of the recent community consultation to owner/occupiers in the area bounded by Bourke Street, Charles Street, Albert Street and Barnet Street, North Perth.

- Option 1 - partially enclose the area with access gates on two frontages;
- Option 2 - fully enclose the area with access gates on three frontages; or
- Option 3 - provide a small section of fencing along the Bourke Street frontage only.

All options were to include some additional landscaping or planting around the area in an effort to camouflage the fencing.

The recommended fencing was the 'pool type' as shown below (900mm in height).



Typical Pool Fence section – 900mm high

Note: The turfed area at the head of the cul-de-sac, as shown in **Attachment 2**, comprises road reserve and therefore cannot be included in the enclosed area. Following installation of the fence the existing bollard fencing along the western edge, running along the pathway, will be removed.

CONSULTATION/ADVERTISING:

Consultation was undertaken in accordance with the City's Community Consultation policy.

Required by legislation	No	Required by City of Vincent Policy	Yes
Consultation period	14 November 2016 – 2 December 2016		
Comments Received	137 consultation packs were distributed and the consultation was posted on the City's website. At the close of consultation 72 responses were received with five in favour of Option 1, 53 in favour of Option 2, one in favour of Option 3, one in favour of all three options, one neither for nor against and 11 against any of the options. (Refer Attachment 1).		

LEGAL/POLICY:

Not applicable.

RISK MANAGEMENT IMPLICATIONS:

Low: This proposal will provide a fully enclosed safe area for patrons to exercise their dogs without the risk of animals running across onto adjacent roads.

STRATEGIC IMPLICATIONS:

In accordance with the City's *Strategic Plan 2013-2023*, Objective 1 states:

"Natural and Built Environment

1.1 *Improve and maintain the natural and built environment and infrastructure*

1.1.4 *"Enhance and maintain the City's infrastructure, assets and facilities to provide a safe, sustainable and functional environment."*

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

The 2016/2017 capital works budget comprises the following:

- Charles Veryard Reserve – Full/Partial dog exercise area fence & landscaping - \$15,000
- Expenditure to date - \$0

Quotes are currently being sourced for the fencing, however it is unlikely that the funding will be sufficient to undertake any additional landscaping. Landscaping works can be undertaken as part of the Parks replanting program in May/June 2017 and funding sourced from that operating account.

COMMENTS:

The majority of respondents were clearly in favour of Option 2 (fully enclosed fence) and from the Officers' perspective this seems the most logical option that would contain dogs and patrons within an area of the park where they feel they can exercise their dogs without the risk of them running onto adjacent roads or onto the adjacent reserve when active sport is in progress.

It is therefore requested that the officer recommendation be supported.

9.3 CORPORATE SERVICES

9.3.1 Investment Report as at 31 December 2016

Ward:	Both	Date:	20 January 2017
Precinct:	All	File Ref:	SC1530
Attachments:	1 – Investment Report		
Tabled Items:	Nil		
Reporting Officers:	N Makwana, Accounting Officer G Garside, Manager Financial Services		
Responsible Officer:	J Paton, Director Corporate Services		

RECOMMENDATION:

That Council **NOTES** the Investment Report for the month ended 31 December 2016 as detailed in Attachment 1.

PURPOSE OF REPORT:

To advise Council of the level of investment funds and operating funds available, the distribution of surplus funds in investments and the interest earned to date.

BACKGROUND:

Surplus funds are invested in Bank Term Deposits for various terms, to maximise investment returns in compliance with good governance, legislative requirements and Council's Investment Policy No 1.2.4. Details are attached in **Attachment 1**.

The City's Investment Portfolio is diversified across several Financial Institutions in accordance with the Investment Policy.

DETAILS:

Total funds held for the period ended 31 December 2016 including on call in the City's operating account were \$33,636,471 as compared to \$29,737,925 for the period ended 31 December 2015.

Total Investments for the period ended 31 December 2016 were \$31,165,443 as compared to \$35,775,011 for the period ended 30 November 2016 and \$27,239,542 for the period ended 31 December 2015 respectively.

Investment comparison table:

	2015/16		2016/17	
	Total Funds Held	Total Investments	Total Funds Held	Total Investments
July	\$17,885,002	\$14,961,000	\$19,683,412	\$18,420,252
August	\$32,600,029	\$26,961,000	\$26,167,645	\$22,573,297
September	\$33,331,757	\$31,361,000	\$36,754,571	\$34,302,896
October	\$32,212,324	\$30,701,564	\$37,581,885	\$34,521,542
November	\$32,694,298	\$31,206,505	\$37,034,885	\$35,775,011
December	\$29,737,925	\$27,239,542	\$33,636,471	\$31,165,443
January	\$30,282,430	\$29,229,172		
February	\$31,529,914	\$29,221,565		
March	\$28,785,278	\$27,983,289		
April	\$27,011,580	\$26,587,166		
May	\$24,348,546	\$23,486,917		
June	\$23,024,830	\$21,005,952		

Total accrued interest earned on Investments as at 31 December 2016:

	Original Budget	Budget YTD	Actual YTD	% of FY Budget
Municipal	\$390,000	\$228,000	\$256,362	65.73%
Reserve	\$206,000	\$90,000	\$97,971	47.56%
Leederville Gardens Inc Surplus Trust*	\$0	\$0	\$66,613	0.00%
Total	\$596,000	\$318,000	\$420,946	70.63%

*Interest estimates for Leederville Gardens Inc Surplus Trust was not included in 2016-17 City of Vincent's budget; actual interest earned is restricted.

CONSULTATION/ADVERTISING:

Not applicable.

LEGAL/POLICY:

Funds are invested in accordance with the City's Investment Policy No. 1.2.4.

City of Vincent Investment Report Grouping*	Long Term Rating (Standard & Poor's) or Equivalent	Short Term Rating (Standard & Poor's) or Equivalent	Direct Investments Maximum % with any one institution		Managed Funds Maximum % with any one institution		Maximum % of Total Portfolio	
			Policy	Actual	Policy	Actual	Policy	Actual
	AAA Category	A1+	30%	Nil	45%	Nil	100%	Nil
Group A	AA Category	A1+	30%	22.6%	30%	Nil	90%	41.9%
Group B	A Category	A1	20%	21.0%	30%	Nil	80%	47.3%
Group C	BBB Category	A2	10%	10.8%	n/a	Nil	20%	10.8%

*As per subtotals on **Attachment 1**

RISK MANAGEMENT IMPLICATIONS:

Moderate: As per the City's Investment Policy No. 1.2.4, funds are invested with various financial institutions with high Long Term and Short Term Rating (Standard & Poor's or equivalent), obtaining more than three quotations for each investment. These investment funds are spread across various institutions and invested as Term Deposits from one to 12 months to reduce risk.

Section 6.14 of the *Local Government Act 1995*, section 1, states, Subject to the regulations:

"(1) money held in the municipal fund or the trust fund of a local government that is not, for the time being, required by the local government for any other purpose may be invested in accordance with Part III of the *Trustees Act 1962*."

STRATEGIC IMPLICATIONS:

In keeping with the City's Strategic Plan 2013-2023:

"4.1 Provide good strategic decision-making, governance, leadership and professional management:

4.1.2 Manage the organisation in a responsible, efficient and accountable manner;

- (a) *Continue to adopt best practice to ensure the financial resources and assets of the City are responsibly managed and the quality of services, performance procedures and processes is improved and enhanced."*

SUSTAINABILITY IMPLICATIONS:

Not Applicable

FINANCIAL/BUDGET IMPLICATIONS:

The financial implications of this report are as noted in the details and comments section of the report. Overall the conclusion can be drawn that appropriate and responsible measures are in place to protect the City's financial assets and to ensure the accountability of the management.

COMMENTS:

The funds for investment have decreased from the previous period due to excess of payments to creditors and other expenditures over cash receipts.

The City has obtained a weighted average interest rate of 2.73% for current investments including the operating account, and 2.83% excluding the operating account respectively. The Reserve Bank 90 days Accepted Bill rate for December 2016 is 1.78%.

As at 31 December 2016, the City's total investment earnings exceed the year to date budget estimate by \$102,946 (32.37%). However, of this, \$66,613 was earned by the Leederville Gardens Inc Surplus Trust and funds in this trust are restricted. Investment earnings from this trust were excluded from the 2016-17 budget calculations. Excluding this Trust income, the balance of the investment revenue is exceeding year to date budget by 11%.

In response to the August 2016 amendment to the City's Investment Policy that provided for preference "to be given to investments with institutions that have been assessed as to have a higher rating of demonstrated social and environmental responsibility, providing that doing so will secure a rate of return that is at least equal to alternatives offered by other institutions", administration has actively sought investment offerings from relevant institutions. As a result, 58.0% of the City's investments were held in non-fossil fuel lending institutions at 31 December 2016.

The investment report (**Attachment 1**) consists of:

- Investment & Earnings Charts;
- Investment Portfolio;
- Investment Interest Earnings; and
- Investment Current Investment Holding.

9.3.2 Authorisation of Expenditure for the Period 24 November 2016 to 22 December 2016

Ward:	Both	Date:	20 January 2017
Precinct:	All	File Ref:	SC347
Attachments:	1 – Creditors Report – Payments by EFT 2 – Creditors Report – Payments by Cheque 3 – Credit Card Transactions		
Tabled Items:	-		
Reporting Officers:	O Dedic, Accounts Payable Officer; G Garside, Manager Financial Services		
Responsible Officer:	J Paton, Director Corporate Services		

RECOMMENDATION:

That Council RECEIVES the list of accounts paid under Delegated Authority for the period 24 November 2016 to 22 December 2016 as detailed in Attachment 1, 2 and 3 as summarised below:

Cheque numbers 80601-80653	\$152,208.65
80654-80750	
Cancelled Cheques	-\$23,010.62
EFT Documents 2016 - 2028	\$6,242,841.86
Payroll	\$1,112,803.64
 Direct Debits	
• Lease Fees	\$6,388.83
• Loan Repayment	\$145,740.19
• Bank Fees and Charges	\$22,880.97
• Credit Cards	\$9,927.00
• Total Direct Debit	
Total Accounts Paid	\$184,936.99
	\$7,669,780.52

PURPOSE OF REPORT:

To present to Council the expenditure and list of accounts paid for the period 24 November 2016 to 22 December 2016.

BACKGROUND:

Council has delegated to the Chief Executive Officer (Delegation No. 1.14) the exercise of its power to make payments from the City's Municipal and Trust funds. In accordance with *Regulation 13(1) of the Local Government (Financial Management) Regulations 1996* a list of accounts paid by the Chief Executive Officer is to be provided to Council, where such delegation is made.

The list of accounts paid must be recorded in the minutes of the Council Meeting.

DETAILS:

The Schedule of Accounts paid, covers the following:

FUND	CHEQUE NUMBERS/ PAY PERIOD	AMOUNT
Municipal Account (Attachment 1 and 2)		
Cheques	80601-80653, 80654-80750	\$152,208.65
Cancelled Cheques		-\$23,010.62
EFT Payments	2016 – 2028	\$6,242,841.86
Sub Total		\$6,372,039.89
Transfer of Payroll by EFT		
	19/11/16	\$559,664.45
	13/12/16	\$553,139.19
	December 2016	\$1,112,803.64
Corporate Credit Cards (Attachment 3)		\$9,927.00
Bank Charges and Other Direct Debits		
Lease Fees		\$6,388.83
Loan Repayment		\$145,740.19
Bank Charges – CBA		\$22,880.97
Total Bank Charges and Other Direct Debits (Sub Total)		\$175,009.99
Less GST effect on Advance Account		0.00
Total Payments		\$7,669,780.52

LEGAL/POLICY:

Regulation 12(1) & (2) of the Local Government (Financial Management) Regulations 1996 refers, i.e.-

12. *Payments from municipal fund or trust fund, restrictions on making*
- (1) *A payment may only be made from the municipal fund or the trust fund —*
- if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or*
 - otherwise, if the payment is authorised in advance by a resolution of Council.*
- (2) *Council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to Council.*

Regulation 13(1), (3) of the Local Government (Financial Management) Regulations 1996 refers, i.e.-

13. *Lists of Accounts*

- (1) *If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared –*
- *the payee's name;*
 - *the amount of the payment;*
 - *the date of the payment; and*
 - *sufficient information to identify the transaction.*
- (3) *A list prepared under sub regulation (1) is to be —*
- *presented to Council at the next ordinary meeting of Council after the list is prepared; and*
 - *recorded in the minutes of that meeting.*

RISK MANAGEMENT IMPLICATIONS:

Low: Management systems are in place to establish satisfactory controls, supported by internal and external audit function.

STRATEGIC IMPLICATIONS:

Strategic Plan 2013-2023:

"4.1 Provide good strategic decision-making, governance, leadership and professional management:

4.1.2 Manage the organisation in a responsible, efficient and accountable manner;

- (a) Continue to adopt best practice to ensure the financial resources and assets of the City are responsibly managed and the quality of services, performance procedures and processes is improved and enhanced."*

SUSTAINABILITY IMPLICATIONS:

Not applicable.

ADVERTISING/CONSULTATION:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

All Municipal Fund expenditure included in the list of payments is in accordance with Council's adopted Annual Budget.

COMMENT:

If Councillors require further information on any of the payments, please contact the Manager Financial Services.

9.3.3 Authorisation of Expenditure for the Period 23 December 2016 to 23 January 2017

Ward:	Both	Date:	27 January 2017
Precinct:	All	File Ref:	SC347
Attachments:	1 – Creditors Report – Payments by EFT 2 – Creditors Report – Payments by Cheque 3 – Credit Card Transactions		
Tabled Items:	-		
Reporting Officers:	O Dedic, Accounts Payable Officer; G Garside, Manager Financial Services		
Responsible Officer:	J Paton, Director Corporate Services		

RECOMMENDATION:

That Council RECEIVES the list of accounts paid under Delegated Authority for the period 23 December 2016 to 23 January 2017 as detailed in Attachment 1, 2 and 3 as summarised below:

Cheque numbers 80751-80785	\$39,262.55
Cancelled Cheques	-\$2,842.48
EFT Documents 2029-2039	\$2,134,610.94
Payroll	\$1,062,442.44
Direct Debits	
• Lease Fees	\$183,396.33
• Loan Repayment	\$147,105.93
• Bank Fees and Charges	\$17,461.60
• Loan Government Guarantee Fee	\$56,500.75
• Credit Cards	\$8,127.95
• Total Direct Debit	
Total Accounts Paid	\$412,592.56
	\$3,646,066.01

PURPOSE OF REPORT:

To present to Council the expenditure and list of accounts paid for the period 23 December 2016 to 23 January 2017.

BACKGROUND:

Council has delegated to the Chief Executive Officer (Delegation No. 1.14) the exercise of its power to make payments from the City's Municipal and Trust funds. In accordance with *Regulation 13(1) of the Local Government (Financial Management) Regulations 1996* a list of accounts paid by the Chief Executive Officer is to be provided to Council, where such delegation is made.

The list of accounts paid must be recorded in the minutes of the Council Meeting.

DETAILS:

The Schedule of Accounts paid, covers the following:

FUND	CHEQUE NUMBERS/ PAY PERIOD	AMOUNT
Municipal Account (Attachment 1 and 2)		
Cheques	80751 – 80785	\$39,262.55
Cancelled Cheques		-\$2,842.48
EFT Payments	2029 - 2039	\$2,134,610.94
Sub Total		\$2,171,031.01
Transfer of Payroll by EFT		
	22/12/16	\$516,937.90
	10/01/17	\$545,122.10
	17/01/17	\$2,908.81
	Rejections	-\$2,526.37
	January 2017	\$1,062,442.44
Corporate Credit Cards (Attachment 3)		\$8,127.95
Bank Charges and Other Direct Debits		
Lease Fees		\$183,396.33
Loan Repayment		\$147,105.93
Loan Government Guarantee Fee		\$56,500.75
Bank Charges – CBA		\$17,461.60
Total Bank Charges and Other Direct Debits (Sub Total)		\$404,464.61
Less GST effect on Advance Account		0.00
Total Payments		\$3,646,066.01

LEGAL/POLICY:

Regulation 12(1) & (2) of the Local Government (Financial Management) Regulations 1996 refers, i.e.-

12. *Payments from municipal fund or trust fund, restrictions on making*

- (1) *A payment may only be made from the municipal fund or the trust fund —*
 - *if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or*
 - *otherwise, if the payment is authorised in advance by a resolution of Council.*
- (2) *Council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to Council.*

Regulation 13(1), (3) of the Local Government (Financial Management) Regulations 1996 refers, i.e.-

13. *Lists of Accounts*

- (1) *If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared -*
- *the payee's name;*
 - *the amount of the payment;*
 - *the date of the payment; and*
 - *sufficient information to identify the transaction.*
- (3) *A list prepared under sub regulation (1) is to be —*
- *presented to Council at the next ordinary meeting of Council after the list is prepared; and*
 - *recorded in the minutes of that meeting.*

RISK MANAGEMENT IMPLICATIONS:

Low: Management systems are in place to establish satisfactory controls, supported by internal and external audit function.

STRATEGIC IMPLICATIONS:

Strategic Plan 2013-2023:

"4.1 Provide good strategic decision-making, governance, leadership and professional management:

4.1.2 Manage the organisation in a responsible, efficient and accountable manner;

- (a) Continue to adopt best practice to ensure the financial resources and assets of the City are responsibly managed and the quality of services, performance procedures and processes is improved and enhanced."*

SUSTAINABILITY IMPLICATIONS:

Not applicable.

ADVERTISING/CONSULTATION:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

All Municipal Fund expenditure included in the list of payments is in accordance with Council's adopted Annual Budget.

COMMENT:

If Councillors require further information on any of the payments, please contact the Manager Financial Services.

9.3.4 Financial Statements as at 30 November 2016

Ward:	Both	Date:	20 January 2017
Precinct:	All	File Ref:	SC357
Attachments:	1 – Financial Reports		
Reporting Officers:	N Makwana, Accounting Officer G Garside, Manager Financial Services		
Responsible Officer:	J Paton, Director Corporate Services		

RECOMMENDATION:

That Council **RECEIVES** the Financial Statements for the month ended 30 November 2016 as shown in Attachment 1.

PURPOSE OF REPORT:

To present the Financial Statements for the period ended 30 November 2016.

BACKGROUND:

Regulation 34 (1) of the Local Government (Financial Management) Regulations 1996 requires a local government to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the budget.

A Statement of financial activity report is to be in a form that sets out:

- the annual budget estimates;
- budget estimates for the end of the month to which the statement relates;
- actual amounts of expenditure, revenue and income for the end of the month to which the statement relates;
- material variances between the year-to-date income and expenditure; and
- includes other supporting notes and other information that the local government considers will assist in the interpretation of the report.

In addition to the above, under *Regulation 34 (5) of the Local Government (Financial Management) Regulations 1996*, each financial year a local government is to adopt a percentage of value, calculated in accordance with AAS 5, to be used in statements of financial activity for reporting material variances.

DETAILS:

The following documents, included as **Attachment 1** represent the Statement of Financial Activity for the period ending 30 November 2016:

Note	Description	Page
1.	Statement of Financial Activity by Programme Report and Graph	1-3
2.	Statement of Comprehensive Income by Nature and Type Report	4
3.	Net Current Funding Position	5
4.	Summary of Income and Expenditure by Service Areas	6-60
5.	Capital Works Schedule and Funding and Graph	61-74
6.	Cash Backed Reserves	75
7.	Rating Information and Graph	76-77
8.	Receivables	78
9.	Beatty Park Leisure Centre Report – Financial Position	79

The following table provides a summary view of the year to date actual, compared to the Year to date Budget.

Summary of Financial Activity By Programme as at 30 November 2016

	Revised Budget 2016/17 \$	YTD Budget Nov-16 \$	YTD Actual Nov-16 \$	Variance Nov-16 \$	Variance Nov-16 %
REVENUE	27,515,406	11,663,573	10,953,839	(709,734)	-6%
EXPENDITURE	(56,304,295)	(23,855,489)	(21,208,899)	2,646,590	-11%
Add Deferred Rates Adjustment	0	0	31,120	31,120	0%
Add Back Depreciation	10,087,180	4,202,930	4,001,586	(201,344)	-5%
(Profit)/Loss on Asset Disposals	(1,020,686)	(67,530)	(33,613)	33,917	-50%
	9,066,494	4,135,400	3,999,092	(136,308)	-3%
"Percent for Art" and "Cash in Lieu" Funds Adjustment	1,544,740	0	0	0	0%
NET OPERATING EXCLUDING RATES	(18,177,655)	(8,056,516)	(6,255,969)	1,800,547	-22%
CAPITAL REVENUE					
Proceeds from Disposal of assets	1,450,166	373,500	126,461	(247,039)	-66%
Transfers from Reserves	1,335,020	570,835	212,121	(358,714)	-63%
	2,785,186	944,335	338,582	(605,753)	-64%
Capital Expenditure	(13,786,598)	(5,203,872)	(3,389,957)	1,813,915	-35%
Repayments Loan Capital	(818,840)	(332,431)	(332,431)	0	0%
Transfers to Reserves	(5,337,045)	(1,199,162)	(1,144,636)	54,526	-5%
	(19,942,483)	(6,735,465)	(4,867,024)	1,868,441	-28%
NET CAPITAL	(17,157,297)	(5,791,130)	(4,528,442)	1,262,688	-22%
TOTAL NET OPERATING AND CAPITAL	(35,334,952)	(13,847,646)	(10,784,411)	3,063,235	-22%
Rates	31,075,530	30,775,530	31,094,993	319,462	1%
Opening Funding Surplus	4,259,422	4,259,422	4,251,223	(8,198)	0%
CLOSING SURPLUS/(DEFICIT)	0	21,187,306	24,561,806	3,374,499	16%

Comments on Summary of Financial Activity by Programme:

Operating Revenue

There is a difference in classification in revenue reported by programme or by nature and type. Operating revenue in programme reporting includes 'Non-Operating Grants, Subsidies and Contributions' and 'Profit on Sale of Assets'. Revenue reporting by nature and type excludes these, but adds 'Rates Revenue'.

Revenue by programme is showing a negative variance of 6% (\$709k). This is due to reduced revenue in Recreation and Culture \$414k (of which \$302k relates to lower Beatty Park revenue), Transport \$208k, Community Amenity \$58k, Economic Services \$44k, Health Services \$23k, and Education and Welfare \$20k.

Operating Revenue as presented on the 'Nature and Type' report (Page 4 of **Attachment 1**) is showing a negative variance of 1%.

Operating Expenditure

Expenditure by programme is showing a favourable variance of 11% (\$2.6m). This is due to lower expenditure in Community Amenities \$837k, Recreation and Culture \$816k (of which \$267k relates to Beatty Park Leisure Centre expenditure), and Transport \$360k.

Transfer from Reserves

This is on budget for the month of November 2016. Transfer from Reserves is aligned to the timing of commencement for Capital Works projects that are Reserves funded.

Capital Expenditure

The variance is attributed to the timing on receipt of invoices for the projects. For further detail, refer to Note 5 on **Attachment 1**.

Transfer to Reserves

Monthly transfer to reserves commenced in July 2016, based on budget phasing. This will be reviewed quarterly and transfers based on actuals will be adjusted after the review.

Opening Funding Surplus/(Deficit)

The surplus Opening Balance brought forward from 2015-16 is \$4,251,223, as compared to adopted budget opening surplus balance of \$4,259,422.

Closing Surplus/(Deficit)

There is currently a surplus of \$24,561,806, compared to year to date budget surplus of \$21,187,306. This is substantially attributed to the positive variance in operating expenditure and the current level of Capital Expenditure.

It should be noted that the November 2016 closing balance does not represent cash on hand (please see the Net Current Funding Position on page 5 of the attachment).

Comments on the financial performance as set out in the Statement of Financial Activity (**Attachment 1**) and an explanation of each report is detailed below:

1. Statement of Financial Activity by Programme Report (Note 1 Page 1)

This statement of Financial Activity shows operating revenue and expenditure classified by Programme.

2. Statement of Comprehensive Income by Nature and Type Report (Note 2 Page 4)

This statement of Financial Activity shows operating revenue and expenditure classified by nature and type.

3. Net Current Funding Position (Note 3 Page 5)

Net Current Asset is the difference between the current asset and current liabilities, less committed assets and restricted assets. This amount indicates how much capital is available for day to day activities.

The net current funding position as at 30 November 2016 is \$24,561,806.

4. Summary of Income and Expenditure by Service Areas (Note 4 Page 6 – 60)

This statement shows a summary of Operating Revenue and Expenditure by Service Unit.

5. Capital Expenditure and Funding Summary (Note 5 Page 61 - 74)

The following table is a Summary of the 2016/2017 Capital Expenditure Budget by programme, which compares Year to date Budget with actual expenditure to date. The full Capital Works Programme is listed in detail in Note 5 of Attachment 1.

	Original Budget	Revised Budget	Year to date Budget	Year to date Actual	Full Year Budget Remaining
	\$	\$	\$	\$	%
Furniture & Equipment	737,070	737,070	489,070	67,238	91%
Plant & Equipment	3,537,050	3,537,050	936,300	545,729	85%
Land & Building	1,597,398	1,622,398	642,003	666,981	59%
Infrastructure	7,890,080	7,890,080	3,136,499	2,110,010	73%
Total	13,761,598	13,786,598	5,203,872	3,389,957	75%

	Original Budget	Revised Budget	Year to date Budget	Year to date Actual	Full Year Budget Remaining
	\$	\$	\$	\$	%
Capital Grants and Contributions	2,551,355	2,551,355	897,794	1,098,896	56%
Cash Backed Reserves	1,287,534	1,312,534	85,000	212,120	84%
Other (Disposal/Trade In)	533,500	533,500	95,000	126,461	76%
Own Source Funding – Municipal	9,389,209	9,389,209	4,126,078	1,952,480	79%
Total	13,761,598	13,786,598	5,203,872	3,389,957	75%

Note: Detailed analysis are included on page 61 – 74 of Attachment 1.

6. Cash Backed Reserves (Note 6 Page 75)

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

The balance as at 30 November 2016 is \$7,153,930.

7. Rating Information (Note 7 Page 76 - 77)

The notices for rates and charges levied for 2016/17 were issued on 8 August 2016.

The Local Government Act 1995 provides for ratepayers to pay rates by four (4) instalments. The due dates for each instalment are:

First Instalment	14 September 2016
Second Instalment	14 November 2016
Third Instalment	16 January 2017
Fourth Instalment	20 March 2017

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

Instalment Administration Charge (to apply to second, third, and fourth instalment)	\$13.00 per instalment
Instalment Interest Rate	5.5% per annum
Late Payment Penalty Interest	11% per annum

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

The Rates debtors balance as at 30 November 2016 is \$8,621,456 (this includes deferred rates of \$122,230). This represents 27.07% of the collectable income compared to 24.12% at the same time last year. It should be noted that the rates notices were issued on 8th August 2016, which is three weeks later than the previous year due to the delayed budget adoption.

8. Receivables (Note 8 Page 78)

Receivables of \$3,184,228 are outstanding at the end of November 2016, of which \$2,551,288 has been outstanding over 90 days. This is comprised of:

- \$342,731 (13.4%) relates to Cash in Lieu Parking. The Cash in Lieu Parking debtors have special payment arrangements for more than one year.
- \$334,914 (13.1%) relates to Other Receivables, including recoverable works and property.
- \$1,873,643 (73.4%) relates to unpaid infringements (plus costs) over 90 days. Infringements that remain unpaid for more than two months are sent to Fines Enforcement Registry (FER), who then collect the outstanding balance and return the funds to the City for a fee.

Administration has been following up outstanding items which relate to Other Receivables by issuing reminders when they are overdue and formal debt collection when payments remain outstanding.

9. Beatty Park Leisure Centre – Financial Position Report (Note 9 Page 79)

As at 30 November 2016 the operating deficit for the Centre was \$309,486 in comparison to the year to date budgeted deficit of \$274,473.

The cash position showed a current cash deficit of \$85,241 in comparison to year to date budget estimate of a cash surplus of \$24,892.

All material variance as at 30 November 2016 has been detailed in the variance comments report in **Attachment 1**.

10. Explanation of Material Variances

The materiality thresholds used for reporting variances are 10% and \$10,000. This means that variances will be analysed and separately reported when they are more than 10% (+/-) of the YTD budget, where that variance exceeds \$10,000. This threshold was adopted by Council as part of the Budget adoption for 2016-17 and is used in the preparation of the statements of financial activity when highlighting material variance in accordance with *Financial Management Regulation 34(1) (d)*.

CONSULTATION/ADVERTISING:

Not applicable.

LEGAL/POLICY:

Section 6.4 of the Local Government Act 1995 requires a local government to prepare an annual financial report for the preceding year and such other financial reports as are prescribed.

Regulation 34 (1) of the Local Government (Financial Management) Regulations 1996 requires the local government to prepare each month, a statement of financial activity reporting on the source and application of funds as set out in the adopted Annual Budget.

A statement of financial activity and any accompanying documents are to be presented at the next Ordinary Meeting of the Council following the end of the month to which the statement relates, or to the next Ordinary Meeting of Council after that meeting.

RISK MANAGEMENT IMPLICATIONS:

Low: In accordance with *Section 6.8 of the Local Government Act 1995*, a local government is not to incur expenditure from its Municipal Fund for an additional purpose except where the expenditure is authorised in advance by an absolute majority decision of Council.

STRATEGIC IMPLICATIONS:

Strategic Plan 2013-2023:

“4.1 Provide good strategic decision-making, governance, leadership and professional management:

4.1.2 Manage the organisation in a responsible, efficient and accountable manner;

(a) Continue to adopt best practice to ensure the financial resources and assets of the City are responsibly managed and the quality of services, performance procedures and processes is improved and enhanced.”

FINANCIAL/BUDGET IMPLICATIONS:

Not applicable.

COMMENT:

All expenditure included in the Financial Statements is incurred in accordance with Council's adopted budget or subsequent approval in advance.

The net operating result is reflecting favourably compared to the year to date Budget, however it is anticipated this will progressively come in line with the budget. In respect to capital works, expenditure to 30 November 2016 is ahead of the same period last financial year. Administration is undertaking a review of the 2016/17 Capital Works Schedule, particularly given the potential impact on planned works of the Water Corporation's cast iron water main replacement program.

9.3.5 Financial Statements as at 31 December 2016

Ward:	Both	Date:	20 January 2017
Precinct:	All	File Ref:	SC357
Attachments:	1 – Financial Reports		
Reporting Officers:	S Teoh, Accounting Officer G Garside, Manager Financial Services		
Responsible Officer:	J Paton, Director Corporate Services		

RECOMMENDATION:

That Council **RECEIVES** the Financial Statements for the month ended 31 December 2016 as shown in Attachment 1.

PURPOSE OF REPORT:

To present the Financial Statements for the period ended 31 December 2016.

BACKGROUND:

Regulation 34 (1) of the Local Government (Financial Management) Regulations 1996 requires a local government to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the budget.

A Statement of financial activity report is to be in a form that sets out:

- the annual budget estimates;
- budget estimates for the end of the month to which the statement relates;
- actual amounts of expenditure, revenue and income for the end of the month to which the statement relates;
- material variances between the year-to-date income and expenditure; and
- includes other supporting notes and other information that the local government considers will assist in the interpretation of the report.

In addition to the above, under *Regulation 34 (5) of the Local Government (Financial Management) Regulations 1996*, each financial year a local government is to adopt a percentage of value, calculated in accordance with AAS 5, to be used in statements of financial activity for reporting material variances.

DETAILS:

The following documents, included as **Attachment 1** represent the Statement of Financial Activity for the period ending 31 December 2016:

Note	Description	Page
1.	Statement of Financial Activity by Programme Report and Graph	1-3
2.	Statement of Comprehensive Income by Nature and Type Report	4
3.	Net Current Funding Position	5
4.	Summary of Income and Expenditure by Service Areas	6-61
5.	Capital Expenditure and Funding and Capital Works Schedule	62-77
6.	Cash Backed Reserves	78
7.	Rating Information and Graph	79-80
8.	Debtor Report	81
9.	Beatty Park Leisure Centre Financial Position	82

The following table provides a summary view of the year to date actual, compared to the Year to date Budget.

Summary of Financial Activity By Programme as at 31 December 2016

	Revised Budget	YTD Budget	YTD Actual	Variance	Variance
	2016/17	Dec-16	Dec-16	Dec-16	Dec-16
	\$	\$	\$	\$	%
REVENUE	27,371,628	13,853,660	13,126,037	(727,623)	-5%
EXPENDITURE	(56,361,295)	(28,353,567)	(25,739,247)	2,614,321	-9%
Add Deferred Rates Adjustment	0	0	49,772	49,772	0%
Add Back Depreciation	10,087,180	5,043,516	4,857,113	(186,403)	-4%
(Profit)/Loss on Asset Disposals	(1,020,686)	(102,720)	(467,166)	(364,446)	355%
	9,066,494	4,940,796	4,439,719	(501,077)	-10%
"Percent for Art" and "Cash in Lieu" Funds Adjustment	1,544,740	0	0	0	0%
NET OPERATING EXCLUDING RATES	(18,378,433)	(9,559,111)	(8,173,491)	1,385,620	-14%
CAPITAL REVENUE					
Proceeds from Disposal of assets	1,450,166	503,500	585,800	82,300	16%
Transfers from Reserves	1,235,807	580,789	311,306	(269,483)	-46%
	2,685,973	1,084,289	897,106	(187,183)	-17%
Capital Expenditure	(13,383,667)	(6,376,561)	(4,340,631)	2,035,930	-32%
Repayments Loan Capital	(818,840)	(399,817)	(399,817)	0	0%
Transfers to Reserves	(5,337,045)	(2,982,551)	(1,785,773)	1,196,778	-40%
	(19,539,552)	(9,758,929)	(6,526,220)	3,232,709	-33%
NET CAPITAL	(16,853,579)	(8,674,640)	(5,629,115)	3,045,525	-35%
TOTAL NET OPERATING AND CAPITAL	(35,232,012)	(18,233,751)	(13,802,606)	4,431,145	-24%
Rates	31,075,530	30,800,530	31,143,373	342,842	1%
Opening Funding Surplus	4,259,422	4,259,422	4,251,223	(8,198)	0%
CLOSING SURPLUS/(DEFICIT)	102,940	16,826,201	21,591,990	4,765,788	28%

Comments on Summary of Financial Activity by Programme:

Operating Revenue

There is a difference in classification in revenue reported by programme or by nature and type. Operating revenue in programme reporting includes 'Non-Operating Grants, Subsidies and Contributions' and 'Profit on Sale of Assets'. Revenue reporting by nature and type excludes these, but adds 'Rates Revenue'.

Revenue by programme is showing a negative variance of 5% (\$727k). This is due to reduced revenue in Recreation and Culture \$620k (of which \$364k relates to lower Beatty Park revenue), Transport \$414k, Community Amenity \$98k, Economic Services \$54k, and Education and Welfare \$23k,

Operating Revenue as presented on the 'Nature and Type' report (Page 4 of **Attachment 1**) is showing a negative variance of 2%.

Operating Expenditure

Expenditure by programme is showing a favourable variance of 9% (\$2.6m). This is due to lower expenditure in Community Amenities \$882k, Recreation and Culture \$773k (of which \$328k relates to Beatty Park Leisure Centre expenditure), Transport \$336k, Governance \$159k, Health \$106k, and Other Property and Services \$104k.

Transfer from Reserves

This is lower than budget for the month of December 2016, mainly due to delay on Capital Works projects that are Reserves funded.

Capital Expenditure

The variance is attributed to the budget phasing and timing on receipt of invoices for the projects. For further detail, refer to Note 5 on **Attachment 1**.

Transfer to Reserves

Monthly transfer to reserves commenced in July 2016, based on budget phasing. This will be reviewed quarterly and transfers based on actuals will be adjusted after the review.

Opening Funding Surplus/(Deficit)

The surplus Opening Balance brought forward from 2015-16 is \$4,251,223, as compared to adopted budget opening surplus balance of \$4,259,422.

Closing Surplus/(Deficit)

There is currently a surplus of \$21,591,990, compared to year to date budget surplus of \$16,826,201. This is substantially attributed to the positive variance in operating expenditure and the current level of Capital Expenditure.

It should be noted that the closing balance does not represent cash on hand (please see the Net Current Funding Position on page 5 of the attachment).

Comments on the financial performance as set out in the Statement of Financial Activity (**Attachment 1**) and an explanation of each report is detailed below:

1. Statement of Financial Activity by Programme Report (Note 1 Page 1)

This statement of Financial Activity shows operating revenue and expenditure classified by Programme.

2. Statement of Comprehensive Income by Nature and Type Report (Note 2 Page 4)

This statement of Financial Activity shows operating revenue and expenditure classified by nature and type.

3. Net Current Funding Position (Note 3 Page 5)

Net Current Asset is the difference between the current asset and current liabilities, less committed assets and restricted assets. This amount indicates how much capital is available for day to day activities.

The net current funding position as at 31 December 2016 is \$21,591,988.

4. Summary of Income and Expenditure by Service Areas (Note 4 Page 6 – 61)

This statement shows a summary of Operating Revenue and Expenditure by Service Unit.

5. Capital Expenditure and Funding Summary (Note 5 Page 62 - 77)

The following table is a Summary of the 2016/2017 Capital Expenditure Budget by programme, which compares Year to date Budget with actual expenditure to date. The full Capital Works Programme is listed in detail in Note 5 of **Attachment 1**.

	Original Budget	Revised Budget	YTD Budget	YTD Actual	Budget Remaining
	\$	\$	\$	\$	%
Land and Buildings	1,597,398	1,613,374	831,261	821,943	49%
Infrastructure Assets	7,890,081	7,446,414	3,564,771	2,376,648	68%
Plant and Equipment	3,537,050	3,590,209	1,341,459	993,205	72%
Furniture and Equipment	737,070	733,670	639,070	148,834	80%
Total	13,761,599	13,383,667	6,376,561	4,340,631	68%

	Original Budget	Revised Budget	YTD Budget	YTD Actual	Budget Remaining
	\$	\$	\$	\$	%
Own Source Funding - Municipal	9,389,210	9,229,269	4,977,545	2,661,628	71%
Cash Backed Reserves	1,287,534	1,213,321	85,000	311,306	74%
Capital Grant and Contribution	2,551,355	2,407,577	1,219,016	1,198,563	50%
Other (Disposals/Trade In)	533,500	533,500	95,000	169,134	68%
Total	13,761,599	13,383,667	6,376,561	4,340,631	68%

Note: Detailed analysis are included on page 62 – 77 of **Attachment 1**.

6. Cash Backed Reserves (Note 6 Page 78)

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

The balance as at 31 December 2016 is \$7,695,882.

7. Rating Information (Note 7 Page 79 - 80)

The notices for rates and charges levied for 2016/17 were issued on 08 August 2016.

The Local Government Act 1995 provides for ratepayers to pay rates by four (4) instalments. The due dates for each instalment are:

First Instalment	14 September 2016
Second Instalment	14 November 2016
Third Instalment	16 January 2017
Fourth Instalment	20 March 2017

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

Instalment Administration Charge (to apply to second, third, and fourth instalment)	\$13.00 per instalment
Instalment Interest Rate	5.5% per annum
Late Payment Penalty Interest	11% per annum

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

The Rates debtors balance as at 31 December 2016 is \$7,141,822 (this includes deferred rates of \$105,250). This represents 22.43% of the collectable income compared to 18.82% at the same time last year. It should be noted that the rates notices were issued on 8th August 2016, which is three weeks later than the previous year due to the delayed budget adoption.

8. Receivables (Note 8 Page 81)

Receivables of \$4,079,305 are outstanding at the end of December 2016, of which \$2,648,691 has been outstanding over 90 days. This is comprised of:

- \$1,988,311 (75.1%) relates to unpaid infringements (plus costs) over 90 days. Infringements that remain unpaid for more than two months are sent to Fines Enforcement Registry (FER), who then collect the outstanding balance and return the funds to the City for a fee.
- \$373,085 (14.1%) relates to Cash in Lieu Parking. The Cash in Lieu Parking debtors have special payment arrangements for more than one year.
- \$97,712 (10.8%) relates to Other Receivables, including recoverable works and property.

Administration has been following up outstanding items which relate to Other Receivables by issuing reminders when they are overdue and formal debt collection when payments remain outstanding.

9. Beatty Park Leisure Centre – Financial Position Report (Note 9 Page 82)

As at 31 December 2016 the operating deficit for the Centre was \$269,322 in comparison to the year to date budgeted deficit of \$233,427.

The cash position showed a current cash deficit of \$45,077 in comparison to year to date budget estimate of a cash surplus of \$65,938.

All material variance as at 31 December 2016 has been detailed in the variance comments report in **Attachment 1**.

10. Explanation of Material Variances

The materiality thresholds used for reporting variances are 10% and \$10,000. This means that variances will be analysed and separately reported when they are more than 10% (+/-) of the YTD budget, where that variance exceeds \$10,000 (+/-). This threshold was adopted by Council as part of the Budget adoption for 2016-17 and is used in the preparation of the statements of financial activity when highlighting material variance in accordance with *Financial Management Regulation 34(1) (d)*.

CONSULTATION/ADVERTISING:

Not applicable.

LEGAL/POLICY:

Section 6.4 of the Local Government Act 1995 requires a local government to prepare an annual financial report for the preceding year and such other financial reports as are prescribed.

Regulation 34 (1) of the Local Government (Financial Management) Regulations 1996 requires the local government to prepare each month, a statement of financial activity reporting on the source and application of funds as set out in the adopted Annual Budget.

A statement of financial activity and any accompanying documents are to be presented at the next Ordinary Meeting of the Council following the end of the month to which the statement relates, or to the next Ordinary Meeting of Council after that meeting.

RISK MANAGEMENT IMPLICATIONS:

Low: In accordance with *Section 6.8 of the Local Government Act 1995*, a local government is not to incur expenditure from its Municipal Fund for an additional purpose except where the expenditure is authorised in advance by an absolute majority decision of Council.

STRATEGIC IMPLICATIONS:

Strategic Plan 2013-2023:

“4.1 Provide good strategic decision-making, governance, leadership and professional management:

4.1.2 Manage the organisation in a responsible, efficient and accountable manner;

(b) Continue to adopt best practice to ensure the financial resources and assets of the City are responsibly managed and the quality of services, performance procedures and processes is improved and enhanced.”

FINANCIAL/BUDGET IMPLICATIONS:

Not applicable.

COMMENT:

All expenditure included in the Financial Statements is incurred in accordance with Council's adopted budget or subsequent approval in advance.

The net operating result is reflecting favourably compared to the year to date Budget, however it is anticipated this will progressively come in line with the budget. In respect to capital works, expenditure to 31 December 2016 is ahead of the same period last financial year. Administration is undertaking a review of the 2016/17 Capital Works Schedule, particularly given the potential impact on planned works of the Water Corporation's cast iron water main replacement program.

9.3.6 Licence for use of internal carpark, Forrest Park, No. 66 (Lot 143) Harold Street, Mt Lawley – Highgate Forrest Park Playgroup Inc

Ward:	South	Date:	20 January 2017
Precinct:	Forrest (14)	File Ref:	SC582
Attachments:	1 – Map of licence area		
Tabled Items:	Nil		
Reporting Officer:	M Bancroft, Property Leasing Officer		
Responsible Officer:	J Paton, Director Corporate Services		

RECOMMENDATION:

That Council:

1. **APPROVES** a licence to the Highgate Forrest Park Playgroup Inc in respect to the internal car park and access way at Forrest Park, No. 66 Harold Street, Mount Lawley, on the following key terms:
 - 1.1 **Term:** 3 years and 11 months commencing on 1 February 2017;
 - 1.2 **Licence fee:** Nil;
 - 1.3 **Permitted Use:** Car parking for staff, parents and visitors;
 - 1.4 **Permitted Hours of Use:** Operational hours of the playgroup;
 - 1.5 **Public Liability Insurance** Minimum cover of \$20,000,000; and
2. **Subject to final satisfactory negotiations being carried out by the Chief Executive Officer, AUTHORISES** the Mayor and Director Corporate Services to affix the common seal and execute the licence in 1 above.

PURPOSE OF REPORT:

To consider entering into a new licence with the Highgate Forrest Park Playgroup Inc (Playgroup) to enable the Playgroup to continue non-exclusively using the internal carpark at Forrest Park, 66 Harold Street, Mt Lawley (Forrest Park), as shown cross hachured in the plan attached at **Attachment 1**, for car parking by staff and parents during the operational hours of the Playgroup.

BACKGROUND:

Highgate Forrest Park Playgroup Inc

The Playgroup has used the premises at Forrest Park for child care purposes since 2001, firstly pursuant to a lease dated 19 November 2001 for a term of 5 years, and currently pursuant to a lease dated 18 January 2010 for a term of 5 years with two further five year options (Lease). The Deed of Extension of Lease in respect to the first further term was signed on 22 March 2016 and will expire on 31 December 2020. The Lease is only in respect to use of a portion of the building at Forrest Park and makes no reference to use of the car park.

The internal carpark is located between the Forrest Park Pavilion (including the child care centre) and the Forrest Park Croquet Clubrooms (Car Park) and is accessible from Harold Street. In 2010 the City entered into licences with Perth Soccer Club Inc (who lease the clubrooms at Forrest Park), Forrest Park Croquet Club Inc, WA Croquet Association Inc and the Playgroup in respect to the use of the car park on the following key terms:

Term: five years (10 years in case of Perth Soccer Club Inc);
Licence fee: nil;
Permitted Use: car parking only by members and visitors of the Club; and
Permitted Hours of Use: operational hours of the Club

The Playgroup's Car Parking licence expired on 31 December 2015 (Licence). The Playgroup has continued to use the Car Park and confirmed by email on 6 December 2016 that it intends to continue using the Car Park on the terms as set out in the previous Licence.

DETAILS:

Administration confirms that a licence is the appropriate legal arrangement to govern the Playgroup's non-exclusive use of the Car Park and therefore proposes that a new licence is approved on the following key terms:

Term: 3 years and 11 months commencing on 1 February 2017 (to coincide with the term of the Lease)
Licence fee: Nil;
Permitted Use: Car parking for staff, parents and visitors;
Permitted Hours of Use: Operational hours of the playgroup; and
Public Liability Insurance: Minimum cover of \$20,000,000.

These terms are consistent with the terms of the current licence to Perth Soccer Club Inc (expires 31 December 2020) and the licence to Forrest Park Croquet Club approved by Council at the Ordinary Meeting of Council of 13 December 2016 (Item 9.3.7).

CONSULTATION/ADVERTISING:

As the Playgroup has educational objectives and the members would not receive any pecuniary profit from the licence, it appears that the proposed licence would meet the requirements of an exempt disposition, in accordance with Section 3.58(5) of the *Local Government Act 1995*. Therefore there would be no requirement for the City to advertise an intention to enter into a new licence with the Playgroup.

LEGAL/POLICY:

Local Government Act 1995 section 3.58 - Disposing of Property, provides that a local government can only dispose of property (which includes to lease) in accordance with section 3.58(3) unless the disposition falls within the scope of section 3.58(5), which includes:

“(d) Any other disposition that is excluded by regulations from the application of this section.”

In accordance with Section 3.58(5), Regulation 30 of the *Local Government (Functions and General) Regulations 1996* provides a range of dispositions that are exempt from the application of Section 3.58 of the Act, including dispositions to:

- *A body, whether incorporated or not the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and the members of which are not entitled or permitted to receive any pecuniary profit from the body's transactions;*

City of Vincent Policy 1.2.1 – Policy Statement:

1. Any new lease granted by the Council shall usually be limited to a five (5) year period, and any option to renew shall usually be limited to no more than a ten (10) year period.
2. Council may consider longer periods where the Council is of the opinion that there is benefit or merit for providing a longer lease term.

RISK MANAGEMENT IMPLICATIONS:

High The continued use of the Car Park by the Playgroup in the absence of a formal legal arrangement poses significant risk to the City in terms of liability, insurance, damage to the Car Park and maintenance and repair of the Car Park.

STRATEGIC IMPLICATIONS:

In accordance with the objective of Strategic Plan 2013-2023:

2.1.3 *Develop business strategies that reduce reliance on rates revenue*

(c) *Continue to review leases and commercial contracts to ensure the best return for the City, whilst being cognisant of its community service obligations.*

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

It is proposed that a licence fee is not payable in respect to the Playgroup's use of the Car Park as this is consistent with the arrangement with Perth Soccer Club Inc and Forrest Park Croquet Club Inc.

COMMENTS:

The Car Park is currently used by the Playgroup members (parents and visitors) during the week. The Playgroup had the right to use the Car Park pursuant to the Licence, however, the Licence expired on 31 December 2015 and a new licence was not entered into. It appears to have been an Administrative error which resulted in a new licence not being entered into. Consequently Administration proposes that a new licence is entered into commencing on 1 February 2017, on the terms set out above. The term of the licence will be consistent with the Lease, and therefore the Licence and Lease can together be reviewed by Council in 2020.

9.3.7 Development Assessment Panel Membership Nominations

Ward:	-	Date:	20 January 2017
Precinct:	-	File Ref:	(SC FY3-04)
Attachments:	Nil		
Tabled Items:			
Reporting Officer:	T Evans, Manager Governance and Risk		
Responsible Officer:	L Kosova, Chief Executive Officer		

RECOMMENDATION:

That Council **NOMINATES** the following Council Members to the Local Government Metro West Development Assessment Panel (DAP), for the term 26 April 2017 to 26 April 2020:

Member 1: _____;
Member 2: _____;
Alternate Member 1: _____;
Alternate Member 2: _____.

BACKGROUND:

Since 2011, Development Assessment Panels (DAPs) have been in operation throughout Western Australia. DAPs are responsible for determining development applications where the likely cost of the development exceeds a specified dollar value.

The Metro West Joint DAP (Metro West JDAP) determines proposals in the Towns of Cambridge, Claremont, Cottesloe and Mosman Park, the Cities of Nedlands, Subiaco and Vincent and the Shire of Peppermint Grove.

For the City of Vincent, any development applications over \$10 million in value are determined by the Metro West JDAP. An applicant may also elect for a development with a value of between \$2 million and \$10 million to be determined by the Metro West JDAP. This is known as an "opt-in DAP application".

The Metro West JDAP consists of the following members:

- Three members with specialist knowledge in the areas of town planning, architecture, or other related disciplines.
- Two Council Members from the City of Vincent, who sit on the panel for applications relating to the City of Vincent only.

At its meeting held on 16 October 2015, Council nominated to the Metro West Joint Development Assessment Panel:

- Cr Buckels;
- Cr Topelberg;
- First alternate member - Mayor John Carey; and
- Second alternate member Cr Cole.

These members were duly appointed by the Minister for Planning and these appointments remain in force until 26 April 2017.

Detail

Council now have the option to nominate Council Members to the Metro West JDAP for a three year term between the period 27 April 2017 and 26 April 2020.

In the event that a Council Members is appointed and then not re-elected, Council may make a further nomination as a replacement for that member at that time.

LEGAL/POLICY:

Legislation:

Part 11A of the *Planning and Development Act 2005* contains the head of power required to introduce DAPs in Western Australia.

The *Planning and Development (Development Assessment Panels) Regulations 2011* set out provisions relating the operation of DAPs and membership of DAPs.

In particular, the following regulations apply:

26. JDAP local government member register

- (1) *The Minister must cause to be established and maintained a register of local government members of JDAPs.*
- (2) *Subject to subregulation (4), the register must include the names of 2 members of the council of each local government of a district for which a JDAP is established.*
- (3) *Whenever it is necessary to include a member of a council of a local government on a local government register under subregulation (2), the Minister must —*
 - (a) *in writing, request the local government to nominate a member of the council of the local government for inclusion on the register; and*
 - (b) *unless subregulation (4) applies, include on the register the name of the person nominated.*
- (4) *If, within 40 days after the date on which the Minister makes a request under subregulation (3) or such longer period as the Minister may allow, the local government fails to nominate a person for inclusion on the local government register in accordance with the request, the Minister may include on the register as a representative of the local government a person who —*
 - (a) *is an eligible voter of the district of the local government; and*
 - (b) *the Minister considers has relevant knowledge or experience that will enable that person to represent the interests of the local community of that district.*
- (5) *For the purposes of subregulation (4)(a) a person is an eligible voter of a district if that person is eligible under the Local Government Act 1995 section 4.29 or 4.30 to be enrolled to vote at elections for the district.*

27. Presiding member and deputy presiding member

- (1) *The Minister must appoint —*

- (a) *one of the specialist members of a DAP with experience and a tertiary qualification in planning as the presiding member of the DAP; and (b) another of the specialist members with that experience and qualification as the deputy presiding member.*
- (2) *Subject to subregulation 3A, the deputy presiding member must act as presiding member when the presiding member is unable to do so by reason of illness, absence or other cause.*
- (3A) *If both the presiding member and the deputy presiding member of a DAP are unable to act as presiding member of the DAP by reason of illness, absence or other cause, the Director General may appoint the presiding member of another DAP to act as presiding member of the DAP.*
- (3) *No act or omission of the deputy presiding member acting as presiding member is to be questioned on the ground that the occasion for his or her so acting had not arisen or had ceased.*

[Regulation 27 amended in Gazette 17 Apr 2015 p. 1384.]

28. Alternate members

- (1) *The Minister may, in writing, appoint:*
 - (a) *an alternate member for any person appointed under regulation 23(1)(a); and*
 - (b) *an alternate member for any person included on the Local Government register under regulation 26; and*
 - (c) *such number of persons eligible to be appointed as specialist members as the Minister considers necessary to form a pool of alternate members for specialist members.*
- (2) *Regulation 24 applies in relation to an appointment under subregulation (1)(a).*
- (3) *Regulation 26 applies in relation to an appointment under subregulation (1)(b).*
- (4) *An alternate member for a Local Government member of a DAP may act in the place of the Local Government member if the Local Government member is unable to perform the functions of the member by reason of illness, absence or other cause.*
- (5) *If a specialist member other than the presiding member is unable to perform the functions of the member by reason of illness, absence or other cause, an alternate member from the pool referred to in subregulation (1)(c) may, on the request of the presiding member, act in the place of the specialist member.*
- (6) *A person cannot act in the place of a specialist member of a DAP if the person is:*
 - (a) *employed under the Local Government Act 1995 section 5.36 by the Local Government of a district for which the DAP is established; or*
 - (b) *a member of the council of the Local Government of a district for which the DAP is established.*
- (7) *An alternate member acting under this regulation may despite anything in these regulations, continue to act, after the occasion for so acting has ceased, for the purpose of completing any determination of a DAP application.*

- (8) *An alternate member, while acting in the place of a DAP member, has the same functions and protection from liability as a DAP member.*
- (9) *No act or omission of a person acting in place of another under this regulation is to be questioned on the ground that the occasion for so acting had not arisen or had ceased.*

29. Term of office

- (1) *A DAP member holds office for the term specified in the member's instrument of appointment.*
- (2) *The term of office specified in an instrument of appointment must not exceed 2 years.*
- (3) *A person's eligibility for reappointment as a DAP member or the term for which a person may be reappointed is not affected by an earlier appointment.*

RISK MANAGEMENT IMPLICATIONS:

Low: If no nominations are made, the Director General can appoint a person who is an eligible voter of the city and has relevant knowledge and experience to represent the local community.

FINANCIAL/BUDGET IMPLICATIONS:

The DAP process does not require the City to make additional budget provisions.

The City collects the application fee from the applicant for the DAP determination which it forwards to the DAP Secretariat.

DAP Members, including Local Government Members are paid a fixed amount by the DAP Secretariat for each meeting of the DAP that they attend.

COMMENT:

In the event that there are more nominations than vacancies for representation, Council will need to nominate which representatives will be appointed to the panel.

Administration's past experience with and interpretation of regulation 28 of the *Planning and Development (Development Assessment Panels) Regulations 2011* is that an "alternate member" should be appointed for as an alternate for a particular substantive member. That is to say, alternate member "1" may stand in for member "1" and alternate member "2" may stand in for member "2". Therefore, if member "1" is absent and alternate member "1" is unavailable to stand in, then alternate "2" would not be permitted to stand in for member "1".

However, according to the Department of Planning own Development Assessment Panel Procedures Manual and advice received from the Department, the DAP secretariat would contact alternate local member 1 before contacting alternate local member 2, regardless of which substantive member is absent. Therefore, the order the alternate members are listed will be important for Council to determine.

9.3.8 Audit Committee Membership

Ward:	-	Date:	20 January 2017
Precinct:	-	File Ref:	(SC FY3-04)
Attachments:	1 – Audit Committee Terms of Reference 2 – CONFIDENTIAL Assessment of Nominations for External Independent Membership		
Tabled Items:	Nil		
Reporting Officer:	T Evans, Manager Governance and Risk		
Responsible Officer:	J Paton, Director Corporate Services		

RECOMMENDATION:

That Council, in accordance with the provisions of sections 5.10 and 7.1A of the *Local Government Act 1995*, APPROVES BY ABSOLUTE MAJORITY:

1. the appointment of the following Council Members to Audit Committee for the term 7 February 2017 to 21 October 2017:

1. _____;
2. _____;
3. _____;
4. _____.

2. the appointment of the external independent members to Audit Committee for the term 7 February 2017 to 21 October 2017:

1. _____;
2. _____.

PURPOSE OF REPORT:

To consider and appoint persons to the City’s Audit Committee.

DETAILS:

At its Ordinary Meeting of 13 December 2016, Council resolved (in part):

“That Council:

1. *RECEIVES* the report on Audit Committee best practice included as Attachment 1;
2. *ADOPTS* the revised Terms of Reference for the Audit Committee included as Attachment 2;
3. *NOTES* that Administration will advertise for suitably qualified City of Vincent residents or property owners to nominate for external independent membership of the Audit Committee, and that a further report dealing with membership of the Audit Committee will be presented to Council in February 2017;
4. *...”*

By adopting the revised Audit Committee terms of reference (**Attachment 1**), Council revised the membership of the Audit Committee from nine members, all of whom are Council Members, to six members with up to two of those members being independent external members.

Administration has called for expressions of interest for suitably qualified persons to nominate for external independent membership of the City's Audit Committee. An advertisement was placed in The Voice newspaper in addition to being advertised on the City's website, Facebook page and the January edition of the Vincent e-newsletter.

Nominees were requested to provide a current resume and a covering letter to their applications and were asked to demonstrate their knowledge and experience of:

- business or financial management/reporting;
- risk management systems and procedures;
- internal business controls;
- legislative compliance programs.

The closing date for submissions was Sunday 29 January 2017, however only one application was received. Due to the low number of applicants, the closing date was extended to Sunday 5 February 2017 and further advertising and communication took place. In addition to further advertisement on social media and the website, notices were placed with the careers centres of Curtin University, University of Western Australia (UWA) and Edith Cowan University (ECU). Furthermore, an advertisement was placed on the job board of the CPA Australia website.

A second nomination was received on 1 February 2017. Therefore, Administration has included an initial assessment of the two nominations received prior 2 February 2017 and has included this assessment as **Confidential Attachment 2**. Details of further nominations will be emailed to Council Members for consideration, prior to the 7 February 2017 Ordinary Council Meeting.

In accordance with the terms of reference, in addition to the independent external members, Council must also nominate sufficient Council Members as members of the Audit Committee so that the total number of members is six.

CONSULTATION/ADVERTISING:

The City invited members of the community to nominate for Audit Committee membership, as detailed earlier in this report.

LEGAL/POLICY:

Division 7.1A of the *Local Government Act 1995* sets out the requirement for Local Governments to establish an Audit Committee and sets out a range of requirements applicable to Audit Committees.

The *Local Government (Audit) Regulations 1996* further prescribe the functions of an Audit Committee.

The City of Vincent's *Audit Committee Terms of Reference* sets out in detail how the City's Audit Committee will function.

RISK MANAGEMENT IMPLICATIONS:

Low / Medium: An effective Audit Committee has a role in addressing risk at the City and therefore the selection of appropriately skilled and qualified members of the Audit Committee is a relevant factor in addressing organisational risk.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's Strategic Plan 2013-2023 - Key Result Area Four – "Leadership, Governance and Management" and, in particular, "4.1.2 - *Manage the organisation in a responsible, efficient and accountable manner*".

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

Depending on the number of applications received and that Council deem suitable, the following options are available to Council:

Option 1 – Appoint Two External Independent Members

If Council determines that there are two or more suitable expressions of interest for membership of the Audit Committee, then Council can appoint two external independent members and four Council Members.

Option 2 – Appoint One External Independent Member

If Council determines that only one applicant is suitable, then it can appoint one external independent member and five Council Members.

Option 3 – Appoint no External Independent Members

If Council determines that no applicants are suitable, then it must appoint six Council Members to the Audit Committee.

In the event that less than two external independent members are appointed, there is nothing to prevent the Council from continuing to seek expressions of interest from additional external independent members. Should a suitable person apply then Council, at any time, are free to appoint them to the Audit Committee in place of a Council Member.

It is noted that the current term for Audit Committee membership will expire in October 2017. Therefore, regardless of the number of external independent members currently appointed, it is Administration's intent to put out a further call for expressions of interest in September/October. Audit Committee members are entitled to re-nominate for further terms.

It is recommended that Council appoints members to the Audit Committee as detailed in this report and in line with the adopted terms of reference.

9.3.9 Variation of Lease to include additional artists as joint lessees - Halvorsen Hall, Robertson Park, 176 Fitzgerald Street, Perth

Ward:	South	Date:	20 January 2017
Precinct:	Hyde Park (12)	File Ref:	SC595
Attachments:	1 – Plan of Lease Area		
Tabled Items:	Nil		
Reporting Officer:	M Bancroft, Property Leasing Officer		
Responsible Officer:	J Paton, Director Corporate Services		

RECOMMENDATION:

That Council:

1. **APPROVES** a variation of the lease with Graham Hay, Umberto Alfaro, Frances Dennis, Carol Rowling, Lauren Wilhelm and Renae Edward of Halvorsen Hall, located at Robertson Park, 176 Fitzgerald Street, Perth, to:
 - 1.1 remove Umberto Alfaro, Lauren Wilhelm and Renae Edward as joint lessees, and;
 - 1.2 add Janet Pfeiffer, Sarah Marchant and Christopher McClelland as joint lessees.
2. **Subject to final satisfactory negotiations being carried out by the Chief Executive Officer, AUTHORISES** the Mayor and Director Corporate Services to affix the common seal and execute the variation of lease in 1 above.

PURPOSE OF REPORT:

To seek approval to vary the lease for Halvorsen Hall, located at Robertson Park, 176 Fitzgerald Street, Perth (Halvorsen Hall), to amend details of the joint lessees.

BACKGROUND:

Background to use of Halvorsen Hall

In 1999 the Perth band terminated its lease of Halvorsen Hall, (**Attachment 1**) and the City subsequently advertised for Expressions of Interests for its lease. The City received submissions from several interested community groups, but it was instead decided that Halvorsen Hall be hired casually to the community.

In December 1999 a group of established local artists specialising in sculptures, paintings and creative music expressed an interest to enter into a lease in respect to Halvorsen Hall. The artists intended that they also run community art classes from Halvorsen Hall, as this would create an income stream for the artists and also promote the artwork to the community.

At the Ordinary Meeting of Council of 18 January 2000 (Item 10.3.6) Council approved a one year lease to the artists, represented by Graham Hay, with an option for the lease to be renewed annually for a further four years. The lease was renewed in 2001, 2002 and 2003. In 2003 the artists requested a longer term lease, and at the Ordinary Meeting of Council of 16 December 2003 (Item 10.3.7) Council made the following resolution:

“That the Council APPROVES of a three (3) year lease term with an option period of a further three (3) years with Graham Hay and co-artists for Halvorsen Hall situated at Robertson Park, Fitzgerald Street, subject to satisfactory negotiations being carried out by the Chief Executive Officer.”

This lease expired on 28 February 2010.

At the Ordinary Meeting of Council of 20 October 2009 (Item 9.3.6) Council approved a new lease on the following terms:

That the Council APPROVES of a five (5) year lease term with an option of a further five (5) years with Artists - Graham Hay, Umberto Alfaro, Frances Dennis ,Carol Rowling, Lauren Wilhem and Renae Edward for Halvorsen Hall situated at Robertson Park, 176 Fitzgerald Street, Perth, subject to satisfactory negotiations being carried out by the Chief Executive Officer.

The key terms of the current lease dated 18 December 2009 are as follows:

Term: 5 years commencing 1 March 2010 and expiring on 28 February 2015;
 Option Term: 5 years commencing 1 March 2015 and expiring on 29 February 2020;
 Rent: \$4,615.45 plus GST pa (indexed by CPI, currently \$5,352 (excl GST)); and
 Permitted use: arts and recreational activities.

In 2014 Graham Hay, on behalf of the artists, contacted the City to advise that the artists using Halvorsen Hall had changed as follows:

Artists at time Lease entered into	Artists in 2014
Graham Hay	Graham Hay
Umberto Alfaro	Frances Dennis
Frances Dennis	Carol Rowling
Carol Rowling	Janet Pfeiffer
Lauren Wilhem	Sarah Marchant
Renae Edward	

The City's process at that time for changing the parties to the Lease was for the new artists to sign an execution page to accompany the Lease. No Deed of Variation of Lease was entered into and Council was not informed of the changing artists (lessees). Umberto Alfaro, Lauren Wilhelm and Renae Edward were removed as artists in this manner, while Janet Pfeiffer and Sarah Marchant were added as artists.

In 2015 Graham Hay on behalf of the artists exercised the lessee's option to renew the lease for a further term of five years. The Deed of Extension of lease was prepared by the City and signed on 24 September 2015. The lessees as set out in the Deed of Extension of Lease are those listed above as the Artists in 2014.

As the artists are joint lessees they are each jointly and severally liable for the covenants set out in the Lease. Any costs to be paid by the lessees, such as the rent, building insurance and utilities, are to be split equally between the artists.

Background to the Joint Lessees – Artists at Halvorsen Hall

The artists rented the rear of the premises at 14 Wellman Street, Perth from about 1992 to late 1999, when the expansion of the owner's business led to their eviction. The group comprised of a total of 25 artists sharing the premises and making sculptures, paintings, creative music and running art classes. The artists were predominantly young or recent graduates from local TAFE and university and the premises enabled them to work part time while establishing their art practice.

From January 2000 the artists occupied Halvorsen Hall. Halvorsen Hall provides a communal and social place from where the artists can create and display their artworks. The artists have indicated that they have strived to make Halvorsen Hall a community focal point and frequently run community classes. The art classes they run include mixed media, painting, pottery and sculpture. Every Friday morning Halvorsen Hall is open to the public for a morning tea. The artists now go by the name 'Robertson Park Artists Studio'.

DETAILS:

On 15 November 2016 Graham Hay on behalf of the artists contacted the City to advise that Christopher McClelland had been invited by the artists to join the Robertson Park Artists Studio and therefore could his name to be included in the Lease.

Administration advised the artists by email on 16 November 2016 that adding a new party to a lease amounted to the variation of the lease and therefore required the preparation of a Deed of Variation to be signed by all parties.

Graham Hay provided some further information about Christopher McClelland by email on 29 November 2016:

"Over the last four months we have come to the unanimous decision that we made a very good decision in inviting Chris to join us, due to the expressive quality of his art, technical skill, regular use of the space, good sociability and generosity of spirit."

Christopher McClelland has also provided the following information:

"For the past two years I have been involved in the set up, coordination and teaching of an art programme for Indigenous students. The programme involves one evening a week in the Hale School art rooms. The students are both Hale and wider community indigenous students. I work alongside Neil Marshall, an Aboriginal man who is the coordinator of Indigenous students at Hale. He teaches the culture, I teach the art skills.

From 2003 to 2014 I ran an adult evening art class at Hale.

I have also been the recipient of an Australia Council Community Arts grant involving working with homeless youth over a three year period. I ran art classes in shelters for homeless teenagers in Brisbane culminating in an exhibition of their work in the Brisbane Town Hall. The exhibition created a great deal of interest, resulting in many TV, radio and press interviews."

CONSULTATION/ADVERTISING:

Administration is proposing to vary the parties to the current lease and therefore this is not a disposition (the premises has already been disposed to the artists for the current term) and there is no requirement to advertise.

Administration notes that the disposition would not fall within the scope of an exempt disposition, as set out in section 3.58 of the *Local Government Act*, as the artists receive a pecuniary profit from the activities they organise at Halvorsen Hall.

LEGAL/POLICY:

Not applicable.

RISK MANAGEMENT IMPLICATIONS:

Med The artists have demonstrated over the last 16 years their ability to meet lease obligations and provide a community facility which promotes active engagement with the community. Each artist is a joint lessee and therefore is responsible to comply with the terms set out in the lease. The current joint lessees do not reflect the parties using Halvorsen Hall and therefore it is important that the lease is formally varied to reflect the current users as joint lessees.

STRATEGIC IMPLICATIONS:

In accordance with the objective of Strategic Plan 2013-2023:

- 1.1.4 *Enhance and maintain the City's infrastructure, assets and community facilities to provide a safe, sustainable and functional environment.*
- 2.1.3 *Develop business strategies that reduce reliance on rates revenue*
- (c) *Continue to review leases and commercial contracts to ensure the best return for the City, whilst being cognisant of its community service obligations.*

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

The artists currently pay a lease fee of \$5,352 (excl GST) per annum.

Pursuant to the Lease the artists are responsible for keeping the premises clean, maintaining it and repairing any damage. The City is responsible for organising pest inspections and the minimum level of service checks (fire appliance, RCD and smoke alarm monitoring), and these costs are recouped from the artists, as well as any maintenance undertaken by the City on the artists' behalf.

Please note that the income derived from Halvorsen Hall does not offset the depreciation of the building, which was \$8,808 in 2015/16.

INCOME – EXPENDITURE FOR HALVORSEN HALL (EXCL GST)				
Description	2014/15		2015/16	
	Income	Expenditure	Income	Expenditure
Lease Fee	\$5,268		\$5,328	
Recoups - utilities, insurance, ESL, pest treatment	\$1,026		\$1,631	
Maintenance - General		\$1,944		0
Maintenance - Lighting & Electrical		\$591		0
Security		0		\$336
Minimum Level of Service		0		\$120
Pest Treatment		\$871		\$912
Utilities		\$678		\$622
Building Insurance		\$417		\$355
Emergency Services Levy		\$637		\$700
	\$6,294	\$5,138	\$6,959	\$3,045
NETT		\$1,156		\$3,914

COMMENTS:

The artists, led by Graham Hay, have leased Halvorsen Hall since 2000 and have satisfactorily complied with the terms of the Lease. A request has been received to add Christopher McClelland to the list of artists and consequently be recognised on the lease as a joint lessee.

A Deed of Extension of Lease does not vary the terms of the Lease (including the parties to the Lease) and therefore it is necessary for a Deed of Variation of Lease to be prepared with the current artists listed as the parties (joint lessees).

Administration has received confirmation from the artists that the artists currently occupying Halvorsen Hall are:

- Graham Hay;
- Frances Dennis
- Carol Rowling;
- Janet Pfeiffer;
- Sarah Marchant; and
- Christopher McClelland.

Consequently it is necessary for a Deed of Variation of Lease to remove Umberto Alfaro, Lauren Wilhem and Renae Edward as joint lessees and include Janet Pfeiffer, Sarah Marchant and Christopher McClelland.

Administration notes that until the parties to the Lease are varied upon the execution of the recommended Deed of Variation of Lease, the artists (joint lessees) which are currently parties to the Lease remain responsible to comply with the terms of the Lease. It is only once Umberto Alfaro, Lauren Wilhelm and Renae Edward are removed as parties to the Lease upon the execution of the Deed of Variation of Lease that their obligations will formally cease. Therefore it is necessary for a Deed of Variation of Lease to be finalised as soon as possible.

Administration notes that the Lease will expire on 28 February 2020 and there are no further option periods.

9.4 COMMUNITY SERVICES

Nil

9.5 CHIEF EXECUTIVE OFFICER

9.5.1 Progress Report on 2016/17 Council Strategic Priorities

Ward:	Both	Date:	25 January 2017
Precinct:	All	File Ref:	-
Attachments:	1 – Progress Report on 2016/17 Council Priorities 2 – Proposed Approach for setting Strategic Agenda for 2017/18		
Tabled Items:	Nil		
Reporting Officer:	Len Kosova, Chief Executive Officer		
Responsible Officer:	Len Kosova, Chief Executive Officer		

RECOMMENDATION:

That Council:

- NOTES Administration’s progress report on Council’s Strategic Priorities for 2016/17 as detailed in Attachment 1; and**
- ENDORSES Administration’s proposed approach for determining Strategic Priorities for 2017/18; reviewing the City’s progress against the Corporate Business Plan (2016/17 – 2019/20) (CBP); inviting community budget submissions for 2017/18; and conducting the first annual review of the CBP, as outlined in Attachment 2.**

PURPOSE OF REPORT:

To consider Administration’s progress towards the 2016/17 Council Strategic Priorities and a proposed approach for setting the strategic agenda for the year ahead.

BACKGROUND:

At its Special Meeting on 19 April 2016, Council adopted a list of 10 strategic priorities covering 37 specific projects/initiatives, to provide clear strategic focus, context and direction for the City’s budgeting and forward planning for the 2016/17 financial year. This approach was taken in recognition of:

- The currency, adequacy and perceived misalignment of the then Corporate Business Plan (CBP) and current Strategic Community Plan (SCP) with Council’s more contemporary aspirations and objectives;
- The need to review and revise the CBP to better coordinate, direct and align Administration’s work efforts and attention with Council’s strategic focus;
- To inform budget considerations and focus areas in 2016/17; and
- The need to initiate a formal review of the current SCP in the 2016/17 financial year.

Following its adoption, Council’s adopted Strategic Priorities were used to inform and direct the review and revision of the CBP, with each of the 10 strategic priorities specifically reflected in the new CBP (2016/17 – 2019/20).

In 2016, the Strategic Priorities also formed the basis for inviting community budget submissions during development of the 2016/17 Draft Budget. This approach was taken in lieu of the City’s previous practice of advertising its Draft Annual Budget for public comment, and as a means of attracting earlier and more meaningful community input aligned to the Strategic Priorities, which could then be used to inform the drafting of the new Budget, rather than in response to an already drafted budget.

The invitation for community budget submissions was very well-received by the community – generating over 50 submissions relating to more than 30 proposals, with most being agreed by Council and incorporated in the adopted 2016/17 Budget and/or new CBP.

The community budget submissions were considered at the Council meeting on 26 July 2016 (Item 9.5.2), at which meeting Council also adopted the 2016/17 Budget (Item 9.3.4) and new CBP (Item 9.5.1).

Almost 10 months has now passed since Council adopted its 2016/17 Strategic Priorities, which have worked well in guiding Administration's work efforts and focus over that time. It is opportune to now review Administration's progress on the Strategic Priorities, particularly as we:

- approach the end of the 2016/17 financial year;
- prepare to report on the City's progress against the new CBP;
- prepare to review the 2016/17 Strategic Priorities and set 2017/18 Strategic Priorities;
- prepare to invite community budget submissions on 2017/18 Strategic Priorities;
- initiate the first annual review of the CBP;
- initiate a widespread engagement campaign with our community to develop a new Strategic Community Plan (SCP).

DETAILS:

The 2016/17 Strategic Priorities include 37 specific projects/initiatives to address the following 10 key strategic focus areas:

- Developing a new strategic plan to guide the future of the City
- Leading local government transparency and accountability
- Stronger financial management and budget planning
- Guiding better development outcomes in the City
- Better customer service
- Meaningful and smarter community engagement
- Cutting red tape
- Creating Liveable Neighbourhoods
- Renewing of town centres
- Smarter, sustainable waste management for the community

Administration has recently completed a review of its progress against each of the 37 projects/initiatives listed in the 2016/17 Strategic Priorities and the results of that review are contained in the table included as **Attachment 1**. The table includes a 'Quick View' column using simple traffic light icons as follows:

Green	=	Completed (8 in total)
Yellow	=	Still in progress (23 in total)
Red	=	Delayed (6 in total)

CONSULTATION/ADVERTISING:

Nil

LEGAL/POLICY:

Section 5.56 of the *Local Government Act 1995* (the Act) requires local governments to 'plan for the future'. Part 5, Division 3 of the *Local Government (Administration) Regulations 1996* (the Regulations) prescribes specific requirements in respect to the content and review requirements for each of the strategic documents required as part of the Plan for the Future.

The 2016/17 strategic priorities have been incorporated into the current CBP and were adopted to provide an interim focus pending finalisation of a fully integrated and community-

driven SCP, in accordance with the relevant provisions of the Act and Regulations. The City is working towards adoption of an entirely new SCP by the end of the 2017 calendar year and, as such, it will no longer be necessary to determine stand-alone annual strategic priorities beyond the 2017/18 financial year, as the City's annual budgeting and work focus will then be directly informed by a new community-led SCP and fully integrated planning and reporting framework by 2018/19.

RISK MANAGEMENT IMPLICATIONS:

Low: This report outlines Administration's progress against the 2016/17 Strategic Priorities which, since being adopted, have been embedded in the current CBP and provide a more coordinated planning and project delivery focus than would have otherwise been the case in their absence.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's Strategic Plan 2013-2023:

"4.1 Provide good strategic decision-making, governance, leadership and professional management;" and in particular;

4.1.2 Manage the organisation in a responsible, efficient and accountable manner;".

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

The current budget already accounts for the financial and budget implications associated with the 2016/17 Strategic Priorities.

COMMENTS:

By the end of the 2016/17 financial year, Administration is aiming to complete (or substantially complete) the 23 projects that are shown as still being in progress (Yellow traffic light) in **Attachment 1** and to improve the status of the 6 delayed projects (Red traffic light) to being 'in progress' (Yellow).

Moving forward, Administration is proposing the approach set out in **Attachment 2** for reviewing and revising the 2016/17 Strategic Priorities for 2017/18; reviewing progress against the CBP; inviting community budget submissions for 2017/18 (as occurred last year); and conducting the first annual review of the CBP.

It is recommended that Council notes Administration's progress against the 2016/17 Council Priorities, as outlined in **Attachment 1** and endorses the proposed approach outlined in **Attachment 2** for reviewing, revising and aligning Strategic Priorities, Community Budget Submissions and Corporate Business Plan (2016/17 – 2019/20) in the year ahead.

9.5.2 Information Bulletin

Ward:	-	Date:	20 January 2017
Precinct:	-	File Ref:	-
Attachments:	-		
Tabled Items:	-		
Reporting Officer:	L Hood, A/Governance & Council Support Officer		
Responsible Officer:	L Kosova, Chief Executive Officer		

RECOMMENDATION:

That Council RECEIVES the Information Bulletin dated 7 February 2017.

DETAILS:

ITEM	DESCRIPTION
IB01	Unconfirmed Minutes of the Children and Young People Advisory Group (CYPAG) Meeting held on 12 October 2016.
IB02	Unconfirmed Minutes of the Safer Vincent Crime Prevention Partnership (SVCPP) Meeting held on 1 December 2016.
IB03	WALGA State Council Meeting Summary Minutes – December 2016
IB04	Minutes of Tamala Park Regional Council Meeting held on 8 December 2016
IB05	Register of Legal Action (Confidential – Council Members Only) – Monthly Report as at 19 January 2017
IB06	Register of Orders and Notices Issued Under the <i>Building Act 2011</i> and <i>Health Act 1911</i> (Confidential – Council Members Only) – Quarterly Report as at 19 January 2017
IB07	Register of State Administrative Tribunal (SAT) Appeals – Progress Report as at 19 January 2017
IB08	Register of Applications Referred to the MetroWest Development Assessment Panel – Current
IB09	Register of Applications Referred to the Design Advisory Committee – Current
IB10	Register of Petitions – Progress Report – February 2017
IB11	Register of Notices of Motion – Progress Report – February 2017
IB12	Register of Reports to be Actioned – Progress Report – February 2017
IB13	Vincent Greening Plan – Local Plant Sale 2017

9.5.3 LATE ITEM: Appointment of an Alternate Member for Mindarie Regional Council – 9 February 2017

Ward:	-	Date:	7 February 2017
Precinct:	-	File Ref:	SC1161
Attachments:	-		
Tabled Items:	-		
Reporting Officer:	Len Kosova, Chief Executive Officer		
Responsible Officer:	Len Kosova, Chief Executive Officer		

RECOMMENDATION:

That Council **APPROVES BY AN ABSOLUTE MAJORITY** the appointment of Councillor to be its **Alternate Member (Deputy)** for the Mindarie Regional Council Meeting to be held on **9 February 2017**, due to the resignation of the Council's appointed Member, (former) Mayor John Carey, with effect from **30 January 2017**.

PURPOSE OF REPORT:

For the Council to appoint an Alternate Member (Deputy) to the Mindarie Regional Council (MRC) Meeting on 9 February 2017 due to the resignation of its appointed Member, (former) Mayor John Carey.

BACKGROUND:

It is a requirement of the Mindarie Regional Council Establishment Agreement that Council carries a specific resolution to nominate an Alternate Member for each occasion that the approved Member is unable to act.

On 15 December 2016, Council's appointed Member, Mayor John Carey, submitted his resignation as Mayor of the City of Vincent with his last day in the office being Monday 30 January 2017.

CONSULTATION/ADVERTISING:

Not applicable.

LEGAL/POLICY:

It is a requirement of the Mindarie Regional Council Establishment Agreement that Council carries a specific resolution to nominate an Alternate Member for each occasion that the approved Member is unable to act.

RISK MANAGEMENT IMPLICATIONS:

Medium: The non-attendance of a City representative at the Mindarie Regional Council meeting will result in the City not having any voting entitlement on matters raised at the meeting.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's Strategic Plan 2011 – 2016, Key Objective 4.1 – *“Provide good strategic decision making, leadership and professional management”*.

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

It is recommended that Council appoint an Alternate Council Member to attend the upcoming Mindarie Regional Council meeting.

Council will also need to appoint its substantive Member to the MRC and a separate report to do so will be presented to Council following the 24 February 2017 extraordinary election.

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

11. QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN

Nil.

12. REPRESENTATION ON COMMITTEES AND PUBLIC BODIES

Nil.

13. URGENT BUSINESS

Nil.

**14. CONFIDENTIAL ITEMS/MATTERS FOR WHICH THE MEETING
MAY BE CLOSED (“BEHIND CLOSED DOORS”)**

15. CLOSURE