

5.1 DEVELOPMENT SERVICES

5.1.1 No. 399 (Lot: 1; STR: 44491) William Street, Perth – Proposed Alfresco Area Addition to Existing Small Bar

Ward:	South	Date:	8 July 2016
Precinct:	Precinct 13 – Beaufort	File Ref:	PR28182; 5.2016.108.1
Attachments:	1 – Consultation Map 2 – Development Application Plans 3 – Car Parking Table		
Tabled Items:	Nil		
Reporting Officer:	A Groom, Statutory Planning Officer		
Responsible Officer:	G Poczyn, 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 BY ABSOLUTE MAJORITY** the application for the proposed alfresco area addition to the existing Small Bar (Unlisted Use) at No. 399 (Lot: 1; STR: 44491) William Street, Perth in accordance with plans date stamped 29 March 2016, as shown on Attachment 2, subject to the following conditions:

1. Use of the Premises

- 1.1 The maximum public floor area of the alfresco area shall be limited to 35.29 square metres;
- 1.2 The maximum number of patrons to occupy the small bar (including alfresco area) at any one time shall be 84 persons;
- 1.3 Packaged liquor is not to be sold at the premises; and
- 1.4 Any proposed increase to the number of patrons of the Small Bar will require a further development application;

2. Hours of Operation

The hours of operation shall be limited to:

Alfresco area:

- Monday to Saturday: 7:00am to Midnight; and
- Sunday: 10:00am to 10:00pm; and

3. Building

The windows, doors and adjacent floor area facing William Street shall maintain an active and interactive frontage to William Street.

ADVICE NOTE:

1. Any new signage that does not comply with the City's Policy No. 7.5.2 – Signs and Advertising shall be subject to a separate Planning Application and all signage shall be subject to a Building Permit application, being submitted and approved prior to the erection of the signage.

PURPOSE OF REPORT:

To consider the proposed alfresco extension to an existing Small Bar (Unlisted Use) into one additional carbay and approving the current use of one carbay for alfresco purposes.

BACKGROUND:

The subject site comprises of three tenancies being No's. 399 (Unit 3), 401 (Unit 2) and 403 (Unit 1) William Street. Six car bays were originally provided onsite to serve all three tenancies.

An approval in 2005 required the payment of cash in lieu for parking for 1.15 bays. The payment of \$2875.00 was made in 2007. For details regarding the carparking requirements following various approvals that would impact on carparking refer to **Attachment 3**.

It is worth noting that clause 1.4 of the city's Policy 7.7.1 – Parking and Access provides that all existing carparking shortfalls are recalculated at the assessment point of the new proposal taking the current carparking rates and adjustment factors as specified in the policy into account. This explains the difference between historic shortfall/surplus amount and the current applicable shortfall/surplus amount.

Tenancy:	Unit 1	Unit 2	Unit 3
Land Use:	Eating House	Eating House	Small Bar (Unlisted Use)
Approval per tenancy:	<ul style="list-style-type: none"> - Change of Use from Shop to Eating House and Incidental Shop and associated alterations and additions approved by Council on 24 May 2005. - Alfresco addition to existing Eating House approved by Delegated Authority on 6 August 2009. 	<ul style="list-style-type: none"> - Change of Use from Shop to Eating House approved by Delegated Authority 7 June 2005. 	<ul style="list-style-type: none"> - Change of use from Eating House to Unlisted Use (Small Bar - known as Bar 399) and associated alterations approved by Council 7 October 2008. - A Section 40 under the <i>Liquor Control Act 1988</i> was issued by the then Director Planning Services on 9 April 2013 for one car bay to be used as an alfresco area.

A Section 40 application was received by the City on 7 March 2016 and proposes an extension of the liquor licenced area into car bay 2.

As the proposal is for the extension of an existing Unlisted Use the proposal requires a development application to be submitted and determined by the City prior to the issue of the Section 40 certificate.

In April 2013 Administration issued a Section 40 certificate without planning approval to change the use of the car bay. This error will be corrected as part of this application.

DETAILS:

Application Details:

Landowner:	Kammy Australia Pty Ltd
Applicant:	P Palmer
Date of Application:	24 March 2016

Principal Statutory Provisions

Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS1): Commercial Draft Town Planning Scheme No. 2 (TPS2): District Centre
Existing Land Use:	Two Eating Houses and one Unlisted Use (Small Bar)
Use Class:	Two Eating Houses and one Unlisted Use (Small Bar)
Use Classification:	Eating House: "P" use and Small Bar: Unlisted Use
Lot Area:	711 square metres
Right of Way (ROW):	Not Applicable
Heritage List:	No

The proposal is for the expansion of the existing alfresco area outside No. 399 (Unit 3) William Street into the adjoining car bay (car bay 2). The remaining car parking bay is compliant with the City's Policy No. 7.7.1 – Parking and Access as shown in **Attachment 3**.

The car parking has been assessed taking the existing car parking shortfall (20.64 bays) previously approved, a previous cash-in-lieu payment (for 1.15 bays) and the proposed loss of one car bay as a result of this proposal into account, and has resulted in a surplus of car parking provisions (by 0.15 bays).

The existing hours of operation are limited to:

- 7:00am to Midnight Monday to Saturday; and
- 10:00am to 10:00pm Sunday.

The maximum accommodation of 84 persons and the hours of operation are proposed to remain unchanged and apply to the indoor and outdoor area.

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

ASSESSMENT:

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 both in relation to the deemed-to-comply provisions and the design principles.

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

Land Use		
Requirement	Proposal	Aspect for Consideration
City of Vincent Town Planning Scheme No. 1 Clause 15. Unlisted Uses	Extension of existing Small Bar – "SA" Use.	Use unlisted Requires discretion

The assessment against the principles is as follows:

Land Use
Applicable Principles
City of Vincent Town Planning Scheme No. 1
<p>Clause 15. Unlisted Uses.</p> <p>a) determine that the use is consistent with the objectives and purposes of the particular zone and is therefore permitted; or</p> <p>b) determine that the proposed use may be consistent with the objectives and purpose of the zone and thereafter follow the "SA" procedures of Clause 37 in considering an application for planning approval; or</p> <p>c) determine that the use is not consistent with the objectives and purposes of the particular zone and is therefore not permitted.</p>
Applicant's Justification
None provided.
Officer Technical Comment
<p>Council previously resolved to exercise its discretion when granting approval to a tenancy on the site for the Small Bar in 2008. This proposed change of use will change the use of two of the existing car bays within the street setback area so that the area can be used as an alfresco area in conjunction with the small bar.</p> <p>The existing Small Bar is located within the Commercial zone of the Beaufort Precinct. The City's Policy 7.1.13 – Beaufort Precinct states that <i>"this area is to form an extension to Northbridge with shops, restaurants and other interactive uses continuing to be the predominant uses"</i>. The extension of the Small Bar into an alfresco area will promote the interaction between the use and the street.</p> <p>The existing hours of operation are consistent with the City's Policy 7.5.7 – Licenced Premises. The hours of operation and maximum accommodation are proposed to remain unchanged and apply to the indoor and outdoor dining areas.</p> <p>The proposed extension of the existing Unlisted use is consistent with the objectives and purposes of the Beaufort Precinct and is therefore considered acceptable.</p>

CONSULTATION/ADVERTISING:

Required by Legislation:	Yes	Required by City of Vincent Policy:	Yes
Consultation Period:	11 May 2016 to 24 May 2016.		
Comments Received:	One letter of support was received during the community consultation period.		

A total of 19 letters were sent to owners and occupiers in the locality.

Community Consultation resulted in a response rate of 5%.

The table below summarises the comments received during the advertising period of the proposal, together with the City's response to each comment.

Comments Received in Support:	Officer Technical Comment:
<i>"I think this is a great idea for this small bar and I personally think it would be great if all the car bays on this site were utilised in this way as it encourages interaction with the street. The small bar itself is great as it adds activity to the area and ensures activity along William Street at all different times of day. As a local resident that lives nearby</i>	Noted.

Comments Received in Support:	Officer Technical Comment:
<i>to this location I frequently walk to and from the City during the day and at night. I actively and consciously choose to walk on this side of William Street, particularly in the evening when travelling home. The small bar provides fantastic surveillance for people travelling through this area and provides me with comfort in walking through this area after other restaurants, shops and cafes have closed for the day. I think the use of the area to the front of the site will add an additional level of interaction that works very well in its context”.</i>	

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. 7.1.13 – Beaufort Precinct;*
- *Policy No. 7.5.7 – Licenced 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*.

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

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

SUSTAINABILITY IMPLICATIONS:

The City's Strategic Plan 2013-2023 states:

“Economic Development

- 2.1.1 *Promote business development and the City of Vincent as a place for investment appropriate to the vision for the City”.*
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The following tables outline the applicable sustainability issues for this proposal:

ENVIRONMENTAL
Use of existing infrastructure and services.

SOCIAL
The proposed use will act as a social meeting place for local residents.

ECONOMIC
The development allows the business owner to maximise the use of the land.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

This proposal will contribute to the interaction with William Street and the economic sustainability of the Town Centre. The proposed extension of the alfresco area over both front bays is an appropriate extension of the existing business.

The maximum accommodation of 84 persons and the hours of operation are proposed to remain unchanged and apply to the indoor and outdoor area. The requirements for car parking and bicycle parking also remains unchanged as they are based on patron numbers.

A 0.15 car bay surplus remains on the site after assessing this proposal against the City's Policy 7.7.1 – Parking and Access. While this outcome could appear to be peculiar given that this proposal will result in the loss of a car bay, it is the consequence of the provisions of the City's Policy 7.7.1 – Parking and Access and its previous renditions. Essentially the policy provides that a carparking shortfall once granted runs with the land into the future and under Clause 1.4 of the policy becomes a "credit" in the context of future carparking calculations in certain circumstances including change of use applications, albeit the actual value of the shortfall is required to be converted to present day values taking the current carparking adjustment factors into account.

As the proposal meets the objectives of the Precinct Policy and remains compliant with the City's parking requirements. This proposal is supported.

CONCLUSION:

It is recommended that Council approves this proposal.
