

**5.1.5 LATE ITEM: No. 459 (Lots: 9-12 and 66; D/P: 1647) Fitzgerald Street, North Perth – Proposed Pop Up Events (Unlisted Use)**

<b>Ward:</b>	North	<b>Date:</b>	4 November 2016
<b>Precinct:</b>	Precinct 8 – North Perth Centre	<b>File Ref:</b>	PR50982; 5.2016.308.1
<b>Attachments:</b>	<a href="#">1</a> – Location and Consultation Map <a href="#">2</a> – Development Application Plan <a href="#">3</a> – Summary of Submissions <a href="#">4</a> – Determination Advice Notes		
<b>Tabled Items:</b>	Nil		
<b>Reporting Officer:</b>	R Narroo, Senior Statutory Planning Officer		
<b>Responsible Officer:</b>	J Corbellini, Director Development Services		

**RECOMMENDATION:**

That Council **APPROVES BY ABOSULTE MAJORITY** under Town Planning Scheme No. 1 and the Metropolitan Region Scheme, the application for development approval for Pop Up Events (Unlisted Use) at No. 459 (Lot: 9-12 and 66; D/P: 1647) Fitzgerald Street, North Perth in accordance with plans date stamped 22 July 2016, as shown on Attachment 2, subject to the following conditions:

**1. Limitation on Use**

- 1.1 'Pop Up Events' shall be associated with the operations of the Rosemount Hotel and shall be located within the Rosemount Hotel Car Park located on Lots 9-12 and 66 Fitzgerald Street, North Perth, as shown on the approved plans;
- 1.2 'Pop Up Events' shall occur on no more than four individual days within a 12 month period and are not to be held on the same weekend as the existing vintage markets; and
- 1.3 'Pop Up Events' shall not commence prior to 10:00am on the day of the event and shall be completed (including pack down) no later than 1:00am the following day, with public access to the events only permitted between 1:00pm and 12 midnight;

**2. Event Notification and Management**

- 2.1 The applicant shall advise the City, in writing, of the intention to hold each 'Pop Up Event' at least one month prior to that event;
- 2.2 The applicant shall notify all residents and operating businesses within a 100 metres radius of each 'Pop Up Event' via letter drop no later than seven calendar days prior to that event. The letter shall provide details of the event and a contact telephone number to notify the event organisers of any problems;
- 2.3 Event organisers shall be available to answer the nominated contact telephone number provided to the residents and operating businesses written to in 2.2 above from 10:00am until 1:00am for each event to enable members of the public to seek information or lodge any complaints. A copy of any complaints received shall be forwarded to the City;
- 2.4 A responsible representative of the operator of the event shall be present on-site for the full duration of each of the 'Pop Up Events' to immediately respond to any complaints or concerns;

**2.5 A Parking Management Plan shall be submitted to, and approved by the City prior to the use of the car park for 'Pop Up Events'. The management plan shall include the following:**

- The location and management of parking for events, including the Rosemount Hotel, during 'Pop Up Events';
- The location and management of pedestrians attending the event;
- Review of the management plan after each event and before the next event, with any changes identified by this review or the City being incorporated into an updated Events Management Plan, to the satisfaction of the City, prior to the next event;

'Pop Up Events' shall be carried out in accordance with the approved management plan to the satisfaction of the City;

**3. Acoustic Report and Management Plan**

An Acoustic Report and Management Plan, in accordance with the City's Policy No. 7.5.21 – Sound Attenuation, shall be lodged with and approved by the City prior to the commencement of the development. The Acoustic Report and Management Plan shall be reviewed after each event and before the next event, with any changes identified by this review or the City being incorporated into an updated Management Plan, to the satisfaction of the City, prior to the next event. The Acoustic Report and Management Plan shall be implemented as part of each of the 'Pop Up Events', to the satisfaction of the City.

**PURPOSE OF REPORT:**

To consider an application for development approval for proposed 'Pop Up Events' (Unlisted Use) on the Rosemount Hotel Car Park at Lots 9-12 and 66 Fitzgerald Street, North Perth.

**BACKGROUND:**

<b>Landowner:</b>	Argyle Holdings Pty Ltd
<b>Applicant:</b>	Silverjay Nominees Pty Ltd
<b>Date of Application:</b>	25 July 2016
<b>Zoning:</b>	MRS: Urban TPS1: Zone: Commercial R-Code: Not applicable TPS2: Zone: District Centre R-Code: Not applicable
<b>Existing Development:</b>	Car Park
<b>Proposed Use Class:</b>	Pop Up Events – "Unlisted Use"
<b>Lot Area:</b>	2,102m <sup>2</sup>
<b>Right of Way (ROW):</b>	Southern side, sealed, 5 metres in width, Council owned
<b>Heritage List:</b>	Yes – The Rosemount Hotel

The subject site is the car park of the Rosemount Hotel, which is situated west of the hotel on the southern side of Angove Street, North Perth, near the corner with Fitzgerald Street, as shown in **Attachment 1**. The hotel site is zoned 'District Centre' and the associated car park is zoned 'Commercial'. The site is located in the North Perth Town Centre, which is characterised by a mixture of residential dwellings and non-residential uses along Fitzgerald and Angove Streets. The City owned 'View Street Car Park' is located immediately to the south of the site.

The Rosemount Hotel is listed on the City's Municipal Heritage Inventory as Management Category A – Conservation Essential and the Heritage Council's State Register of Heritage Places.

Since May 2014, a vintage market has been operating from the Rosemount Hotel car park. Council granted Planning Approval for the Vintage Market at its Meeting on 9 September 2014 with a condition restricting the frequency of the event to the last Sunday of every month and subsequently at its Meeting on 16 December 2014 approved an increase to the frequency of the approved day-time markets from the last Sunday of every month to either Saturday or Sunday, on a fortnightly basis. The 'Pop Up Events' proposed as part of this application are in addition to the existing vintage market.

Since February 2016, the Rosemount has hosted two temporary pop up events within the car parking area of the hotel. These events were temporary in nature and because they occurred for less than 48 hours in total over one 12 month period, they were considered exempt from the need for development approval in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* and the City's Town Planning Scheme No. 1. During this time the City has received no noise complaints in relation to the use of the car parking area for these temporary events.

As the Rosemount intend to hold these 'Pop Up Events' on a reoccurring basis, a development application has been submitted. The application proposes to use the Rosemount Hotel Car Park for occasional 'Pop Up Events', similar to those temporary events that have previously occurred. Tentative dates have been provided for the events proposed in 2016 and 2017. However, to afford flexibility of any potential date changes in future years the applicant is seeking ongoing approval for a maximum number of four 'Pop Up Events' in any 12 month period.

The events would involve music, food stalls and other activities associated with the operations of the hotel. This will include the placement of furniture and other temporary structures within the car park area. The applicant is proposing up to 1,000 patrons between 12 noon and midnight on the nominated event day. However, the occupancy of each event will be determined under the *Health (Public Buildings) Regulations 1992*. All events will also require approval under *Environmental Protection (Noise) Regulations 1997* and the City's *Trading in Public Places Local Law*.

### 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 Detailed Assessment section following from this table.

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

### Detailed Assessment

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

Parking	
Number of bays on the site	Proposal
There are 52 existing bays constructed on-site.	The proposal involves the use of the existing car parking area associated with the hotel for four 'Pop Up Events' per year, during which time no parking will be available on site for the event or adjoining hotel.

**CONSULTATION/ADVERTISING:**

Consultation was undertaken for a period of 21 days in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015*, from 25 August 2016 to 14 September 2016. A total of 261 letters were sent to owners and occupiers within a 150 metre radius (**Attachment 1**) in accordance with the City's Policy No. 4.1.5 – Community Consultation.

A total of seven submissions, including one objection, were received during the consultation. The main planning concern raised related to the impact of noise that would be generated from proposed temporary events, which is discussed in the Comment section below. A detailed summary of the submissions and Administration's response to each matter raised is included in **Attachment 5**.

**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.

In accordance with subclause 61(2)(d) of Schedule 2 of *Planning and Development (Local Planning Schemes) Regulations 2015*, temporary events are exempt from the need for development approval if the use in existence for less than 48 hours, or a longer period agreed by the Local Government, in any 12 month period.

The City's Policy No. 7.5.1 – Minor Nature Development states that a development of a temporary nature is exempt from the need for development approval if it occurs on one-off occasions but does not reoccur.

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:

The 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:**

Nil.

**SUSTAINABILITY IMPLICATIONS:**

Nil.

## **FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

## **COMMENTS:**

### Use of the Car Park

The proposal involves the use of the existing Rosemount Hotel Car Park for four single day 'Pop Up Events' per year. During events, the hotel car park will not be available for parking by hotel patrons or those attending the event.

The hotel car park is located abutting the View Street public car park and is well serviced by public transport along Fitzgerald Street. Time restricted street (inset) parking is also available on Angove Street, with the parking restrictions in this and surrounding streets currently under review by the City.

Whilst the hotel car park is generally well utilised by patrons, it is considered that there are adequate transportation options available for the four events proposed per year. On the two occasions that the temporary events have occurred previously the City has not received any complaints in relation to parking in the locality. To ensure that the proposed event use does not conflict with the existing vintage markets which are held on the premises and minimise any potential impact a condition is recommended so not to permit the 'Pop Up Event' on the same weekend as the markets. In addition, in order to ensure that parking for the Hotel and the events are managed into the future, it is recommended that any approval include a condition requiring a Parking Management Plan be developed and then reviewed following each event.

Given the application only proposes four pop up events each year, the use of the car park for these limited number of events is considered appropriate, subject to the conditions outlined above.

### Noise

During the consultation period concerns were raised in relation to the impact the temporary use will have in relation to noise. The 'Pop Up Events' proposed involve live music and to ensure the impact on amenity within the locality is minimised it is recommended that a condition be imposed on any approval requiring the preparation of an acoustic report and management plan and for this be reviewed following each event.

It should also be noted that the temporary use of the car park for the 'Pop Up Events' would be subject to compliance with the *Environmental Protection (Noise) Regulations 1997*. Issuing development approval for the 'Pop Up Events' will not negate the need for the applicant to apply for approval under the *Environmental Protection (Noise) Regulations 1997* for events. These applications will address noise management for each individual event in detail.

### Conclusion

The Rosemount have operated temporary pop up events on two occasions during 2016 in the Rosemount Hotel Car Park. These events have not resulted in any complaints or concerns being raised with the City. It is noted that these events require separate approval from the City under the *Health (Public Buildings) Regulations 1992*, *Environmental Protection (Noise) Regulations 1997* and the City's *Trading in Public Places Local Law*. Given the above, and the limited number of times that the events are being proposed, it is considered that the events are unlikely to have any adverse impact on the locality and the application is recommended for approval subject to conditions.

It should be noted that the City will be undertaking a review of Local Planning Policy No. 7.5.1 – Minor Nature Development, with the aim of streamlining the development approval process for temporary events and uses within the City.