

9.1.3 Amendment No. 102 to Planning and Building Policies – Final Adoption of Appendix 11 relating to Non-Conforming Use Register

Ward:	Both	Date:	2 January 2013
Precinct:	All	File Ref:	PLA0081
Attachments:	001 – Amended Appendix No. 11 relating to Non-Conforming Use Register 002 – Summary of Submissions		
Tabled Items:	-		
Reporting Officer:	A Fox, Strategic Planning Officer		
Responsible Officer:	C Eldridge, Director Planning Services		

OFFICER RECOMMENDATION:

That the Council;

- RECEIVES** the final amended version of Appendix No. 11 - Non-Conforming Use Register, as shown in Appendix 9.1.3 (001) resulting from the advertised version being reviewed having regard to two (2) written submissions received during the formal advertising, as shown in Appendix 9.1.3 (002); and
- AUTHORISES** the Chief Executive Officer to advertise the final amended version of Appendix No. 11 – Non-conforming Use Register as shown in Appendix 9.1.3 (001), in accordance with Clause 47 (6) of the City's Town Planning Scheme No. 1.

PURPOSE OF REPORT:

The purpose of this report is to provide the Council with an overview of the outcomes of the formal advertising period of Amendment No. 102 relating to the Amended Appendix No. 11 - Non-Conforming Use Register; to present to the Council the final amended version of Amended Appendix No. 11; and to seek final adoption of the Amended Appendix No. 11.

BACKGROUND:

On 12 June 2012 the Council at its Ordinary Meeting adopted an amended version of Appendix No. 11 of the Planning and Building Policy Manual relating to the City's Non-Conforming Use Register. The final adopted Non-Conforming Use Register listed the following five (5) properties as vacant as at 28 November 2011:

Property	Previous approved Non-Conforming Use
No. 27-29 (Lot 106) Carr Street, Perth	Light Industry
No. 27 (Lot 167) Eton Street, North Perth	Light Industry
No. 199-205 (Lot 1) Fitzgerald Street, Perth	Warehouse
No. 110-112 (Lots 442, 443 and 444) Scarborough Beach Road, Mount Hawthorn	Open Air Display
No. 23 (Lot 12) Eden Street, West Perth	Light Industry

As a period in excess of six (6) months has passed since the initial site inspections were carried out on the 28 November 2011, further site visits were undertaken on 27 August 2012 to determine the status of the above properties. Site inspections confirmed that all five properties remained vacant.

History:

Date	Comment
20 November 2001	The City adopted the Non-Conforming Use Register as Appendix No. 11 to Planning and Building Policy Manual
26 March 2002	The Council at its Ordinary Meeting adopted an amended version of Appendix No. 11 – Non-conforming Use Register

Date	Comment
11 February 2008	The CEO under Delegated Authority authorised an amendment to Appendix No. 11 to the City's Non-Conforming Use Register
13 May 2008	The Council at its Ordinary Meeting adopted an amended version of Appendix No. 11 – Non-conforming Use Register
12 October 2010	The Council at its Ordinary Meeting adopted an amended version of Appendix No. 11 – Non-conforming Use Register
23 August 2011	The Council at its Ordinary Meeting adopted an amended version of Appendix No. 11 – Non-conforming Use Register
12 June 2012	The Council at its Ordinary Meeting adopted an amended version of Appendix No. 11 to the City's Non-Conforming Use Register.
11 September 2012	The Council at its Ordinary Meeting initiated Amendment No. 102 and authorised Draft Amended Appendix No. 11 to be advertised.
25 September 2012	The public consultation period commenced for Amendment No. 102 relating to draft amended Appendix No. 11
23 October 2012	The public consultation period closed for Amendment No. 102 relating to draft amended Appendix No. 11

Previous Reports to Council:

11 September 2012 The Council considered a report relating to Draft Amended Appendix No. 11, relating to the City's Non-Conforming Use Register, and resolved to authorise the Draft Amended Policy to be advertised for public comment, in accordance with Clause 47 of the City of Vincent's Town Planning Scheme No. 1.

The Minutes of Item 9.1.6 from the Ordinary Meeting of Council held on 11 September 2012 relating to this report is available on the City's website at the following link:

http://www.vincent.wa.gov.au/Your_Council/Agenda_Minutes

DETAILS:

In accordance with the Council resolution of 11 September 2012, as part of the formal advertising, the City sought comment from the landowners of the five (5) vacant properties requesting evidence of the continued use of the properties in accordance with the approved non-conforming use. No submissions were received from any of the owners in relation to the subject properties.

As the above mentioned properties have remained vacant for a period in excess of six (6) months, in accordance with Clause 16 (4) of TSP No. 1, they can no longer operate in accordance with the approved non-conforming use. Consequently they will need to be removed from the Non-conforming Use Register.

CONSULTATION/ADVERTISING:

Required by legislation:	Yes	Required by City of Vincent Policy:	Yes
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Consultation Period: 28 days

Consultation Type: Advert in local paper, notice on the City's website, copies displayed at City of Vincent Administration and Civic Building and Library and Local History Centre, written notification to owner(s) of affected properties and to the Western Australian Planning Commission and the State Heritage Office, and other appropriate government agencies as determined by the City of Vincent.

A total of two (2) submissions were received during the four week consultation period as follows:

Government Authority Submissions

Position	Number Received	Percentage
Support	1	-
Object	-	-
Not Stated	1	100%
Total	2	100%

Total Submissions Received

Position	Number Received	Percentage
Support	1	100%
Object	-	-
Not Stated	1	-
Total	2	100%

The two (2) submissions received were from Government Authorities and did not contain any recommendation or comment. No submissions were received from any of the owners of the subject properties.

LEGAL/POLICY:

In accordance with Clause 17 of the City's Town Planning Scheme No. 1, the City will maintain a Register of Non-Conforming Uses. The City's current Appendix No. 11 relating to Non-Conforming Uses contains a register of non-conforming uses within the City. The proposed changes to Appendix No. 11, the subject of Amendment No. 102 will ensure that the register reflects the current status of non-conforming uses within the City.

RISK MANAGEMENT IMPLICATIONS:

Medium: It is important that the City maintains a current Register of Non-Conforming Uses to ensure that approved non-conforming uses with the City are acknowledged and future assessments of these properties are correct.

STRATEGIC IMPLICATIONS:

In keeping with the City's *Strategic Plan 2011-2016* – Objective 1.1 states:

"Improve and Maintain the Environment and Infrastructure:

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

SUSTAINABILITY IMPLICATIONS:

Nil

FINANCIAL/BUDGET IMPLICATIONS:

Expenditure for advertising of the Policies will be incurred under the following budgeted item:

Town Planning Scheme Amendments and Policies

Expenditure for this matter will be incurred under the following budgeted item:

Budget Amount: \$80,000
Spent to Date: \$ 3,687
Balance: \$76,312

COMMENTS:

The final adoption of amended Appendix No. 11 relating to the City's Non-Conforming Use Register will ensure that a record of longstanding non-conforming uses within the City remain current. It will also ensure that properties that are no longer operate in accordance with their approved use are advised that the non-conforming use status has lapsed and that current and future uses must be in accordance with the zoning of the site.

In light of the above, it is recommended that the Council progresses the Draft Amended Appendix No. 11 relating to the City's Non-Conforming Use Register in accordance with the Officer Recommendation.

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(To be completed by Chief Executive Officer)

UNDER DELEGATED AUTHORITY THE OFFICER RECOMMENDATION IS:

~~APPROVED/NOT APPROVED/APPROVED AS AMENDED~~

* TO BE REPORTED TO THE ORDINARY MEETING OF COUNCIL TO BE HELD ON 12 FEBRUARY 2013.

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A/CHIEF EXECUTIVE OFFICER

.....17/1/2013