

**9.1.2 No. 178 (Lot 28; D/P: 96829) Stirling Street, corner Parry Street, Perth – Proposed Construction of a Five Storey Mixed-Use Development Comprising of Four (4) Offices, Twenty-Eight (28) Single Bedroom Multiple Dwellings, Twenty (20) Multiple Dwellings and Associated Car Parking (Reconsideration of Conditions) – State Administrative Tribunal (SAT) Review Matter DR371 of 2011**

<b>Ward:</b>	South	<b>Date:</b>	12 January 2012
<b>Precinct:</b>	Beaufort; P13	<b>File Ref:</b>	PRO0956; 5.2011.283.1
<b>Attachments:</b>	<a href="#">001</a> – Copy of Plans Approved at OMC 23 August 2011 <a href="#">002</a> – Applicant’s Submission		
<b>Tabled Items:</b>	-		
<b>Reporting Officer:</b>	R Narroo, Senior Planning Officer (Statutory)		
<b>Responsible Officer:</b>	H Smith, Manager Planning and Building Services		

**OFFICER RECOMMENDATION:**

That the Council:

in accordance with the provisions of the City of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, **APPROVES** the application submitted by TPG Town Planning and Urban Design on behalf of the owner, Parry Street WA Pty Ltd and Green Arrow Holdings Pty Ltd for Proposed Construction of a Five Storey Mixed-Use Development Comprising of Four (4) Offices, Twenty-Eight (28) Single Bedroom Multiple Dwellings, Twenty (20) Multiple Dwellings and Associated Car Parking at No. 178 (Lot 28; D/P: 96829) Stirling Street, corner Parry Street, Perth, and as shown on plans stamp-dated 13 June 2011, and amended plans stamp dated 4 August 2011, subject to the following conditions:

**1. Building**

- 1.1 All new external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive from Stirling and Parry Streets;
- 1.2 First obtaining the consent of the owners of Nos. 188-194 Stirling Street for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 188-194 Stirling Street in a good and clean condition;
- 1.3 Doors, windows and adjacent floor areas facing Stirling and Parry Streets shall maintain active and interactive relationships with these streets; and
- 1.4 The maximum gross floor area of the offices shall be limited to 353 square metres. Any increase in floor space or change of use of the offices shall require Planning Approval to be applied to and obtained from the City. Any change of use shall be assessed in accordance with the relevant Planning Policy including the City’s Policy No. 3.7.1 relating to Parking and Access;

**2. Car Parking and Accessways**

- 2.1 The on-site car parking area for the non-residential component shall be available for the occupiers of the residential component including the visitors outside normal business hours;

- 2.2 The car parking area(s) on the subject land shall be sealed, drained, paved and line marked in accordance with the approved plans prior to the first occupation of the development and maintained thereafter by the owner(s)/occupier(s) to the satisfaction of the City;
- 2.3 The car parking area shown for the non-residential component shall be shown as 'common property' on any strata or survey strata subdivision plan for the property;
- 2.4 The car park shall be used only by employees, tenants, and visitors directly associated with the development; and
- 2.5 A minimum of four (4) car parking bays shall be allocated for the offices;

3. **Public Art**

The owner(s), or the applicant on behalf of the owner(s), shall comply with the City's Policy No. 3.5.13 relating to Percent for Public Art and the Percent for Public Art Guidelines for Developers, including:

- 3.1 Within twenty – eight (28) days of the issue date of this 'Approval to Commence Development', elect to either obtain approval from the City for an Artist to undertake a Public Art Project (Option 1) or pay the Cash-in-Lieu Percent for Public Art Contribution, of \$80,000 (Option 2), for the equivalent value of one per cent (1%) of the estimated total cost of the development (\$8,000,000); and
- 3.2 In conjunction with the above chosen option;
  - 3.2.1 Option 1 –  
prior to the approval and subsequent issue of a Building Licence for the development, obtain approval for the Public Art Project and associated Artist; and  
  
prior to the first occupation of the development, install the approved public art project, and thereafter maintain the art work;  
OR
  - 3.2.2 Option 2 –  
prior to the approval and subsequent issue of a Building Licence for the development or prior to the due date specified in the invoice issued by the City for the payment (whichever occurs first), pay the above cash-in-lieu contribution amount;

4. **Signage**

All signage that does not comply with the City's Policy No. 3.5.2 relating to Signs and Advertising shall be subject to a separate Planning Application, and all signage shall be subject to a separate Sign Licence application, being submitted to and approved by the City prior to the erection of the signage;

5. PRIOR TO THE ISSUE OF A BUILDING LICENCE, the following shall be submitted to and approved by the City:

5.1 **Construction Management Plan**

A Construction Management Plan, detailing how the construction of the development will be managed to minimise the impact on the surrounding area, shall be submitted to and approved by the City, in accordance with the requirements of the City's Policy No. 3.5.23 relating to Construction Management Plans, and Construction Management Plan Guidelines and Construction Management Plan Application for Approval Proforma;

**5.2 Section 70 A Notification under the Transfer of Land Act**

The owner(s) shall agree in writing to a notification being lodged under section 70A of the Transfer of Land Act notifying proprietors and/or (prospective) purchasers of the property of the following:

- 5.2.1 the use or enjoyment of the property may be affected by noise, traffic, car parking and other impacts associated with nearby commercial and non-residential activities; and
- 5.2.2 the City of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the residential units/or office; the on-site car parking was in accordance with the requirements of the Residential Design Codes, the City's Policy No. 3.7.1 relating to Parking and Access at the time of Development Approval.

This notification shall be lodged and registered in accordance with the Transfer of Land Act prior to the first occupation of the development;

**5.3 Landscape and Reticulation Plan**

A detailed landscape and reticulation plan for the development site and adjoining road verges shall be submitted to the City's Parks and Property Services for assessment and approval.

For the purpose of this condition, a detailed landscape and irrigation plan shall be drawn to a scale of 1:100 and show the following:

- 5.3.1 the location and type of existing and proposed trees and plants;
- 5.3.2 all vegetation including lawns;
- 5.3.3 areas to be irrigated or reticulated;
- 5.3.4 proposed watering system to ensure the establishment of species and their survival during the hot and dry months; and
- 5.3.5 separate soft and hard landscaping plans (indicating details of plant species and materials to be used).

The Council encourages landscaping methods and species selection which do not rely on reticulation.

All such works shall be undertaken prior to the first occupation of the development, and maintained thereafter by the owner(s)/occupier(s);

**5.4 Schedule of External Finishes**

A detailed schedule of external finishes (including materials and colour schemes and details);

**5.5 Acoustic Report**

An Acoustic Report in accordance with the City's Policy No. 3.5.21 relating to Sound Attenuation shall be prepared and submitted to the City for approval. The recommended measures of the Acoustic Report shall be implemented and certification from an Acoustic Consultant that the measures have been undertaken, prior to the first occupation of the development. The applicant/owners shall submit a further report from an Acoustic Consultant six (6) months from first occupation of the development certifying that the development is continuing to comply with the measures of the subject Acoustic Report;

**5.6 Refuse and Recycling Management Plan**

Bin numbers, collection and stores shall meet the City's minimum service provision;

**5.7 Security Bond**

In keeping with the City's practice for multiple dwellings, commercial, retail and similar developments the footpaths adjacent to the subject land shall be upgraded, by the applicant, with a combination of soft landscaping and brick paving to the City's specification. A refundable footpath upgrading bond of \$5,000 shall be lodged prior to the issue of a Building Licence, be held until all works have been completed and/or any damage to the existing facilities have been reinstated to the satisfaction of the City's Technical Services Division. An application to the City for the refund of the upgrading bond must be made in writing;

**5.8 Fencing**

Any new street/front wall, fence and gate within the Stirling and Parry Street setback areas, including along the side boundaries within these street setback areas, shall comply with the City's Policy provisions relating to Street Walls and Fences;

**5.9 Awning**

The awnings shall be modified to avoid any impact on the exiting verge trees; and

**5.10 Verge Trees**

No street verge tree(s) shall be removed. The street verge tree(s) shall be retained and protected from any damage, including unauthorised pruning. A bond for the protection of the verge trees from any damage, including pruning, for the sum of \$15,000, shall be paid; and

**6. PRIOR TO THE FIRST OCCUPATION OF THE DEVELOPMENT, the following shall be completed to the satisfaction of the City:**

**6.1 Residential Car Bays**

Forty-eight (48) residential car bays and four (4) visitor car bays, clearly marked and signposted for the exclusive use of the residents and visitors of the development, shall be provided;

**6.2 Bicycle Parking**

Sixteen (16) bicycle bays for the residents and four (4) bicycle bays for the visitors of the residential component, plus two (2) class one or two bicycle bays for the office component shall be provided at a location convenient to the entrance, publically accessible and within the development. The bicycle facilities shall be designed in accordance with AS2890.3;

**6.3 Management Plan-Vehicular Entry Gates**

Any proposed vehicular entry gates to the car parking area shall have a minimum 50 per cent visual permeability and shall be either open at all times or a plan detailing management measures for the operation of the vehicular entry gates, to ensure access is readily available for residents/visitors to the residential and commercial units at all times, shall be submitted to and approved by the City; and

**6.4 Clothes Drying Facility**

Each multiple dwelling shall be provided with a screened outdoor area for clothes drying or clothes tumbler dryer.

<b>Landowner:</b>	Parry Street WA Pty Ltd & Green Arrow Holdings Pty Ltd
<b>Applicant:</b>	TPG Town Planning and Urban Design
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Residential/Commercial R80
<b>Existing Land Use:</b>	Vacant Land
<b>Use Class:</b>	Office Building and Multiple Dwellings
<b>Use Classification:</b>	"AA" and "P"
<b>Lot Area:</b>	1506 square metres
<b>Right of Way:</b>	East side, 6 metres wide, sealed, right of carriageway easement

#### **PURPOSE OF REPORT:**

To update the Council on the above review application and to comply with the requirements of the City's Policy/Procedure for the State Administrative Tribunal (SAT).

To allow the Council to reconsider an application for a revised development under Section 31 of the State Administrative Tribunal Act.

In re-considering the proposal the Council may:

- (a) affirm its decision;
- (b) vary its decision; or
- (c) set aside the decision and substitute a new decision.

In accordance with Section 31 of the State Administrative Tribunal Act, the reconsideration of conditions, including the amended condition are presented to the Council for reconsideration by consent. Should Council resolve to refuse the application, or vary its decision to approve the application subject to conditions not acceptable to the applicant, the applicant may precede to a Final Hearing based on the reconsideration of conditions the subject of this report.

It is noted that SAT Mediation sessions are "*without prejudice*", confidential and are not admissible in a Final Hearing.

#### **BACKGROUND:**

The Council considered the subject application at its Ordinary Meeting held on 11 October 2011, and resolved to modify clause 6.1 of the Officer's Recommendation as follows:

Officer Recommendation:

**6.1 Residential Car Bays**

~~*Fifty-two (52) car bays, clearly marked and signposted for the exclusive use of the residents and visitors of the development, shall be provided;*~~

Council's amendment and approval:

**6.1 Residential Car Bays**

*Forty-eight (48) residential car bays and four (4) visitor car bays, clearly marked and signposted for the exclusive use of the residents and visitors of the development, shall be provided;*

- 11 October 2011 The Council at its Ordinary Meeting conditionally approved construction of a five storey mixed-use development comprising of four offices, twenty-eight single bedroom multiple dwellings, twenty multiple dwellings and associated car parking (reconsideration of conditions).
- 18 November 2011 Directions Hearing held at the SAT. The applicant is represented by TPG Town Planning and Urban Design.
- 8 December 2011 Mediation held at the City's offices. The City was represented at the SAT Mediation Session by:
- Cr McGrath;
  - Cr Maier;
  - Manager Planning and Building Services; and
  - Co-ordinator Statutory Planning.
- 17 February 2012 Further Directions Hearing scheduled to be held at SAT. This date would be vacated should the matters of review are resolved by Council prior to the scheduled mediation.

**DETAILS:**

The applicant is seeking a review of clause 6.1 of the Council's approval to read as follows:

**“6.1 Residential Car Bays**

*Fifty (50) residential car bays and two (2) visitor car bays, clearly marked and signposted for the exclusive use of the residents and visitors of the development, shall be provided;”*

<b>Legal/Policy</b>	TPS No. 1 and associated Policies
<b>Strategic</b>	The City's <i>Strategic Plan 2011-2016</i> – Objective 1 states:  <i>“Natural and Built Environment</i> 1.1 <i>Improve and maintain the natural and built environment and infrastructure</i> 1.1.2 <i>Enhance and maintain the character and heritage of the City”</i>
<b>Financial/Budget</b>	Nil, as the City is represented by its Planning Officers and Council Members.

**COMMENTS:**

Applicant's comments:

*“Proposed Mediated Outcome*

*As a compromise to progress the matter without proceeding to a full hearing it is therefore proposed that Condition 6.1 be modified to read as follows:*

*Fifty (50) residential car bays and two (2) visitor car bars, clearly marked and signposted for the exclusive use of the residents and visitors of the development, shall be provided.*

*The above condition therefore seeks to provide two (2) bays provided exclusively for visitors, additional to the four (4) bays provided reciprocally with the commercial bays, making a total of six visitor parking bays being available after hours.*

*It is also proposed that for the two (2) bays additional bays for which the variation is sought, cash in lieu will be paid to the City by the developer in accordance with the Town's Policy. It is anticipated that this would be required through the addition of a separate cash in lieu condition placed on the approval.*

*Justification*

The City's Parking and Access Policy (No. 3.7.1), provides parking requirements for development, which state that residential parking is to be provided in accordance with the R-Codes. The R-Codes provide both 'Performance Criteria', which new development should meet and 'Acceptable Development' provisions, which illustrate the 'deemed to comply' requirements of the associated Performance Criteria.

The 'Performance Criteria' provisions for the provision of on-site parking for multiple dwellings (section 7.3.3), with which the development should comply state as follows:

"Adequate car and bicycle parking provided on-site in accordance with projected need related to:

- The type, number and size of dwellings;
- The availability of on-street parking and other offsite parking; and
- The location of the proposed development in relation to public transport and other facilities.

In mixed use development, in addition to the above:

- Parking areas associated with the retail/commercial uses are clearly separated and delineated from residential parking."

It is also noted that one of the main objectives of the City's Parking and Access Policy is:

"To ensure the adequate provision of parking for various services, facilities and residential developments and to efficiently manage parking supply and demand."

It is considered that the modified conditions meet the associated 'Performance Criteria' and the City's Parking and Access Policy, as:

- Only one (1) additional bay for two (2) of the larger two-bedroom units will be provided, this will assist in providing greater housing diversity in the area, and is a more accurate representation of the actual requirements of the residents of many of the larger apartments. Two parking bays allows for both a family with two cars, but also two unrelated persons who both have cars to share an apartment:
- There is a significant amount of on street parking provided in the vicinity, most of which are free and unlimited from 6pm to 8am when visitor parking demand is at its highest;
- The development is located in close proximity to the city centre and is well serviced by both high frequency bus and train services, which provided alternative transport options for visitors; and
- Parking associated with the offices will be clearly delineated from the residential parking (as per proposed Condition 6.1) and clearly indicated as being available for use by visitors outside of office hours (as per Condition 2.1).

Parking for the development would be provided as outlined in the table below.

Component	Requirement	Bays Required	Bays Proposed to be Provided
Residential Component (as per the R-Codes)	Small Dwellings (<75 sq m or 1 bedroom) = 0.75 per dwelling.	28 dwellings = 21 bays	28 bays for 28 dwellings
	Medium Dwellings (75-100 sq m) = 1 per dwelling.	20 dwellings = 20 bays	22 bays for 20 dwellings
	Large Dwellings (>110 sq m) = 1.25 per dwelling.	0	0
	Visitors = 0.25 per dwelling	12	2 exclusive bays and 4 bays reciprocal with the office 6 bays in total

Component	Requirement	Bays Required	Bays Proposed to be Provided
Commercial Component	<p>Car parking requirement (nearest whole number) Office: 1 car bay per 50 square metres gross office floor area (proposed 348 square metres) = 6.96 car bays = 7 car bays Apply the parking adjustment factors (0.491).</p> <ul style="list-style-type: none"> <li>• 0.80 (mix of uses with greater than 45% of the gross floor area residential)</li> <li>• 0.85 (within 400m of a bus stop)</li> <li>• 0.85 (within 400m of an existing public car park in excess of 75 spaces)</li> <li>• 0.85 (within 800m of a rail station)</li> </ul>	3.437	4 bays for 4 offices
Total		56.437	56

*It is believed that the proposed amendments to Condition 6.1 and consequential variation to the number of visitor parking bays provided should be supported for the following reasons:*

- *Two (2) bays will be available for the exclusive use of residents with an additional four (4) commercial bays provided which will be available for the use of visitors after office hours making 6 bays available for visitors which is equivalent of 10% of the number of bays and therefore compliant with the former R-Codes;*
- *There is ample street parking in the vicinity, particularly along Stirling Street. It is considered that this parking would be much more appropriately used as visitor parking rather than for permanent residents as is likely to be the case. The management of the street parking is such that the parking becomes available after office hours;*
- *Cash in lieu will be provided for the two additional bays for which a variation is being sought, this will provide funds to the City to assist in the upgrading and provision of parking in the vicinity;*
- *The site is located in close proximity to the city centre and is well serviced by both bus and train services, and therefore complies with the Performance Criteria of the R-Codes and the intent of Councils Policy 3.7.1 Parking and Access which allows for the number of bays to be varied for commercial uses;*
- *The Perth market is such that there is a strong demand for larger units in inner city areas to have more than one bay. In developments such as these, units with more than one bay are often the first to presell, which assists in financing the whole development; and*
- *Finally, it is noted that just on the other side of Parry Street, where EPRA's New Northbridge Design Guidelines guided development, no visitor parking was required to be provided. Instead EPRA state that a minimum of 1 and a maximum of 2 bays are to be provided for each dwelling.*

*In summary, the prescribed limit on the amount of permanent residential and commercial parking provided is considered unnecessary, does not assist in providing housing diversity and the provision of 6 visitor bays after hours and cash in lieu for two bays is considered more than sufficient to cater for the needs of residents. As a result of the justification outlined above, it is respectfully requested that Condition 6.1 of approval 5.2011.283.1 be amended as outlined above."*



**Officer Comments**

In the Agenda Report to the Ordinary Meeting of Council held on 23 August 2011, 56 car bays and 3 car bays were allocated to the residential component and commercial uses, respectively. Of the 56 car bays for the residential component, 12 car bays were allocated to visitors parking. The car parking calculation in the Agenda Report on 23 August 2011 was as follows:

<b>Car Parking</b>	
Small Multiple Dwelling (75 square metres)- 0.75 bay per dwelling= 21 car bays Medium Multiple Dwelling (75-110 square metres)-1 bay per dwelling= 20 car bays Visitors= 0.25 per dwelling= 12 car bays  Total= 53 car bays	53 car bays
Total car bays provided	56 car bays
<b>Surplus</b>	<b>3 car bays</b>

In total, 53 car bays will be required for the residential component. Overall, the number of car parking bays provided for the development is 56 car bays. Therefore, for the commercial component, three car bays will be available.

<b>Car Parking</b>	
Car parking requirement (nearest whole number). • Office (1 car bay per 50 square metres gross office floor area) Proposed 353 square metres = 7.06 car bays Total car bays required = 7 car bays	7 car bays
Apply the parking adjustment factors. • 0.85 (within 800 metres of a rail station) • 0.85 (within 400 metres of a bus stop) • 0.85 (within 400 metres of public car park in excess of a total of 75 car parking spaces) • 0.80 (development contains mix of uses, where at least 45 percent of the gross floor area is residential)	(0.491)  3.437 car bays
Minus the car parking provided on-site	3 car bays
Minus the most recently approved on-site car parking shortfall	Nil
<b>Shortfall</b>	<b>0.437 car bays</b>

For this review, the applicant has requested that the parking calculation be varied as follows:

<b>Car Parking</b>	
Small Multiple Dwelling (28) (75 square metres)- 1 bay per dwelling= 28 bays Medium Multiple Dwelling (20) (75-110 square metres) = 22 car bays being allocated for the multiple dwellings Visitors= 2 car bays  Total= 52 car bays	52 car bays
Total car bays provided	56 car bays
<b>Surplus</b>	<b>4 car bays</b>

The 4 surplus car bays will be used for the commercial component as follows:

<b>Car Parking</b>	
Car parking requirement (nearest whole number). • Office (1 car bay per 50 square metres gross office floor area) Proposed 353 square metres = 7.06 car bays Total car bays required = 7 car bays	7 car bays
Apply the parking adjustment factors. • 0.85 (within 800 metres of a rail station) • 0.85 (within 400 metres of a bus stop) • 0.85 (within 400 metres of public car park in excess of a total of 75 car parking spaces) • 0.80 (development contains mix of uses, where at least 45 percent of the gross floor area is residential)	(0.491)  3.437 car bays
Minus the car parking provided on-site	4 car bays
Minus the most recently approved on-site car parking shortfall	Nil
<b>Surplus</b>	<b>0.563 car bays</b>

As shown above, though the number of parking bays are being varied for the residential component, overall the applicant complies with the required 56 car bays and there is no shortfall. Technically there is no cash-in-lieu as there is no shortfall; however, the applicant is prepared to pay cash-in-lieu for 2 car bays for the variation in the visitors parking. The applicant is proposing condition 6.1 be amended as follows:

*'Fifty (50) residential car bays and two (2) visitor car bars, clearly marked and signposted for the exclusive use of the residents and visitors of the development, shall be provided.'*

The Council at its Ordinary Meeting held on 11 October 2011 approved condition 6.1 as follows:

*'Forty-eight (48) residential car bays and four (4) visitor car bars, clearly marked and signposted for the exclusive use of the residents and visitors of the development, shall be provided.'*

It is to be noted that the developers of this site has previously undertaken developments in the immediate area, and are likely to submit new development applications for other lots that may result in similar request for visitor car parking provisions, and may set a precedent, should the Council accept the applicant's amended condition as above, in this instance.

Accordingly, given the Council's decision on this matter and that mediation was unsuccessful in reaching agreement, the Council's original's decision in Clause 6.1 carried at the Ordinary Meeting of Council held on 11 October 2011 is reiterated in the Officer Recommendation.

**9.1.2 No. 178 (Lot 28; D/P: 96829) Stirling Street, corner Parry Street, Perth – Proposed Construction of a Five Storey Mixed-Use Development Comprising of Four (4) Offices, Twenty-Eight (28) Single Bedroom Multiple Dwellings, Twenty (20) Multiple Dwellings and Associated Car Parking (Reconsideration of Conditions) – State Administrative Tribunal (SAT) Review Matter DR371 of 2011**

(To be completed by A/Chief Executive Officer)

**UNDER DELEGATED AUTHORITY THE OFFICER RECOMMENDATION IS:**

**APPROVED**



**A/CHIEF EXECUTIVE OFFICER**

**16/01/2012**