



CITY OF VINCENT

ORDINARY COUNCIL MEETING

8 March 2016

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 8 March 2016** at 6:00pm.

Len Kosova
CHIEF EXECUTIVE OFFICER

4 March 2016

ENHANCING AND CELEBRATING OUR DIVERSE COMMUNITY

This document is available in other formats and languages.

DISCLAIMER

No responsibility whatsoever is implied or accepted by the City of Vincent (City) for any act, omission, statement or intimation occurring during Council Briefings or Council Meetings. The City disclaims any liability for any loss however caused arising out of reliance by any person or legal entity on any such act, omission, statement or intimation occurring during Council Briefings or Council Meetings. Any person or legal entity who acts or fails to act in reliance upon any statement, act or omission made in a Council Briefing or Council Meeting does so at their own risk.

In particular and without derogating in any way from the broad disclaimer above, in any discussion regarding any planning or development application or application for a licence, any statement or intimation of approval made by an Elected Member or Employee of the City during the course of any meeting is not intended to be and is not to be taken as notice of approval from the City. The City advises that anyone who has any application lodged with the City must obtain and should only rely on WRITTEN CONFIRMATION of the outcome of the application, and any conditions attaching to the decision made by the Council in respect of the application.

Copyright

Any plans or documents contained within this Agenda may be subject to copyright law provisions (Copyright Act 1968, as amended) and that the express permission of the copyright owner(s) should be sought prior to their reproduction. It should be noted that Copyright owners are entitled to take legal action against any persons who infringe their copyright. A reproduction of material that is protected by copyright may represent a copyright infringement.

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**
 - 2.1 Cr Laine McDonald on approved leave of absence until 7 April 2016 (inclusive) due to personal commitments; and
 - 2.2 Cr Dan Loden on approved leave of absence until 8 March 2016 (inclusive) due to personal commitments.
 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 leave of absence from 10 March 2016 to 15 March 2016 (inclusive) due to personal commitments.
 5. **The Receiving of Petitions, Deputations and Presentations**
 - 5.1 Petition received from Ms R Longville of Chelmsford Road, North Perth along with 336 signatures requesting the *‘installation of a shade structure over the Hyde Park Water Playground to provide children protection from the sun whilst enjoying this facility’* and asking that Council supports the allocation of funds in the 2016/17 Budget to complete this project.
 6. **Confirmation of Minutes**
 - 6.1 Ordinary Meeting of Council held on 9 February 2016; and
 - 6.2 Special Confidential Meeting of Council held on 1 March 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**
 - 10.1 NOTICE OF MOTION: Review of Local Law provisions relating to Storage of Items on Verge
 - 10.2 NOTICE OF MOTION: Review of Development Assessment Panels
 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”)

14.1 CONFIDENTIAL REPORT: Appointment of Community Members to the City of Vincent Advisory and Working Groups (SC1449, SC194, SC1228, SC1292, SC1199, SC1854 and SC2559);

14.2 CONFIDENTIAL REPORT: Sub Lease for proposed Wellness Centre – portion of Woodville Reserve, 10 Farmer Street, North Perth (SC1795); and

14.3 CONFIDENTIAL REPORT: LATE ITEM: Leederville Gardens Retirement Village – Board Appointments (SC1670; SC313)

15. Closure

**INDEX
(8 MARCH 2016)**

ITEM	REPORT DESCRIPTION	PAGE
9.1	DEVELOPMENT SERVICES	
9.1.1	No. 471 (Lot: 301; D/P 29907) Beaufort Street, Mount Lawley – Proposed Construction of a Small Bar (Unlisted Use) (PR18316; 5.2015.515.1) [Absolute Majority Decision Required]	1
9.1.2	No. 520 (Lot: 208; D/P: 2672) Charles Street, North Perth – Proposed Demolition of Existing Single House and Construction of Four Multiple Dwellings and Associated Car Parking (PR11726; 5.2015.392.1)	16
9.1.3	No. 498 (Lot: 29; D/P: 2355) Fitzgerald Street, North Perth – Proposed Construction of Three Storey Multiple Dwellings Comprising Seven Two Bedroom Multiple Dwellings and Associated Car Parking (PR13501; 5.2015.504.1)	27
9.1.4	Amendments to the Municipal Heritage Inventory (MHI) – Deletion of Nos. 68-70 (Lot: 41) Cowle Street, West Perth (SC448)	40
9.2	TECHNICAL SERVICES	
9.2.1	Proposed Fitzgerald Street Peak Period Bus Lanes (SC976, SC228)	44
9.2.2	Proposed 50kph Speed Limit, Scarborough Beach Road between Ellesmere Street and Eucla Street, Mount Hawthorn (SC466, SC937)	49
9.2.3	Proposed Parking Restrictions – Chatsworth Road, Cavendish Street, Harley Street and Lincoln Street, Highgate (SC1847, SC732)	51
9.3	CORPORATE SERVICES	
9.3.1	Authorisation of Expenditure for the Period 1 January 2016 to 31 January 2016 (SC347)	57
9.3.2	Financial Statements as at 31 January 2016 (SC357)	60
9.3.3	Expression of Interest – Lee Hops Cottage No. 176 (Lot 1) Fitzgerald Street, North Perth (SC351/SC632)	67
9.3.4	Review of the Annual Budget 2015/2016 (SC245) [Absolute Majority Decision Required]	73
9.3.5	Leederville Gardens Retirement Village Estate (SC313/SC308) [Absolute Majority Decision Required]	81
9.4	COMMUNITY SERVICES	
9.4.1	Draft Terms of Reference – Reconciliation Action Plan Working Group	98
9.5	CHIEF EXECUTIVE OFFICER	
9.5.1	Motions from the Annual General Meeting of Electors held on 2 February 2016 (SC2048)	101
9.5.2	Information Bulletin	108

**INDEX
(8 MARCH 2016)**

ITEM	REPORT DESCRIPTION	PAGE
10.	COUNCIL MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	
10.1	Review of Local Law provisions relating to Storage of Items on Verge	109
10.2	Review of Development Assessment Panels	110
11.	QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN (Without Discussion)	
	Nil.	112
12.	REPRESENTATION ON COMMITTEES AND PUBLIC BODIES	
	Nil.	112
13.	URGENT BUSINESS	
	Nil.	112
14.	CONFIDENTIAL ITEMS/MATTERS FOR WHICH THE MEETING MAY BE CLOSED (“Behind Closed Doors”)	
14.1	Appointment of Community Members to the City of Vincent Advisory and Working Groups (SC1449, SC194, SC1228, SC1292, SC1199, SC1854 and SC2559)	112
14.2	Sub Lease for proposed Wellness Centre – portion of Woodville Reserve, 10 Farmer Street, North Perth (SC1795)	113
14.3	LATE ITEM: Leederville Gardens Retirement Village – Board Appointments (SC1670; SC313)	114
15.	CLOSURE	114

9.1 DEVELOPMENT SERVICES

9.1.1 No. 471 (Lot: 301; D/P 29907) Beaufort Street, Mount Lawley – Proposed Construction of a Small Bar (Unlisted Use)

Ward:	South	Date:	19 February 2016
Precinct:	Precinct 11 – Mount Lawley Centre	File Ref:	PR18316; 5.2015.515.1
Attachments:	1 – Consultation Map 2 – Development Application Plans 3 – Applicant’s Justification 4 – Car Parking and Bicycle Tables 5 – Department of Planning comments		
Tabled Items:	Nil		
Reporting Officer:	A Groom, Statutory Planning Officer		
Responsible Officer:	G Poezyn, Director Development Services		

OFFICER 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 submitted by Hubble Design on behalf of the owner A Yozzi, for the proposed Construction of a Small Bar (Unlisted Use) at No. 471 (Lot: 301; D/P: 29907) Beaufort Street, Mount Lawley as shown on plans date stamped 17 February 2016 and 3 March 2016, included as Attachment 2, subject to the following conditions:

1. Cash-in-Lieu

Pay a cash-in-lieu contribution for the shortfall of 10.96 car bays, based on the cost of \$5,400 per bay as set out in the City’s 2015/2016 Schedule of Fees and Charges being a contribution of \$59,184;

2. Use of the Premises

- 2.1 The maximum number of patrons for the Small Bar (inside and outside area) shall be 100 persons;
- 2.2 Packaged liquor is not to be sold at the premises; and
- 2.3 Any proposed increase to the number of patrons of the Small Bar will require a further development application;

3. Hours of Operation

The hours of operation shall be limited to:

3.1 Indoor Areas:

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

3.2 Outdoor Areas:

Sunday to Thursday – 7:00am to 10:00pm;
Friday and Saturday – 7:00am to Midnight;

4. **Building**

The windows, doors and adjacent floor area facing Beaufort Street and Chatsworth Road shall maintain an active and interactive frontage to this street with clear glazing provided;

5. **Boundary Wall**

The owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 467-469 Beaufort Street in a good and clean condition. The finish of the wall is to be fully rendered or face brickwork to the satisfaction of the City;

6. **Car Parking and Access**

- 6.1 A minimum of two car bays shall be provided onsite;
- 6.2 The car park shall be used only by persons directly associated with the development;
- 6.3 The car parking and access areas are to comply with the requirements of AS2890.1;
- 6.4 Vehicle and pedestrian access points are required to match into existing footpath levels; and
- 6.5 All new crossovers shall be constructed in accordance with the City's Standard Crossover Specifications;

7. **External Fixtures**

All external fixtures shall not be visually obtrusive from Beaufort Street, Chatsworth Road and neighbouring properties. External fixtures are such things as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like;

8. **Verge Trees**

No verge trees shall be removed. The verge trees shall be retained and protected from any damage including unauthorised pruning;

9. **Proposed Road Widening of Beaufort Street**

The land owner shall enter into Deed of Agreement with the Western Australian Planning Commission (WAPC) and the City of Vincent registered by a caveat on the title of the land and prepared at the owner's cost stating that:

- 9.1 any development on the land reserved for the widening of Beaufort Street shall not be taken into consideration when determining any land acquisition cost or compensation that may be payable by Council of the WAPC, and
 - 9.2 the land owner agrees to remove the development on the reserved land at their cost at the time the reserved land is required for the upgrading of Beaufort Street;
-

10. Art Work

Any proposed art work exterior to the building shall be approved by the City prior to installation, and shall thereafter be maintained by the owner/occupiers at the sole cost of the applicant/owners;

11. Prior to the issue of a Building Permit, the following shall be submitted to and approved by the City:

11.1 Acoustic Report

An Acoustic Report in accordance with the City's Policy No. 7.5.21 – Sound Attenuation. The recommended measures of the report shall be implemented;

11.2 Landscape and Reticulation Plan

A detailed landscape and reticulation plan for the development site and adjoining road verge. The plan shall be drawn to a scale of 1:100 and show the following:

11.2.1 Areas to be irrigated or reticulated; and

11.2.2 A 500L mature tree to be planted in the area between the bin store and the right of way;

11.3 Schedule of External Finishes

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

11.4 Construction Management Plan

A Construction Management Plan that details how the construction of the development will be managed to minimise the impact on the surrounding area in accordance with the requirements of the City's Policy No. 7.5.23 – Construction Management Plans. Construction on and management of the site shall thereafter comply with the approved Construction Management Plan;

11.5 Waste Management

11.5.1 A Waste Management Plan prepared to the satisfaction of the City showing a bin store area of sufficient size to accommodate the City's bin requirements shall be provided, to the satisfaction of the City; and

11.5.2 Waste management for the development shall thereafter comply with the approved Waste Management Plan;

11.6 Cash-in-Lieu

Proof that cash-in-lieu has either been paid or that a payment arrangement has been finalised; and

11.7 Revised Plans

11.7.1 The fence proposed between the site and Nos. 467-469 Beaufort Street shall not be located within the road widening area; and

11.7.2 The windows along Chatsworth Road shall be capable of being opened without encroaching into the footpath space; and

12. Prior to occupation of the development, the following shall be completed to the satisfaction of the City:

12.1 **Management Plan**

A detailed Management Plan to address the following matters:

- Floor plans for the premises;
- Noise control and management;
- The number of patrons;
- Hours of operation;
- Patron and anti-social behaviour;
- Traffic;
- Car parking;
- Rubbish collection and disposal and litter associated with the development; and
- Any other appropriate matters, as required by the City;

12.2 **Car Parking**

The car parking areas on the subject land shall be sealed, drained, paved and line marked in accordance with the approved plans and maintained thereafter by the owner(s)/occupier(s) to the satisfaction of the City;

12.3 **Stormwater**

All storm water produced on the subject land shall be retained onsite, by suitable means to the satisfaction of the City;

12.4 **Acoustic Report Certification**

With reference to Condition 11.1, certification from an acoustic consultant that the recommended measures have been undertaken shall be provided to the City;

12.5 **Landscape Plan and Verge Upgrade Plan**

With reference to Condition 11.2, all works shown in the plans approved with the Building Permit shall be undertaken in accordance with the approved plans and maintained thereafter to the satisfaction of the City at the applicant's expense; and

12.6 **Bicycle Bays**

A minimum of three Class 3 bicycle bays are to be provided onsite. Bicycle bays must 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.

ADVICE NOTES:

1. With reference to Condition 5, the owners of the subject land shall obtain the consent of the owners of relevant adjoining properties before entering those properties in order to make good the boundary walls;
 2. With reference to Condition 6.5, all new crossovers to the development site are subject to a separate application to be approved by the City;
-

3. **A security bond for the sum of \$3,000, shall be lodged with the City by the applicant, prior to the issue of a building permit. This bond will be held until all building/development works have been completed and any disturbance of, or damage to the City's infrastructure in the Right of Way and the Verge along Beaufort and Chatsworth Streets, including verge trees, has been repaired/reinstated to the satisfaction of the City. An application for the refund of the security bond shall be made in writing. The bond is non-transferable;**
 4. **With reference to Condition 11.2, the City encourages landscaping methods and species selection which do not rely on reticulation;**
 5. **The movement of all path users, with or without disabilities, within the road reserve, shall not be impeded in any way during the course of the building works. This area shall be maintained in a safe and trafficable condition and a continuous path of travel (minimum width 1.5 metres) shall be maintained for all users at all times during construction works. If the safety of the path is compromised resulting from either construction damage or as a result of a temporary obstruction appropriate warning signs (in accordance with AS1742.3) shall be erected. Should a continuous path not be able to be maintained, an 'approved' temporary pedestrian facility suitable for all path users shall be put in place. If there is a request to erect scaffolding, site fencing etc. or if building materials are required to be stored within the road reserve, once a formal request has been received, the matter will be assessed by the City and if considered appropriate a permit shall be issued by the City. No permit will be issued if the proposed encroachment into the road reserve is deemed to be inappropriate;**
 6. **With reference to Condition 12.3, no further consideration shall be given to the disposal of stormwater 'offsite' without the submission of a geotechnical report from a qualified consultant. Should approval to dispose of stormwater 'offsite' be subsequently provided, detailed design drainage plans and associated calculations for the proposed stormwater disposal shall be lodged together with the building permit application working drawings;**
 7. **With reference to Condition 1:**
 - 7.1 **The cash-in-lieu amount may be reduced if additional car bays are provided onsite or in conjunction with any other arrangement acceptable to the City;**
 - 7.2 **Alternatively the lodgement of an appropriate assurance bond/bank guarantee of the above value to the satisfaction of the City can be undertaken. This assurance bond/bank guarantee will only be released in the following circumstances:**
 - 7.2.1 **To the City at the date of issue of the Building Permit for the development, or first occupation of the development, whichever occurs first; or**
 - 7.2.2 **To the owner/applicant following receipt by the City of a Statutory Declaration of the prescribed form endorsed by the owner/applicant and stating that they will not proceed with the subject 'Approval to Commence Development'; or**
 - 7.2.3 **To the owner/applicant where the subject 'Approval to Commence Development' did not commence and subsequently expired;**
 - 7.3 **The applicant may request the City to approve a payment plan up to five years;**
-

8. **An Occupancy Permit is required prior to the occupation of the building;**
9. **With reference to Condition 3, Trading hours for New Year's Eve on a Sunday, New Year's Day, Good Friday, Christmas Day and ANZAC Day shall be in accordance with the provisions of the *Liquor Control Act 1988*; and**
10. **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 a proposal to construct a Small Bar which is an "Unlisted Use".

BACKGROUND:

History:

Date	Comment
7 August 2009	Building approval granted under delegated authority for the demolition of an existing single house.
19 March 2015	Planning refusal issued under delegated authority for the proposed change of use to temporary car park (private use).

DETAILS:

Landowner:	A Yozzi
Applicant:	Hubble Design
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS1): Commercial Draft Town Planning Scheme No. 2 (TPS2): Commercial
Existing Land Use:	Vacant Land
Use Class:	Unlisted Use (Small Bar)
Use Classification:	"SA"
Lot Area:	316 square metres
Right of Way (ROW):	North-East, approximately 3 metres, City owned
Heritage List:	Not applicable
Date of Application:	11 November 2015

The site has been vacant since 2010.

The proposed development is for the construction of a two-storey commercial building for a small bar. The proposal includes an alfresco area that can accommodate approximately 24 seats fronting Beaufort Street, an internal café/bar area including toilets, a kitchen, stores, parking for 2 car bays accessed from the ROW and a proposed tree along the ROW. A dividing brick fence of 1.8 metres high is proposed within the front setback area between the site and Nos. 467-469 Beaufort Street.

A road widening runs along the Beaufort Street lot boundary and truncates into Chatsworth Road. The widening of 1.6 metres plus truncation is reserved as an Other Regional Road and covers approximately 11 square metres of the lot. All structures proposed within the road widening have been identified as being removable.

The development is designed to wrap around the corner with Beaufort Street and Chatsworth Road to provide frontage and interaction to both streets. The front facade of the building facing the alfresco area that adjoins Beaufort Street is entirely glassed. There are also large windows proposed along the Chatsworth Road elevation.

The alfresco area has frontage to both streets. The applicant proposes to use planter boxes to delineate the extent of the area. The proposed planter boxes make a greater contribution to creating a pedestrian friendly streetscape than any other screening device would.

Although the proposal does not fall within the threshold where it is required to make a contribution to public art, the applicant intends to incorporate an art component throughout the building and along the Chatsworth elevation. The applicant advised that arrangements are underway with street artist, Stormy Mills, and that the art will complement the urban finishes and contribute to the culture of Beaufort Street.

The current proposal includes provision for a mezzanine floor to be built within the built form in the future.

The proposal has been revised on several occasions as follows:

Date	Comment
13 November 2015	Initial application received.
27 November 2015	Plans advertised for community consultation.
8 January 2016	Amended plans received to address Technical comments.
5 February 2016	Further amended plans received to address Technical comments.
17 February 2016	Further amended plans received to resolve variations to rear setback, landscaping, bicycle parking, showing the dividing fence as facebrick and a tree along the ROW.

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.

Design Element	Deemed-to-Comply	Requires the Discretion of Council
Land Use		✓
Street Setback	✓	
Front Fence		✓
Rear Setback	✓	
Building Height/Storeys	✓	
Parking & Access		✓
Bicycles	✓	
Landscaping	✓	
Awnings		✓

Detailed Assessment

The assessment against the relevant deemed-to-comply provisions is as follows:

Land Use			
Location	Policy Requirement	Proposal	Variation
No. 471 Beaufort Street, Mount Lawley	City of Vincent Town Planning Scheme No. 1 Not applicable.	Unlisted Use (Small Bar) – “SA” Use.	Not applicable.

The assessment against the relevant design principles is as follows:

Land Use
Design Principles
City of Vincent Town Planning Scheme No. 1
Not Applicable.
Application’s Justification
<i>“The proposed development is intended to be a high quality commercial development for dining, alfresco diner, café and bar.”</i>
Officer Technical Comment:
The site is zoned Commercial. A Small Bar in this zone is an “SA” use, meaning the use is not permitted unless Council has exercised its discretion and granted planning approval.
The subject site has been vacant since 2010. The property is located in Highgate. A number of existing small bars and eating houses (with liquor licences) already exist along the Beaufort Street strip. The proposed use is consistent with existing uses and will facilitate an underutilised site to be developed.
The following measures have been included to ensure that the proposed use and its layout minimises any noise, visual impact and privacy to adjoining and adjacent residential properties:
<ul style="list-style-type: none"> • 95.9 square metres of the proposed floor area is internal, with 56.7 square metres proposed as alfresco. • The number of patrons has been restricted to a maximum of 100 persons as per the applicant’s submission, of which there is seating for 24 persons within the alfresco area. • The hours of operation have been restricted with a reduced use of the alfresco area. • There is a requirement that an Acoustic Report is provided and its recommendations implemented.
Conditions in relation to the above are recommended to be imposed with this approval.
On the basis of these limitations the proposed use is supported.

The assessment against the relevant deemed-to-comply provisions is as follows:

Front Fence			
Location	Policy Requirement	Proposal	Variation
Beaufort Street side	<p>Policy No. 7.5.12 – Development Guidelines for Commercial and Mixed Use Developments</p> <p>Street walls and fences within the front setback area to the primary street are not permitted for Commercial and Mixed-Use Developments.</p>	1.8 metre high brick fence between No. 471 and Nos. 467-496 Beaufort Street.	1.8 metres high brick fence along the southern boundary of the lot in the front setback area.

The assessment against the relevant design principles is as follows:

Front Fence
Design Principles
<p>Policy No. 7.5.12 – Development Guidelines for Commercial and Mixed Use Developments</p> <p>Not applicable.</p>
Summary of Applicant’s Justification
A 1.8 metre high dividing brick fence is proposed between the site and the adjoining residential property and will assist to limit impact on the adjoining residential properties.
Officer Technical Comment:
<p>The development site is located in a Commercial zone. In this zone and under the City’s Policy No. 7.5.12 – Development Guidelines for Commercial and Mixed Use Developments, street walls and fences are not permitted within the front setback area to the primary street.</p> <p>There are two residential properties (Nos. 467-469 Beaufort Street) on the adjoining commercial land that directly abut the development site. The proposed 1.8 metre dividing brick fence will assist to provide a separation between these two uses.</p> <p>Removable planter boxes are proposed along Beaufort Street and Chatsworth Road. The planter boxes will delineate the public and private realm whilst still maintaining a good level of visual amenity to the venue. This is consistent with other venues in the area e.g. the Queens Tavern that have also included planter boxes within the setback to Beaufort Street.</p> <p>Allowing a front fence in the street setback area is considered acceptable in this instance.</p>

The assessment against the relevant deemed-to-comply provisions is as follows:

Parking & Access			
Location	Policy Requirement	Proposal	Variation
	<p>Policy No. 7.7.1 – Parking and Access</p> <p>1 space per 5 persons (max 100 persons)</p> <p>Total car bays required = 20 car bays</p>		

Parking & Access			
Location	Policy Requirement	Proposal	Variation
	<p>Adjustment factors:</p> <p>0.80 (the development is located within 400 metres of a bus route)</p> <p>0.90 (the development is located within 400 metres of an existing off-street public car park with in excess of 50 car bays)</p> <p>0.90 (the development is located in a Town Centre)</p> <p>Total adjustment factors = 0.684</p> <p>Total Car Bays = 0.684 x 20 = 12.96 car bays</p>	2 car bays	10.96 car bays

The assessment against the relevant design principles is as follows:

Parking & Access
Design Principles
Policy No. 7.7.1 – Parking and Access
The City may approve a commercial car parking shortfall in terms of the provisions of this policy relating to Reciprocal Car Parking and/or Cash-in-Lieu of Car Parking.
Summary of Applicant’s Justification
The applicant maintains that this proposal will contribute positively to the streetscape and is requesting to pay cash-in-lieu instead of providing car parking onsite, as providing the required bays would result in the inability to construct a building.
Officer Technical Comment:
<p>The subject site is located opposite the privately owned Wilson car park which has 23 car bays. In addition, the site is located within 400 metres to the City owned and controlled “Barlee Street” car park which includes 47 car bays. The “Raglan Road”, “Chelmsford Road” and “Brisbane Street” City owned car parks are also located within 500 metres of the development which include 95 car bays, 56 car bays and 231 car bays respectively.</p> <p>There is also on-street parking with the provision of first hour free surrounding the proposed Small Bar.</p> <p>The City’s Policy No. 7.7.1 – Parking and Access Clause 2.2 allows the City the discretion to request cash-in-lieu where developments have a shortfall of parking. <i>“The payment of cash-in-lieu is not to be seen as an alternative to providing sufficient parking on site, but rather a mechanism to enable otherwise desirable developments to proceed where it can be demonstrated that it is not possible to provide sufficient parking on site.”</i> Although the site is unable to provide sufficient car parking, the proposed use is considered desirable for the area and as such the payment of cash-in-lieu is considered to be appropriate in this instance.</p>

The assessment against the relevant deemed-to-comply provisions is as follows:

Awnings			
Location	Policy Requirement	Proposal	Variation
Beaufort Street	<p>Policy No. 7.5.12 – Development Guidelines for Commercial and Mixed Use Developments</p> <p>AC 2.2 In conjunction with adhering to the minimum standards for awnings detailed within City’s Local Law 2008 relating to Local Government Property, the design of awnings shall incorporate the following elements:</p> <p>AC 2.2.1 Provide continuous awnings along the full length of retail/commercial frontages and key pedestrian walking routes;</p> <p>AC 2.2.2 Where there is an existing pattern of awnings, complement the existing height, depth and form of awnings;</p> <p>AC 2.2.3 Provide sufficient protection from sun and rain;</p> <p>AC 2.2.4 Contribute to the legibility of the development and amenity of the public domain by locating awnings over building entries and/or utilize to define building entries;</p> <p>AC 2.2.5 Design into the awning the location of any existing and/or proposed verge tree/s;</p> <p>AC 2.2.6 Be a minimum of height of 2.75 metres from the footpath level to the underside of the awning; and</p> <p>AC 2.2.7 Be a minimum of 500 millimetres and a maximum of 750 millimetres from the kerb line.</p>	No awning proposed.	No awning proposed.

The assessment against the relevant design principles is as follows:

Awnings
Design Principles
Policy No. 7.5.12 – Development Guidelines for Commercial and Mixed Use Developments
P2.2 Commercial and Mixed Use Developments are to provide awnings that respect the preferred character or existing character of a streetscape to provide shelter for public streets and spaces and to contribute to the legibility of buildings, whilst adhering to the minimum standards for awnings detailed in the City’s Local Law 2008 relating to Local Government Property.
Applicant’s Justification
None provided.
Officer Technical Comment:
The proposed development has been setback from Beaufort Street in accordance with the City’s Policy No. 7.1.11 – Mount Lawley Centre Precinct which states “ <i>buildings are to be setback from the street alignment such distance as is generally consistent with the building setback on adjoining land and in the immediate locality</i> ”.
This portion of Beaufort Street between Chatsworth Road and St Albans Ave includes a variety of building types and street setbacks. Four of the six properties are setback an average of 8 metres and were originally built as residential properties which have been converted to commercial uses. One property has a nil setback to Beaufort Street. This building does not include an awning.
An awning will provide no useful purpose to pedestrians given the setback of the building.
As there is no existing pattern of awnings the requirement to provide an awning is not warranted in this instance and it is acceptable that no awning is proposed.

CONSULTATION/ADVERTISING:

Required by Legislation:	Yes	Required by City of Vincent Policy:	Yes
Consultation Period:	27 November 2015 to 18 December 2015		
Comments Received:	Six letters of support, 19 objections were received, and one general concern.		

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

Summary of Comments Received:	Officer Technical Comment:
<p><u>Land Use:</u></p> <p>It will bring a pleasant buzz to the corner in question.</p> <p>A good use of a site that has been vacant too long.</p> <p>I appreciate more dining options in my locality.</p>	Noted.
<p><u>Car Parking:</u></p> <p>Acceptable.</p>	Noted.

Summary of Comments Received:	Officer Technical Comment:
<u>Appearance:</u> Looks great, love the face brickwork and the warehouse feel this has, will be a great addition to Beaufort Street.	Noted.
<u>Fencing and Gates:</u> In this instance the proposal is acceptable.	Noted.

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

Summary of Comments Received:	Officer Technical Comment:
<u>Noise:</u> Control of noise and anti-social behaviour into the adjoining residential areas.	The noise levels are required to comply with the Environmental Protection Act 1986 and Environmental Protection (Noise) Regulations 1997. Accordingly a condition of Planning Approval that an acoustic report will be required to ensure noise attenuation measures are incorporated into the venue to address noise concerns is recommended to be imposed.
<u>Car Parking:</u> Inadequate car parking provide onsite.	Due to the size of the block, any commercial development would be unable to provide sufficient car parking for the proposed use without including basement car parking. The site is well serviced by public transport including frequent bus services along Beaufort Street. There are public car parks located in close proximity to the site including the Wilson car park directly opposite the site, the Barlee Street car park, the Raglan Road car park, the Chelmsford Road car park and the Brisbane Street car park. The proposed use is acceptable for this site and area as it will add to the increasing activity and vibrancy of Beaufort Street. As such, in this instance the payment of cash-in-lieu is considered acceptable.
Insufficient turning circle to the rear car parking bays.	The turning circle onsite complies and will allow cars to enter and exit into the right of way.

Summary of Comments Received:	Officer Technical Comment:
<p><u>Use:</u></p> <p>Inappropriate use directly adjacent to residential properties.</p>	<p>The subject site is zoned for Commercial Uses which allows a variety of uses and is one of the most appropriate zones to consider a small bar. The proposed use is consistent with a number of uses including small bars and taverns already operating along Beaufort Street.</p> <p>The proposed layout and the recommended conditions relating to noise control, the requirement for a management plan, construction measures, limitations on patrons etc. will ensure that the use does not have any greater impact than any other permitted use.</p>
<p><u>Design:</u></p> <p>Size and design of building is out of proportion to the adjacent residential building.</p>	<p>The size of the development is consistent with the majority of properties located along Beaufort Street including Nos. 457-465 Beaufort Street which sits on the southern side of the adjoining residential properties.</p> <p>The design of the development reflects the surrounding residential and commercial area in terms of the building materials, roof form, and scale.</p>

Note: Submissions are considered and assessed by issue rather than by individual submitter.

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. 7.1.11 – Mount Lawley Centre;
- Policy No. 7.5.7 – Licensed Premises;
- Policy No. 7.5.12 – Development Guidelines for Commercial and Mixed Use Developments; 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: *“Natural and Built Environment”*.

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".*

The following tables outline the applicable sustainability issues for this proposal:

ENVIRONMENTAL
Use of existing infrastructure and services.

SOCIAL
The development will act as a social meeting place location providing a variety of food and beverage for the immediate and surrounding public.

ECONOMIC
The development will provide increased local employment opportunities.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

This proposal is a desirable addition to Beaufort Street which will contribute to activation of the site and the economic sustainability of the Town Centre which is defined by the popular restaurant and bar activity. The proposed use is appropriate and consistent with existing land uses in the Town Centre.

The proposed built form will contribute to the existing and evolving streetscape. The development fronts both Beaufort Street and Chatsworth Road. The front façade in conjunction with the alfresco area will have good presence to the adjoining streets. To ensure interaction with the street is achieved, a condition has been imposed requiring the windows on Beaufort Street and Chatsworth Road to be clear glazing.

The built form is considerate of the adjoining residential buildings as the building faces away from the properties at Nos. 467-469 Beaufort Street used for residential purposes. All activity generated from this venue is directed to Beaufort Street and the eastern end of Chatsworth Road. A 1.8 metre high dividing brick fence is proposed on the common boundary in the front setback area in order to limit noise and light spill.

The hours of operation for this use have been restricted for the internal and external floor areas, and an acoustic report is required so that its measures can be implemented.

The proposal meets the objectives of the Precinct Policy, however due to the site's limitations, is not able to provide the required car parking spaces on site. Given that this proposal must rely on using existing parking bays that are publically available, it is considered appropriate to require the payment of cash-in-lieu for the resultant car parking shortfall. Accordingly a condition requiring a cash-in-lieu payment for 10.96 car bays is recommended to be imposed.

The proposed variations to the front fence and awnings are acceptable in this instance and additional public art is welcome but requires approval from the City.

CONCLUSION:

It is recommended that Council approves this proposal.

9.1.2 No. 520 (Lot: 208; D/P: 2672) Charles Street, North Perth – Proposed Demolition of Existing Single House and Construction of Four Multiple Dwellings and Associated Car Parking

Ward:	North	Date:	19 February 2015
Precinct:	Precinct 8 – North Perth	File Ref:	PR11726; 5.2015.392.1
Attachments:	1 – Consultation Map 2 – Development Application Plans 3 – Car Parking and Bicycle Tables 4 – Marked up plans showing proposed versus required setbacks 5 – Extract of Design Advisory Committee Minutes and Comments		
Tabled Items:	Nil		
Reporting Officer:	C Sullivan, Statutory Planning Officer		
Responsible Officer:	G Poezyn, Director Development Services		

OFFICER 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 submitted by Antonelli Investments Pty Ltd T/As Vision One Projects on behalf of the owner D M Nguyen, for the proposed demolition of an existing single house and construction of four multiple dwellings and associated car parking at No. 520 (Lot: 208; D/P: 2672) Charles Street, North Perth as shown on plans date stamped 14 January 2016, included as Attachment 2, subject to the following conditions:

1. **Boundary Wall**

The owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 522 and 518 Charles Street in a good and clean condition. The finish of the walls are to be fully rendered or face brickwork to the satisfaction of the City;

2. **Car Parking and Access**

- 2.1 A minimum of four resident and one visitor bays shall be provided on site;
- 2.2 The car park shall be used only by residents and visitors directly associated with the development;
- 2.3 The visitor bay is to be marked accordingly;
- 2.4 The car parking and access areas are to comply with the requirements of AS2890.1;
- 2.5 Vehicle and pedestrian access points are required to match into existing footpath levels; and
- 2.6 All new crossovers shall be constructed in accordance with the City's Standard Crossover Specifications;
- 2.7 The area 500mm in width adjacent to the Right of Way that is required to be ceded to the widening of the Right of Way shall be sealed, drained and graded to match into the level of the existing Right of Way;

2.8 The existing levels on the Charles Street reserve boundary are to be maintained; and

2.9 No development or car parking other than landscaping shall be permitted on the land as shown required for future road purposes;

3. **External Fixtures**

All external fixtures shall not be visually obtrusive from Charles Street and neighbouring properties. External fixtures are such things as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like;

4. **Verge Trees**

No verge trees shall be removed. The verge trees shall be retained and protected from any damage including unauthorised pruning;

5. **Car Parking Permits**

The applicant is to agree in writing that a notice is placed on the Sales Contract to advise prospective purchasers that the City of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the residential dwellings;

6. Prior to the issue of a Building Permit, the following shall be submitted to and approved by the City:

6.1 **Acoustic Report**

An Acoustic Report in accordance with the City's Policy No. 7.5.21 – Sound Attenuation;

6.2 **Landscape and Reticulation Plan**

A detailed landscape and reticulation plan for the development site and adjoining road verge (road widening area). The plan shall be drawn to a scale of 1:100 and show the following:

6.2.1 The location and type of existing and proposed trees and plants;

6.2.2 Areas to be irrigated or reticulated; and

6.2.3 The removal of redundant crossovers;

6.3 **Schedule of External Finishes**

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

6.4 **Construction Management Plan**

A Construction Management Plan that details how the construction of the development will be managed to minimise the impact on the surrounding area in accordance with the requirements of the City's Policy No. 7.5.23 – Construction Management Plans. Construction on and management of the site shall thereafter comply with the approved Construction Management Plan; and

6.5 Waste Management

6.5.1 A Waste Management Plan prepared to the satisfaction of the City detailing:

- (a) that waste collection is taken from the Right of Way at the rear of the property and collection is not permitted from the Charles Street road reserve; and**
- (b) a bin store area of sufficient size to accommodate the City's bin requirements; and**

6.5.2 Waste management for the development shall thereafter comply with the approved Waste Management Plan; and

7. Prior to occupation of the development, the following shall be completed to the satisfaction of the City:

7.1 Clothes Drying Facility

Each multiple dwelling shall be provided with a clothes drying facility or communal area in accordance with the Residential Design Codes;

7.2 Car Parking

The car parking areas on the subject land shall be sealed, drained, paved and line marked in accordance with the approved plans and maintained thereafter by the owner(s)/occupier(s) to the satisfaction of the City;

7.3 Stormwater

All storm water produced on the subject land shall be retained on site, by suitable means to the satisfaction of the City;

7.4 Acoustic Report Certification

With reference to Condition 6.1, certification from an acoustic consultant that the recommended measures have been undertaken shall be provided to the City;

7.5 Landscape Plan and Verge Upgrade Plan

With reference to Condition 6.2, all works shown in the plans approved with the Building Permit shall be undertaken in accordance with the approved plans and maintained thereafter to the satisfaction of the City at the applicant's expense; and

7.6 Bicycle Bays

A minimum of one resident bay and one visitor bay is to be provided on site. Bicycle bays must 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.

ADVICE NOTES:

1. With reference to Condition 1, the owners of the subject land shall obtain the consent of the owners of relevant adjoining properties before entering those properties in order to make good the boundary walls;
 2. With reference to Condition 2.6, all new crossovers to the development site are subject to a separate application to be approved by the City;
 3. A security bond for the sum of \$3,000 shall be lodged with the City by the applicant, prior to the issue of a building permit. This bond will be held until all building/development works have been completed and any disturbance of, or damage to the City's infrastructure in the Right of Way and the Verge along Bulwer Street, including verge trees, has been repaired/reinstated to the satisfaction of the City. An application for the refund of the security bond shall be made in writing. The bond is non-transferable;
 4. With reference to Condition 6.1 the acoustic report is required to take traffic noise from Charles Street into consideration;
 5. With reference to Condition 6.2, the City encourages landscaping methods and species selection which do not rely on reticulation;
 6. The Right of Way shall remain open at all times and must not be used to store any building or other material or be obstructed in any way. The Right of Way surface (sealed or unsealed) shall be maintained in a trafficable condition for the duration of the works. If at the completion of the development the Right of Way condition has deteriorated, or become impassable as a consequence of the works the applicant/developer shall make good the surface to the full satisfaction of the City;
 7. The movement of all path users, with or without disabilities, within the road reserve, shall not be impeded in any way during the course of the building works. This area shall be maintained in a safe and trafficable condition and a continuous path of travel (minimum width 1.5 metres) shall be maintained for all users at all times during construction works. If the safety of the path is compromised resulting from either construction damage or as a result of a temporary obstruction, appropriate warning signs (in accordance with AS1742.3) shall be erected. Should a continuous path not be able to be maintained, an 'approved' temporary pedestrian facility suitable for all path users shall be put in place. If there is a request to erect scaffolding, site fencing etc. or if building materials are required to be stored within the road reserve, once a formal request has been received, the matter will be assessed by the City and if considered appropriate a permit shall be issued by the City. No permit will be issued if the proposed encroachment into the road reserve is deemed to be inappropriate;
 8. With reference to Condition 7.3, no further consideration shall be given to the disposal of stormwater 'off site' without the submission of a geotechnical report from a qualified consultant. Should approval to dispose of stormwater 'off site' be subsequently provided, detailed design drainage plans and associated calculations for the proposed stormwater disposal shall be lodged together with the building permit application working drawings;
 9. Any additional property numbering to the abovementioned address which results from this application will be allocated by the City of Vincent. The applicant is requested to liaise with the City in this regard during the building permit process;
-

10. **A Demolition Permit shall be obtained from the City prior to commencement of any demolition works on the site;**
11. **Any new street/front wall, fence and gate within the Fitzgerald 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;**
12. **No earth works shall encroach onto the Charles Street road reserve; and**
13. **The applicant is advised that the project for the upgrading/widening of Charles Street is not in Main Roads current 4 year forward estimated construction program and all projects not listed are considered long term. All timing information is subject to change and that Main Roads assumes no liability whatsoever for the information provided.**

PURPOSE OF REPORT:

To consider a proposal for four Multiple Dwellings.

BACKGROUND:

Nil.

DETAILS:

Landowner:	D M Nguyen
Applicant:	Antonelli Investments Pty Ltd T/As Vision One Projects
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS1): Residential R60 Draft Town Planning Scheme No. 2 (TPS2): Residential R60/R100
Existing Land Use:	Single House
Use Class:	Multiple Dwelling
Use Classification:	'P'
Lot Area:	460 square metres
Right of Way (ROW):	At rear – 5 metre wide – Private Right of Way owned by City of Vincent
Heritage List:	No
Date of Application:	10 August 2015

The proposed development is for the demolition of the existing single dwelling and construction of a two storey multiple dwelling development comprising four two-bedroom multiple dwellings with undercroft carparking to the rear, accessed from the Right of Way.

The proposal has the appearance of a two storey dwelling when viewed from the primary street, with pedestrian access along the southern edge of the site. The upper floor extends to the rear of the site accommodating two units above the shared car parking area.

The proposal was revised on several occasions as follows:

Date	Comment
8 October 2015	Amended plans received to address various non-compliant aspects as well as providing landscaping and overshadowing plans.
12 January 2016	Further amended plans received to resolve Technical Services concerns regarding access, bins, landscaping and MRS widening area.
15 January 2016	Further amended plans received to finalise Technical Services concerns.

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, the Residential Design Codes 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.

Design Element	Deemed-to-Comply	Requires the Discretion of Council
Density/Plot Ratio	✓	
Street Setback		✓
Front Fence	✓	
Building Setbacks		✓
Boundary Wall	✓	
Building Height/Storeys	✓	
Roof Form		✓
Open Space	✓	
Privacy	✓	
Parking & Access	✓	
Bicycles	✓	
Solar Access	✓	
Site Works	✓	
Essential Facilities	✓	
Surveillance	✓	
Landscaping	✓	

Detailed Assessment

The assessment against the relevant deemed-to-comply provisions is as follows:

Street Setback			
Location	Policy Requirement	Proposal	Variation
Upper floor	Policy No. 7.2.1 – Residential Design Elements 2 metres behind each portion of the ground floor setback	Walls directly above ground floor	2 metres
Upper floor (balconies)	1 metre behind each portion of the ground floor setback	0.5 metres forward of ground floor	1.5 metres

The assessment against the relevant design principles is as follows:

Street Setback
Design Principles
Policy No. 7.2.1 – Residential Design Elements
SPC 5
(i) Development is to be appropriately located on site to: <ul style="list-style-type: none"> • Maintain streetscape character; • Ensure the amenity of neighbouring properties is maintained;

Street Setback	
<ul style="list-style-type: none"> • Allow for the provision of landscaping and space for additional tree plantings to grow to maturity; • Facilitate solar access for the development site and adjoining properties; • Protect significant vegetation; and • Facilitate efficient use of the site. <p>(ii) Variations to the Acceptable Development Criteria relating to upper floor setbacks may be considered where it is demonstrated that the lesser upper floor setbacks incorporate appropriate articulation, including but not limited to; varying finishes and staggering of the upper floor walls to moderate the impact of the building on the existing or emerging streetscape and the lesser setback is integral to the contemporary design of the development.</p>	
Applicant's Justification	
<p><i>"The proposal is of a contemporary design and the setback variations are reflective of that. The precinct would appear to be an area that is currently undergoing a transition with sizeable, modern MUHC* developments have and being constructed in the vicinity, thus contributing to a redefinition of the streetscape. The streetscape is incomplete and is blighted by the undeveloped Charles Hotel opposite, the proposal improves the streetscape".</i></p> <p><small>* Multi Unit House Code</small></p>	
Officer Technical Comment:	
<p>The proposed development complies with the ground floor street setbacks. Variations are sought for the upper floor and balcony setbacks.</p> <p>The proposed design provides some articulation on the ground and upper floors with the design of the upper floor allowing for a larger more useable balcony area and more interest to the street elevation.</p> <p>This aspect of the proposal meets the relevant design principles and is acceptable.</p>	

The assessment against the relevant deemed-to-comply provisions is as follows:

Building Setbacks			
Location	Policy Requirement	Proposal	Variation
	Residential Design Codes Clause 6.1.4		
	Ground Floor (Northern Boundary) = 1.5 metres	1.2 metres	0.3 metres
	Ground Floor (Southern Boundary) = 1.5 metres	1.2 metres	0.3 metres
	First Floor (Northern Boundary) = 2.8 metres	1.2 – 1.5 metres	1.3 – 1.6 metres
	First Floor (Southern Boundary) = 2.8 metres	1.2 – 1.5 metres	1.3 – 1.6 metres

The assessment against the relevant design principles is as follows:

Building Setbacks	
Design Principles	
Residential Design Codes Clause 6.1.4	
<p>P4.1 Buildings set back from boundaries or adjacent buildings so as to:</p> <ul style="list-style-type: none"> • ensure adequate daylight, direct sun and ventilation for buildings and the open space associated with them; • moderate the visual impact of building bulk on a neighbouring property; • ensure access to daylight and direct sun for adjoining properties; and • assist with the protection of privacy between adjoining properties. 	
Applicant's Justification and Summary of Justification	
<p><i>"Building bulk is reduced via landscaping which has been carefully selected on both boundaries for the specific individual characteristics.</i></p> <p><i>The elevations to both side boundaries include multiple planes and depths which serve to reduce the perception of bulk which would appear far greater should the elevations be continuous and flat. The minimal overshadowing proposed meets the DTC provisions."</i></p> <p>The outdoor living areas have also been located to take advantage of northern light and prevailing south westerly winds.</p>	
Officer Technical Comment:	
<p>The proposed development seeks minor variations to the ground floor setback of 0.3 metres which can be supported in this instance.</p> <p>The proposal also seeks a variation to the upper floor side boundary setbacks of between 1.3 – 1.6 metres. The design of the development has been broken up by creating individual roof portions which appears as three separate pitched roofs allowing light to filter between, and reducing the amount of overshadowing to the adjoining property. The individual staircases also create breaks between solid portions of wall, which also reduce impact to adjoining properties. The overall design has been limited to two storeys in height where three storey are permitted, which results in an overall smaller and less bulky development. No major openings are proposed on either side elevation.</p> <p>This aspect of the proposal meets the relevant design principles and is acceptable.</p>	

The assessment against the relevant deemed-to-comply provisions is as follows:

Roof Form			
Location	Policy Requirement	Proposal	Variation
	Policy No. 7.2.1 – Residential Design Elements Roof Pitch between 30-45 degrees	Roof pitch of 27 degrees	3 degrees

The assessment against the relevant design principles is as follows:

Roof Form	
Design Principles	
Policy No. 7.2.1 – Residential Design Elements	
<p>BDPC 3</p> <p>(i) The roof of a building is to be designed so that:</p> <ul style="list-style-type: none"> • It does not unduly increase the bulk of the building; • In areas with recognised streetscape value it complements the existing streetscape character and the elements that contribute to this character; and • It does not cause undue overshadowing of adjacent properties and open space. 	

Roof Form
Applicant's Justification
<i>"The variation to the roof pitch is minor. The pitch suits the modern style of the building and serves to reduce the overall height as opposed to additional height that a pitched style roof would provide."</i>
Officer Technical Comment:
The proposed roof form results in an overall lower height of the development, which in turn results in reduced level of overshadowing and bulk. The existing streetscape has a mix of roof forms and styles therefore the proposed development is considered to complement the streetscape.
This proposal meets the relevant design principles and is acceptable.

CONSULTATION/ADVERTISING:

Required by Legislation:	Yes	Required by City of Vincent Policy:	Yes
Consultation Period:	15 October 2015 – 28 October 2015		
Comments Received:	One objection received.		

The advertised plans dated 8 October 2015 vary from the plans under consideration due to repositioning of the bin store, alterations to the store room locations and alterations to resolve issues with access to the car parking bays.

The table below discusses the comments/issues raised during consultation.

Summary of Comments Received:	Officer Technical Comment:
<u>Overshadowing</u> Concern that the mass of the development is too large for this location and will result in overshadowing and overlooking of adjoining properties	The proposed development is two storey in lieu of three storeys that could be considered in this location. The resultant overshadowing equates to 32% in lieu of the permitted 50% overshadowing within this zoning. The overshadowing and visual privacy provisions comply with the minimum standards.
<u>Traffic</u> The Right of Way will be unable to accommodate additional vehicle movements and people will park in the Right of Way causing obstructions. Insufficient visitor car parking provided. Vehicle Access should be taken from Charles Street rather than the Right of Way.	Vehicle access to the site is from the Right of Way as per the City's requirements. The developer is required to cede 500mm towards widening the Right of Way adjacent to this development, and adequate turning space is provided within the development for vehicles to manoeuvre. The provision of one visitor car parking bay complies with the requirements of the Residential Design Codes.
<u>Landscaping</u> Insufficient landscaping provided/poor location under building	The landscaping plan has been amended since advertising was undertaken and now complies with the requirements of the City's policy. The proposed species and where they are proposed to be located are acceptable.

Design Advisory Committee (DAC):

Referred to Design Advisory Committee: Yes

The proposal was referred to DAC on 23 September 2015, with amended plans circulated to DAC members for comment via email on 25 November 2015. Refer to **Attachment 5** for the extract of Minutes from the meeting.

Plans were amended after DAC considerations to resolve issues with bin store size/location and vehicle access and manoeuvrability.

The proposal does not require Design Excellence.

Although the DAC remained concerned with the design solution for this proposal given the narrowness of the lot and were of the opinion that alternative solutions would result in better amenity for future occupants and neighbours, the changes that were incorporated in the proposal following the DAC process have yielded a better outcome overall.

LEGAL/POLICY:

- *Planning and Development Act 2005;*
- City of Vincent Town Planning Scheme No. 1;
- Residential Design Codes;
- Policy No. 7.1.8 – North Perth Precinct;
- Policy No. 7.2.1 – Residential Design Elements; and
- Policy No. 7.4.8 – Development Guidelines for Multiple Dwellings.

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

SUSTAINABILITY IMPLICATIONS:

The City's Strategic Plan 2013-2023 states:

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

The following tables outline the applicable sustainability issues for this proposal:

ENVIRONMENTAL
The design of the building allows for adequate light and ventilation to all affected properties.

SOCIAL

The proposal allows for an increase in housing diversity and provides dwellings for smaller households within the City which are anticipated to grow and become a significant proportion of the households.

ECONOMIC

The construction of the building will provide short term employment opportunities.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The existing single house is not on the City's Heritage List and does not require planning approval for demolition.

The development is required to accommodate a MRS Road Widening of Charles Street of 3.66 metres resulting in a comparable street setback to existing development in the immediate vicinity. The development has to provide landscaping within the site, as well as the road widening area to enhance the streetscape.

Multiple dwelling developments are a permitted use on this site. The proposal is well within the plot ratio (required 0.7: 320 square metres, provided 0.6: 277.55 square metres) and height allowances for this location and the car parking provision complies with the requirements of the Residential Design Codes.

The proposal requires discretion to roof form, front setback provisions and lot boundary setbacks, however these design aspects have no adverse impact on the streetscape or neighbouring properties and are supported.

CONCLUSION:

It is recommended that Council approves this proposal.

9.1.3 No. 498 (Lot: 29; D/P: 2355) Fitzgerald Street, North Perth – Proposed Construction of Three Storey Multiple Dwellings Comprising Seven Two Bedroom Multiple Dwellings and Associated Car Parking

Ward:	South	Date:	19 February 2016
Precinct:	Precinct 10 – Norfolk	File Ref:	PR13501; 5.2015.504.1
Attachments:	1 – Consultation Map 2 – Development Application Plans 3 – Applicant’s Justification 4 – Marked up plans showing proposed versus required setbacks 5 – Extract of Design Advisory Committee Minutes		
Tabled Items:	Nil		
Reporting Officer:	S Laming, Statutory Planning Officer		
Responsible Officer:	G Poezyn, Director Development Services		

OFFICER 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 submitted by Daniel Cassetai Design on behalf of the owner 498 Fitzgerald Street Pty Ltd for the proposed construction of three storey multiple dwellings comprising seven two bedroom multiple dwellings and associated car parking at No. 498 (Lot: 29; D/P: 2355) Fitzgerald Street, North Perth as shown on plans date stamped 8 February 2016, included as Attachment 2, subject to the following conditions:

1. **Boundary Wall**

The owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing No. 496 Fitzgerald Street, North Perth in a good and clean condition. The finish of the walls are to be fully rendered or face brickwork to the satisfaction of the City;

2. **Car Parking and Access**

- 2.1 A minimum of seven resident and two visitor bays shall be provided on site;
- 2.2 The car park shall be used only by residents and visitors directly associated with the development;
- 2.3 The visitor bays are to be marked accordingly;
- 2.4 The car parking and access areas are to comply with the requirements of AS2890.1;
- 2.5 Vehicle and pedestrian access points are required to match into existing footpath levels; and
- 2.6 All new crossovers shall be constructed in accordance with the City’s Standard Crossover Specifications;

3. **External Fixtures**

All external fixtures shall not be visually obtrusive from Fitzgerald Street and neighbouring properties. External fixtures are such things as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like;

4. **Verge Trees**

The verge trees shall be retained and protected from any damage including unauthorised pruning and no verge trees shall be removed;

5. **Car Parking Permits**

The applicant is to agree in writing that a notice is placed on the Sales Contract to advise prospective purchasers that the City of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the residential dwellings;

6. Prior to the issue of a Building Permit, the following shall be submitted to and approved by the City:

6.1 **Acoustic Report**

An Acoustic Report in accordance with the City's Policy No. 7.5.21 – Sound Attenuation;

6.2 **Landscape and Reticulation Plan**

A detailed landscape and reticulation plan for the development site and adjoining road verge shall be submitted to the City for assessment and approval. The plan shall be drawn to a scale of 1:100 and show the following:

- 6.2.1 The location and type of existing and proposed trees and plants;
- 6.2.2 Areas to be irrigated or reticulated;
- 6.2.3 The removal of redundant crossovers;
- 6.2.4 Proposed watering system to ensure the establishment of species and their survival during the hot and dry months;
- 6.2.5 All proposed treatments of the verge; and
- 6.2.6 The two 45 litre and fourteen 100 litre mature trees as shown on the approved indicative ground floor landscaping plan;

6.3 **Schedule of External Finishes**

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

6.4 **Construction Management Plan**

A Construction Management Plan that details how the construction of the development will be managed to minimise the impact on the surrounding area, in accordance with the requirements of the City's Policy No. 7.5.23 – Construction Management Plans. Construction on and management of the site shall thereafter comply with the approved Construction Management Plan;

6.5 **Waste Management**

- 6.5.1 A Waste Management Plan prepared to the satisfaction of the City detailing a bin store area of sufficient size to accommodate the City's bin requirements; and
 - 6.5.2 Waste management for the development shall thereafter comply with the approved Waste Management Plan; and
-

7. **Prior to occupation of the development, the following shall be completed to the satisfaction of the City:**

7.1 **Clothes Drying Facility**

Each multiple dwelling shall be provided with a clothes drying facility or communal area in accordance with the Residential Design Codes;

7.2 **Car Parking**

The car parking areas on the subject land shall be sealed, drained, paved and line marked in accordance with the approved plans and maintained thereafter by the owner(s)/occupier(s) to the satisfaction of the City;

7.3 **Stormwater**

All storm water produced on the subject land shall be retained onsite, by suitable means to the satisfaction of the City;

7.4 **Acoustic Report Certification**

With reference to Condition 6.1, certification from an acoustic consultant that the recommended measures have been implemented shall be provided to the City;

7.5 **Landscape Plan and Verge Upgrade Plan**

With reference to Condition 6.2, all works shown in the plans approved with the Building Permit shall be undertaken in accordance with the approved plans and maintained thereafter to the satisfaction of the City at the applicant's expense; and

7.6 **Bicycle Bays**

A minimum of two resident bays and one visitor bay is to be provided onsite. Bicycle bays must 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.

ADVICE NOTES:

1. **With reference to Condition 1, the owners of the subject land shall obtain the consent of the owners of relevant adjoining properties before entering those properties in order to make good the boundary walls;**
 2. **With reference to Condition 2.5, the portion of the existing footpath traversing the proposed crossover must be retained. The proposed crossover levels shall match into the existing footpath levels. Should the footpath not be deemed to be in satisfactory condition, it must be replaced with in-situ concrete panels in accordance with the City's specification for reinstatement of concrete paths;**
 3. **With reference to Condition 2.6, all new crossovers to the development site are subject to a separate application to be approved by the City;**
-

4. **A Road and Verge security bond for the sum of \$5,000 shall be lodged with the City by the applicant, prior to the issue of a building permit, and will be held until all building/development works have been completed and any disturbance of, or damage to the City's infrastructure, including verge trees, has been repaired/reinstated to the satisfaction of the City. An application for the refund of the security bond shall be made in writing. The bond is non-transferable;**
5. **With reference to Condition 6.2, the City encourages landscaping methods and species selection which do not rely on reticulation;**
6. **The movement of all path users, with or without disabilities, within the road reserve, shall not be impeded in any way during the course of the building works. This area shall be maintained in a safe and trafficable condition and a continuous path of travel (minimum width 1.5 metres) shall be maintained for all users at all times during construction works. If the safety of the path is compromised resulting from either construction damage or as a result of a temporary obstruction appropriate warning signs (in accordance with AS1742.3) shall be erected. Should a continuous path not be able to be maintained, an 'approved' temporary pedestrian facility suitable for all path users shall be put in place. If there is a request to erect scaffolding, site fencing etc. or if building materials are required to be stored within the road reserve, once a formal request has been received, the matter will be assessed by the City and if considered appropriate a permit shall be issued by the City. No permit will be issued if the proposed encroachment into the road reserve is deemed to be inappropriate;**
7. **With reference to Condition 7.3, no further consideration shall be given to the disposal of stormwater 'offsite' without the submission of a geotechnical report from a qualified consultant. Should approval to dispose of stormwater 'offsite' be subsequently provided, detailed design drainage plans and associated calculations for the proposed stormwater disposal shall be lodged together with the building permit application working drawings;**
8. **Any new street/front wall, fence and gate within the Fitzgerald 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; and**
9. **Any additional property numbering to the abovementioned address which results from this application will be allocated by the City of Vincent. The applicant is requested to liaise with the City in this regard during the building permit process.**

PURPOSE OF REPORT:

To consider the proposal for three storey multiple dwellings comprising seven two bedroom multiple dwellings and associated car parking.

BACKGROUND:

History:

Date	Comment
23 April 2013	Council resolved to approve the demolition of an existing single house and construction of a three-storey multiple dwelling development comprising 11 multiple dwellings and associated car parking.
6 August 2014	Demolition Permit issued for the subject site.
6 February 2015	Building Permit cancelled as per the applicant's request.

Previous Reports to Council:

The Minutes of the previous reports to Council are available on the City's website.

DETAILS:

Landowner:	498 Fitzgerald Street Pty Ltd
Applicant:	Daniel Cassettai Design
Zoning:	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS1): R60 Draft Town Planning Scheme No. 2 (TPS2): R60/R100
Existing Land Use:	Vacant
Use Class:	Multiple Dwelling
Use Classification:	"P"
Lot Area:	1,067 square metres
Right of Way (ROW):	Not applicable
Heritage List:	No
Date of Application:	6 November 2015

The subject site is currently vacant. The proposed development includes the following:

- Construction of three storey multiple dwellings comprising seven two bedroom multiple dwellings; and
- Ten resident car parking bays and two visitor car parking bays.

The development is three storeys at the front of the site and two storeys for the remainder of the site to the rear boundary.

Bins are proposed to be stored at the rear of the site within the 2.5 metre setback area between the development and the eastern boundary.

The proposed landscaping includes spaced green walls along the full length of the northern boundary, two 45 litre and fourteen 100 litre mature trees at various points throughout the site on the ground floor and landscaping on the first and second floor. The proposed landscaping complies with the City's Policy No. 7.4.8 – Development Guidelines for Multiple Dwellings.

Prior to lodgement, the proposal was considered by the City's Design Advisory Committee (DAC) on two occasions and circulated for final review. The recommendations of the DAC were incorporated into the proposal that was lodged.

Following lodgement on 6 November 2015, the proposal was revised on one more occasion on 8 February 2016 to address the three issues listed below:

Issue	Plans dated 6 November 2015	Plans dated 8 February 2016
Bin store	Inadequate bin store.	Bin store shown connected to the sewer.
Garage door	Non-compliant garage door width to front garage closest to Fitzgerald Street.	Garage door width increased.
Crossover location	Crossover location possibly clashes with power pole and service pit, which were not shown on survey site plan.	Survey site plan amended to show crossover location does not interfere with power pole and service pit.

As the site abuts an Other Regional Road the Department of Planning has advised that a 1.5 metre road widening for Fitzgerald Street is required.

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, the Residential Design Codes 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.

Design Element	Deemed-to-Comply	Requires the Discretion of Council
Density/Plot Ratio	✓	
Street Setback		✓
Front Fence	✓	
Building Setbacks/Boundary Wall		✓
Building Height/Storeys	✓	
Roof Form		✓
Open Space	✓	
Privacy	✓	
Parking & Access	✓	
Bicycles	✓	
Solar Access	✓	
Site Works	✓	
Essential Facilities	✓	
Surveillance	✓	
Landscaping	✓	

Detailed Assessment

The assessment against the relevant deemed-to-comply provisions is as follows:

Street Setback			
Location	Policy Requirement	Proposal	Variation
	Policy No. 7.2.1 – Residential Design Elements SADC5 Clause		
Ground floor	8.84 metres	4 metres	4.84 metres
Upper floor	2 metres behind each portion of the ground floor setback.	0.75 metre behind	1.25 metres
Upper floor (balconies)	1 metre behind each portion of the ground floor setback.	Roof top garden 'nil' setback (in line with ground floor setback)	1 metre

The assessment against the relevant design principles is as follows:

Street Setback
Design Principles
Policy No. 7.2.1 – Residential Design Elements Clause SPC5
<p>(i) Development is to be appropriately located on site to:</p> <ul style="list-style-type: none"> • Maintain streetscape character; • Ensure the amenity of neighbouring properties is maintained; • Allow for the provision of landscaping and space for additional tree plantings to grow to maturity; • Facilitate solar access for the development site and adjoining properties; • Protect significant vegetation; and • Facilitate efficient use of the site. <p>(ii) Variations to the Acceptable Development Criteria relating to upper floor setbacks may be considered where it is demonstrated that the lesser upper floor setbacks incorporate appropriate articulation, including but not limited to; varying finishes and staggering of the upper floor walls to moderate the impact of the building on the existing or emerging streetscape and the lesser setback is integral to the contemporary design of the development.</p>
Applicant's Justification
<p>"1. The proposed front setback variation will not have an adverse impact on the streetscape or the adjoining properties.</p> <p>2. The proposed development has been designed with a variable setback along its Fitzgerald Street frontage to help provide an interesting and articulated front facade.</p> <p>3. The proposed development has been designed to make a positive contribution to the local streetscape and an 'active frontage' to Fitzgerald Street.</p> <p>4. The proposed development will not have an adverse impact on the Fitzgerald Street streetscape in terms of its overall bulk and scale and is generally consistent with other similar residential developments approved by the City in the immediate locality, specifically the recently approved multiple dwelling development on adjoining No. 496 Fitzgerald Street.</p> <p>5. The front setback of the proposed development is reflective of various developments within the nearby North Perth Town Centre which contain nil front setbacks.</p> <p>6. The proposed front setback of the new development on Lot 29 meets the 'deemed to comply requirements' of Element 6.1.3 C3.1 ('Street setback') of the R-Codes.</p> <p>7. The proposed variation to the front setback of the new multiple dwelling development on Lot 29 will significantly improve current levels of passive surveillance over Fitzgerald Street.</p> <p>8. Sufficient space is available within the front setback area on the ground floor to accommodate gardens and landscaping, all of which will be designed and constructed to ensure that the development is visually attractive and makes a positive contribution to the local streetscape.</p> <p>9. Abutting Lot 29 is a substantial verge area with a width of 3.5 metres along the Fitzgerald Street frontage. The verge width provides an increased setback between the proposed development and the road pavement, therefore minimising the impact of the proposed built form on the Fitzgerald Street streetscape.</p> <p>Having regard for all of the above it is contended that the proposed variation to the front setback for the new multiple dwelling development on Lot 29 satisfies the 'design solution' of SPC 5 of the City's Residential Design Elements Policy and may therefore be supported and approved by the City."</p>

Street Setback
Officer Technical Comment:
The street setbacks in the locality are inconsistent due to the transitioning nature of the street created by new development but align with the reduced setback with other recently approved medium density developments in the area, such as the development at No. 538 Fitzgerald Street (3 metre front setback) and the recently approved neighbouring development to the south at No. 496 Fitzgerald Street (5.29 metres front setback).
The proposed setback variations are acceptable as they will contribute to establish the new streetscape for Fitzgerald Street as development along this section of the street intensifies.

The assessment against the relevant deemed-to-comply provisions is as follows:

Building Setbacks/Boundary Wall			
Location	Policy Requirement	Proposal	Variation
	Residential Design Codes Clause 6.1.4		
South	First Floor – 3.5 metres	1.19 – 2.8 metres	0.7 – 2.31 metres
North	First Floor – 6.6 metres	5.8 metres	0.8 metres

The assessment against the relevant design principles is as follows:

Building Setbacks/Boundary Wall
Design Principles
Residential Design Codes Clause 6.1.4
P4.1 Buildings set back from boundaries or adjacent buildings so as to: <ul style="list-style-type: none"> • ensure adequate daylight, direct sun and ventilation for buildings and the open space associated with them; • moderate the visual impact of building bulk on a neighbouring property; • ensure access to daylight and direct sun for adjoining properties; and • assist with the protection of privacy between adjoining properties.
Applicant's Justification
<ol style="list-style-type: none"> 1. <i>The proposed setback variation for the upper floor components of the new development from the northern side boundary (i.e. 0.8 metres) is considered minor and therefore unlikely to have any adverse impacts on the local streetscape or any adjoining properties in terms of its bulk and scale.</i> 2. <i>The proposed development meets the 'deemed to comply requirements' of Element 6.4.2 C2.1 ('Solar access for adjoining sites') of the R-Codes as it does not detrimentally impact access to light and ventilation for any existing dwellings on the adjoining properties.</i> 3. <i>The proposed development makes effective use of all available space and provides for the creation of adequate internal and external living areas which will benefit all future occupants.</i> 4. <i>The proposed setback variations to the side boundaries will not have an adverse impact on the local streetscape in terms of its bulk and scale.</i> 5. <i>It is considered that those portions of the development proposing a reduced setback from the side boundaries are consistent in terms of its design, bulk and scale with other similar residential developments recently approved by the City in the immediate locality.</i> 6. <i>The proposed development meets the 'deemed to comply requirements' of Element 6.4.1 C1.1 ('Visual privacy') of the R-Codes.</i>

Building Setbacks/Boundary Wall

7. *Those portions of the proposed development with a reduced setback from the northern side boundary abuts the side setback area and extensive rear yard area of the existing single detached dwelling on adjoining Lot 3 (No. 500) Fitzgerald Street. As such it is contended that the proposed development on Lot 29 will not have any adverse impacts on any outdoor living areas or major openings to habitable rooms associated with the existing dwelling on adjoining Lot 3.*
8. *In addition to the above point, it is highly likely that adjoining Lot 3 will be redeveloped in the future for a similar multiple dwelling development given the land's location along a major 'transport corridor'.*
9. *Those portions of the proposed development with a reduced setback from the southern side boundary abuts a new three (3) storey multiple dwelling development (including car parking area) currently under construction on adjoining Lot 30 (No. 496) Fitzgerald Street. As such it is contended that the proposed development on Lot 29 will not have any adverse impacts on any outdoor living areas or major openings to habitable rooms associated with the future multiple dwelling development on adjoining Lot 29.*

Having regard for all of the above it is contended that those portions of the new multiple dwelling development on Lot 29 proposing a reduced setback from the northern and southern side boundaries satisfy the 'design principles criteria' of Element 6.1.4 of the R-Codes and may therefore be approved by the City."

Officer Technical Comment:

The reduced northern side setbacks are separated by a driveway that services the subject site.

The variations are minor and both side elevations are well articulated with open balcony and staircase areas, differing building heights and setbacks along the side elevations and contrasting colours and materials to reduce the perceived bulk to the neighbouring properties to the north and south.

The development is articulated in a way that breaks down the mass of the development into three distinct components, which serves to reduce the effect of bulk and scale on the neighbouring properties and the streetscape.

The proposal is fully compliant with the privacy and overshadowing requirements of the Residential Design Codes 2015.

The assessment against the relevant deemed-to-comply provisions is as follows:

Roof Form			
Location	Policy Requirement	Proposal	Variation
	Policy No. 7.2.1 – Residential Design Elements BDADC3		
	Roof pitch to be between 30-45 degrees.	Skillion roof form with 3 and 5 degree pitch.	Ranging from 25-27 degrees

The assessment against the relevant design principles is as follows:

Roof Form	
Design Principles	
Policy No. 7.2.1 – Residential Design Elements Clause BDPC3	
(i)	<p>The roof of a building is to be designed so that:</p> <ul style="list-style-type: none"> • It does not unduly increase the bulk of the building; • In areas with recognised streetscape value it complements the existing streetscape character and the elements that contribute to this character; and • It does not cause undue overshadowing of adjacent properties and open space.
Applicant's Justification	
	<p>"1. The proposed development has been designed using a modern roof form which is common throughout the metropolitan area and most recently along Fitzgerald Street.</p> <p>2. The roof form of the proposed development (i.e. skillion roof) is consistent with other residential developments recently approved by the City within the immediate locality.</p> <p>3. The skillion roof form of the proposed development helps to provide an interesting and articulated facade.</p> <p>4. The proposed development meets the 'deemed to comply requirements' of Element 6.4.2 C2.1 ('Solar access for adjoining sites') of the R-Codes as it does not detrimentally impact access to light and ventilation for any existing dwellings on the adjoining properties.</p> <p>5. It is recognised that the City is considering changes to its 'Residential Design Elements' policy to facilitate the approval of varying roof types (i.e. skillion or concealed roofs).</p> <p>6. The proposed roof form of the new development on Lot 29 will not have an adverse impact on the Fitzgerald Street streetscape in terms of its overall bulk and scale.</p> <p>Having regard for all of the above it is contended that the proposed skillion roof form for the new multiple dwelling development on Lot 29 satisfies the 'design solution' of BDPC 3 of the City's Residential Design Elements Policy and may therefore be supported and approved by the City."</p>
Officer Technical Comment:	
	<p>Fitzgerald Street is transitioning from low to medium density development. There is little consistency with development form between older and newer developments and many newer developments approved on the street include flat roofs. As there is no established development form that needs to be preserved or protected along the street the proposed roof form is acceptable.</p>

CONSULTATION/ADVERTISING:

Required by Legislation:	No	Required by City of Vincent Policy:	Yes
Consultation Period:	2 December 2015 to 13 January 2016		
Comments Received:	Four comments received objecting to the development (two from the same household), one comment of concern and one comment of support.		

One comment in support was received which stated the proposed variations are of no concern given the nature of new developments on adjoining sites.

The table below discusses the objections raised during consultation on the original application plans dated 6 November 2015.

Summary of Comments Received:	Officer Technical Comment:
<p><u>Saturation of high density development</u></p> <p>There are too many high density properties being built along Fitzgerald Street and in the North Perth area and surrounds. More high density properties not only spoil the family atmosphere, amenity and character of the area, but also increase the pressure on the already over stretched infrastructure. The roads are particularly congested and more high density buildings will exacerbate the problem.</p>	<p>The proposed development is consistent with the future vision for Fitzgerald Street, which is zoned for medium to high density development.</p> <p>The existing infrastructure has sufficient capacity to accommodate the additional traffic movement from these 7 units.</p> <p>The proposal complies in regard to number of storeys and building height, plot ratio, overshadowing, landscaping and visual privacy requirements of the Residential Design Codes 2015 and the City's policies.</p>
<p><u>Visual privacy</u></p> <p>The development will impact on the visual privacy of the adjoining properties.</p>	<p>The development complies with Visual Privacy requirements of the Residential Design Codes 2015.</p>
<p><u>Access to natural light</u></p> <p>The development will impact on the adjoining properties' access to natural light.</p>	<p>Due to the lot's west to east orientation, there will be some overshadowing over the southern adjoining property at No. 496 Fitzgerald Street, North Perth, which is currently being developed into a three storey multiple dwelling development comprising fourteen multiple dwellings.</p> <p>The southern adjoining development has varying setbacks to its northern boundary, ranging from a minimum of 1.095 metres to a maximum of 3.07 metres.</p> <p>The proposal complies with maximum permitted overshadowing requirements of the Residential Design Codes 2015 at 37.31% of the total area of the adjoining site (50% permitted).</p>
<p><u>Obstruction of views</u></p> <p>The development will obstruct views from the adjoining properties.</p>	<p>Views are not a relevant planning consideration.</p>

Note: Submissions are considered and assessed by issue rather than by individual submitter.

Design Advisory Committee (DAC):

Referred to Design Advisory Committee: Yes

The proposal was considered by the City's DAC on three occasions – 1 July 2015, 19 August 2015 and 23 September 2015. Refer to **Attachment 3** for an extract of the minutes of the meetings.

The proposal does not require Design Excellence because it does not exceed the three storey height limit permitted in this area.

By incorporating the comments from the DAC process the proposal was significantly improved in terms of amenity and aesthetics compared to the initial concept presented.

LEGAL/POLICY:

- *Planning and Development Act 2005;*
- City of Vincent Town Planning Scheme No. 1;
- Residential Design Codes;
- Policy No. 7.1.10 – Norfolk Precinct;
- Policy No. 7.2.1 – Residential Design Elements; and
- Policy No. 7.4.8 – Development Guidelines for Multiple Dwellings.

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 *Improve and maintain the natural and built environment and infrastructure.”*

SUSTAINABILITY IMPLICATIONS:

The City’s Strategic Plan 2013-2023 states:

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

The following tables outline the applicable sustainability issues for this proposal:

ENVIRONMENTAL
The development will assist to offset urban sprawl and its associated negative impacts.

SOCIAL
The development contributes positively to the social sustainability of the area by increasing density, social mix and the diversity of dwelling types.

ECONOMIC
The development will make use of existing infrastructure and services available in an already built-up area, avoiding the cost of new infrastructure associated with greenfield developments. The construction will also provide short term employment opportunities.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The site is currently vacant. The proposed development is required to accommodate a MRS Road Widening of Fitzgerald Street of 1.5 metres, which is indicated on the site plan with no permanent structures proposed in the road widening area.

The proposed development aligns with the City's vision to locate high density development along main arterial roads.

The proposal is consistent with other recently approved multiple dwelling developments on Fitzgerald Street, in particular a development for fourteen multiple dwellings on the adjoining lot to the south at No. 496 Fitzgerald Street, which was approved by the Development Assessment Panel on 21 February 2014 and includes variations to plot ratio, front setback, side setbacks, roof form and open space.

The proposed scale and height is acceptable given that the proposal complies with the permitted number of storeys and provides extensive setbacks from the rear boundary. The building appears as three storeys from Fitzgerald Street and two storeys when viewed from the rear. The plot ratio at 691.75 square metres (0.64) complies with the maximum plot ratio of 0.7 permitted (746.9 square metres).

The building mass has been broken up into three parts, and with contrasting materials and colours of the elevations which help to reduce the visual impact of the building's scale.

Landscaping is proposed within the rear setback area, including trees that will soften the appearance and screen the development from neighbouring properties to maximise privacy.

The proposal will make a positive contribution to the streetscape of Fitzgerald Street.

CONCLUSION:

It is recommended that Council approves this proposal.

9.1.4 Amendments to the Municipal Heritage Inventory (MHI) – Deletion of Nos. 68-70 (Lot: 41) Cowle Street, West Perth

Ward:	South	Date:	19 February 2016
Precinct:	Precinct 12 – Hyde Park	File Ref:	SC448
Attachments:	1 – Revised Heritage Assessment 2 – Structural Condition Report 3 – Amended Policy No. 7.6.5 – Heritage Management – Amendments to the Municipal Heritage Inventory (MHI)		
Tabled Items:	Nil		
Reporting Officer:	H Au, Heritage Officer J O’Keefe, Manager Policy & Place		
Responsible Officer:	G Poezyn, Director Development Services		

OFFICER RECOMMENDATION:

That Council:

- APPROVES** the deletion of Nos. 68-70 (Lot: 41) Cowle Street, West Perth from the City’s Municipal Heritage Inventory; and
- INITIATES** an amendment to Policy No. 7.6.5 – Heritage Management – Amendments to the Municipal Heritage Inventory (MHI) to include ‘Catastrophic Event’ as a new criteria in Figure 1 as a reason for deletion from the MHI as shown in Attachment 3 and pursuant to Clause 5 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the City’s Community Consultation Policy.

PURPOSE OF REPORT:

To approve the deletion of Nos. 68-70 (Lot: 41) Cowle Street from the City’s Municipal Heritage Inventory (MHI) and to initiate an amendment to Policy No. 7.6.5 – Heritage Management – Amendments to the Municipal Heritage Inventory (MHI).

BACKGROUND:

The City received an application to delete Nos. 68-70 Cowle Street, West Perth from the City’s MHI following a catastrophic fire. The property is listed on the City’s Municipal Heritage Inventory as a Management Category A – Conservation Essential. Unlike many other Category A properties, this property is not listed on the State Register.

Prior to the fire the City was considering a development application which included the retention and integration of this heritage listed property and another one on the site within the development. Since the fire, the proposal has been amended to demolish the remaining elements of the destroyed building and propose to construct a new building on its footprint.

History:

Date	Comment
29 December 2006	Nos. 68-70 Cowle Street was listed on the City’s MHI as Management Category A – Conservation Essential.
13 September 2015	A fire extensively damaged the heritage properties at Nos. 68-70 Cowle Street.
4 November 2015	The City received an application to formally remove the property from the City’s MHI.

Date	Comment
8 February 2016	The Metro West JDAP approves a development application for the construction of a four storey development comprising the retention of one remaining heritage property and a total of 32 one-bedroom multiple dwellings, 37 two bedroom multiple dwellings and five three bedroom multiple dwellings at Nos. 48-70.

DETAILS:

The City’s Policy No. 7.6.5 – Heritage Management – Amendments to the Municipal Heritage Inventory (MHI) outlines three scenarios for deletion of a property from the MHI. In this instance the most relevant provision is:

‘Deletion of a place from the MHI will only be considered if a structural condition report conducted by a registered structural engineer states that the structural integrity of the place has failed to the point where it cannot be rectified without the removal of a majority of its significant fabric.’

The City has received a report from a structural engineer stating that the buildings at Cowle Street cannot be restored due to the catastrophic fire. (**Attachment 2**). In line with the provisions of the policy this property needs to be removed from the MHI.

Administration also recommends amending the policy to include ‘Catastrophic Event’ as a new criteria in Figure 1 of the policy as a reason for deletion from the MHI. Deletion would only be possible where a structural condition report has been provided from a registered structural engineer stating that the place is structurally unsound, and it is recommended that the property can be removed from the MHI without the need for Council approval.

CONSULTATION/ADVERTISING:

Required by Legislation:	No	Required by City of Vincent Policy:	Yes
Consultation Period:	8 December 2015 to 12 January 2016		
Consultation Type:	Newspaper and letters		
Comments Received:	No submissions received		

The revised Heritage Assessment of the damaged property was referred to the State Heritage Office in December 2015 and to the City’s precinct groups for comment. The proposed deletion of Nos. 68-70 Cowle Street was also advertised for public comment for a period of fourteen days in the local newspaper.

No submissions were received during the advertising period.

LEGAL/POLICY:

- City of Vincent Town Planning Scheme No. 1;
- Policy No. 7.6.2 – Heritage Management – Assessment; and
- Policy No. 7.6.5 – Heritage Management – Amendments to the Municipal Heritage Inventory (MHI).

RISK MANAGEMENT IMPLICATIONS:

Should Council not remove the property from the City’s MHI, the application to demolish cannot be supported and the site may become a safety risk to the immediate and surrounding neighbourhood.

STRATEGIC IMPLICATIONS:

Nil.

SUSTAINABILITY IMPLICATIONS:

Nil.

ENVIRONMENTAL
Nil.

SOCIAL
Nil.

ECONOMIC
Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

Deletion of Nos. 68-70 Cowle Street from MHI

The City prepared a revised heritage assessment for Nos. 68-70 Cowle Street following the fire in November 2015 under the City's Policy No. 7.6.2 – Heritage Management – Assessment (**Attachment 1 and 2**). This outlines that the structural integrity of the place has failed to the point where the property cannot be repaired and requires removal of a number of key structural components including the front veranda, chimneys and walls.

The Heritage Assessment states that the subject place has "*little aesthetic value*", as the key structural heritage features of the Late Colonial Georgian working class houses are no longer identifiable following the fire.

The place has "*some historic value*" as it is part of a streetscape of original nineteenth century dwellings which show the evolution of the locality, but no longer meets the criteria for retention on the MHI.

Amendment to Policy No. 7.6.5 – Heritage Management – Amendments

The fire at Nos. 68-70 Cowle Street has triggered Administration to review Policy No. 7.6.5 – Heritage Management – Amendments to the Municipal Heritage Inventory (MHI) to streamline procedures.

Administration recommends to amend the policy so that any building on the City's MHI subject to a catastrophic event, such as fire, can be deleted without referral to Council. A report is required from a structural engineer that states that the building has failed to the point where it cannot be rectified and there is no other option but to demolish the building or any remains of it. The changes to the policy are outlined in **Attachment 3**.

The simplified process will ensure that a timely decision to delete a place from the MHI is made and the public health and safety issues of the place are managed within acceptable timeframes.

This same procedure is recommended to be put in place for buildings on the Heritage Council's State Register of Heritage where the City has been asked to comment on the removal of the property from the list.

The advertising procedure to amend the policy will follow the requirements of the City's Policy No. 4.1.5 – Community Consultation and Clause 5 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* replace various clauses in the City's Town Planning Scheme No 1 including Clause 47 which previously guided the creation, amendment and rescinding of local planning policies.

Clause 4 and 5 of the Deemed Provisions outline the process to amend a local planning policy which requires a minimum advertising period of 21 days after Council has agreed to make the changes to the policy, as requested by this report.

The City's Consultation Policy requires an advertising period for an amendment to a local planning policy of 28 days. The advertising period of the City's Consultation Policy will therefore apply as this requirement also satisfies the minimum requirements of the Regulations.

CONCLUSION:

Administration recommends that Council supports the officer's recommendation.

9.2 TECHNICAL SERVICES

9.2.1 Proposed Fitzgerald Street Peak Period Bus Lanes

Ward:	Both	Date:	19 February 2016
Precinct:	Precinct 6 - Smith's Lake, Precinct 8 - North Perth, Precinct 9 - North Perth Centre, Precinct 10 - Norfolk, Precinct 12 - Hyde Park, Precinct 13 - Beaufort	File Ref:	SC976, SC228
Attachments:	1 – PTA – Fitzgerald Street Bus Priority 2 – Town Centre Design Concept		
Tabled Items:	Nil		
Reporting Officers:	R Lotznicker, Director Technical Services		
Responsible Officer:	R Lotznicker, Director Technical Services		

OFFICER RECOMMENDATION:

That Council **REAFFIRMS** its previous position that peak period bus lanes along Fitzgerald Street are a useful interim public transport solution but are not a substitute for light rail and **ADVISES** the Public Transport Authority (PTA) that it has no objection to the installation of AM and PM peak period 'red asphalt' bus lanes along Fitzgerald Street between Walcott and Newcastle Streets subject to the PTA:

1. Fully funding and arranging the implementation of the bus lanes and all associated works including, but not limited to, all changes to parking control signage/line marking and replacing the 12 existing speed cushions between Angove Street and Raglan Road, as shown in Attachment 1;
2. Changing the existing Clearways to match the proposed peak period bus lanes as follows;

Morning City bound	6.30am to 9.00am Monday to Friday
Afternoon outward bound	4.00pm to 6.00pm Monday to Friday

3. Supplying and installing a bicycle parking station, at a location to be determined by the City's Chief Executive Officer and to the satisfaction of that Officer; and
4. Notifying all property owners, residents and businesses along Fitzgerald Street and side streets in the City of Vincent of the project purpose, scope and timing.

PURPOSE OF REPORT:

To consider the Public Transport Authority's (PTA's) proposal to convert the existing clearway (kerbside) lanes along Fitzgerald Street to peak period bus lanes between Walcott Street and Newcastle Street to improve bus frequency and journey time reliability into and out of the Perth CBD.

BACKGROUND:

The deferral of the MAX Light Rail project raised a number of issues with the ongoing performance and capacity of the existing bus network and in January 2015 PTA wrote to the City outlining a proposal for the introduction of peak period bus lanes along Fitzgerald Street.

The events leading up to the preparation of this report are discussed in detail in the following table.

DETAILS:

DATE	ACTION	COMMENTS
January 2015	<ul style="list-style-type: none"> • PTA sought approval to convert the existing clearway lanes along Fitzgerald Street to peak period bus lanes between Walcott Street and Newcastle Street to improve bus frequency and journey time reliability into and out of the City. • PTA's concept design at the time involved minimal works with only signing and line marking changes required. • The existing corridor is currently subject to clearway restrictions, which for the peak inbound direction is 7.30 to 9.00am and for the outward bound direction, from 4.15 to 6.00pm. The proposed hours of operation for the bus lanes would be the same as that currently operating along Beaufort Street, 6:30am to 9:00am (inward or south bound) and 4:00pm to 6:00pm (outward or north bound). 	<p>The proposal was for the introduction of a high frequency bus service (960) similar to the 950 Beaufort Street service, in lieu of the MAX rail, as an interim measure, by lining and signage only (in lieu of red asphalt lanes)</p>
OMC 5 May 2015	<p><u>Council Decision</u></p> <p>That Council AUTHORIZES the Mayor to write to the Minister for Transport and Public Transport Authority seeking a coherent plan for public transport along Fitzgerald Street indicating the benefit to the North Perth community.</p>	<p>Council was not satisfied that the temporary bus lanes, with lining and signage only, would be a suitable replacement for MAX light rail, even as an interim measure and in the absence of an overall public transport strategy being provided by the PTA.</p>
June 2015	<ul style="list-style-type: none"> • The Mayor, Cr Cole, Cr Topelberg, Chief Executive Officer and Director Technical Services met with the Minister for Transport, his Chief of Staff, Eleni Evangel and Michael Sutherland at Parliament House to discuss the Fitzgerald Street bus lanes. 	<p>The meeting ended without any firm position agreed on. It was clear that there was no longer an appetite for the MAX light rail</p>
October 2015	<ul style="list-style-type: none"> • Administration met with PTA to progress this matter. The City's Place Managers were also in attendance. • Administration was looking at what value could be added to the section of Fitzgerald Street through the town centre rather than just adding extra bus movements through this area with yellow lines and/or two red asphalt strips. • PTA advised they had undertaken all necessary modelling and were nearing completion of a concept for the modification of the Alexander/Walcott/Fitzgerald St intersection required to ensure the lanes will work as planned. • PTA further advised they were willing to negotiate with the City on the bus lane treatment and would consider the use of red asphalt and other street scaping improvements including bus/bike shelters for example. 	<p>Place Managers and Engineering Officers prepared a design for the North Perth Town centre which could be implemented as part of the bus lanes proposal. The design included a raised pedestrian plateau, moving the bus stop locations, additional traffic signal (similar to Wellington Street at Forrest Place).</p> <p>The estimated cost of the proposal was \$350k+</p>

DATE	ACTION	COMMENTS
<p>November 2015</p>	<p>Administration advised PTA as follows:</p> <ul style="list-style-type: none"> • One of Council's key concerns with the former proposal was that the bus lanes were not treated in red asphalt. • No funding was allocated or available for the project, given that it is a State Government initiative and responsibility; • The City was prepared to work with, and lobby in support of, the PTA to increase the project scope (and budget) to afford the North Perth town centre 'landing' as suggested – as this would strengthen the prospect of the project receiving support. <p><u>Revised plans from PTA:</u> (Refer Attachment 1) Administration received the revised drawings showing:</p> <ul style="list-style-type: none"> • Red asphalt resurfacing for the peak period bus lanes • Inclusion of yellow bus lane pavement markings • Remarkings of all existing parking/bus embayment pavement markings affected by the resurfacing works. <p><u>Meeting with Member for Perth:</u></p> <p>The Mayor and CEO met with the Member for Perth who indicated her support for the town centre design concept prepared by Administration (refer Attachment 2) and a preparedness to advocate for a State Government cost-sharing or pre-funding arrangement with the City, for Council to then consider allocating in the order of \$350k to the project in 2016/17 (as a reimbursement to the State Government).</p>	<p>The revised plans prepared by PTA included the red asphalt bus lanes consistent with what was successfully implemented along Beaufort Street.</p>
<p>December 2015</p>	<ul style="list-style-type: none"> • PTA were still keen to progress the project but advised it was not in a position to pre-fund any works and as such the City would have to pay for the town centre works in full. • PTA could schedule the construction of the bus lane works until May/June 2016 and then construct the town centre works on behalf of the City early in July on the proviso the City be invoiced for progress and completion; • PTA had reallocated the funds that were initially available to deliver this project, however if Council supported the project PTA would request the funds required to deliver the bus lanes toward the end of the 2015/16 financial year; • PTA advised that it would not commence community consultation nor seek any funding for the project until Council support for the project. 	<p>While the Member for Perth was supportive of the town centre design concept and was willing to advocate for a State Government cost-sharing or pre-funding arrangement with the City, PTA advised that it was not in a position to pre-fund any works and as such the City would have to pay for the town centre improvement proposal in full.</p>

Summary:

- When the Beaufort Street peak period bus lanes were first mooted there was scepticism that the bus lanes would result in increased traffic congestion during the peak periods with the potential to push more 'rat running' traffic into the surrounding streets.
- In Beaufort Street no one street has borne the brunt of the traffic 'reassignment' and it could be expected that the same would occur with Fitzgerald Street.
- The Beaufort '950' service has exceeded PTA's expectations with passenger numbers several years ahead of initial projections. PTA is hoping for similar results for the Fitzgerald Street '960'.
- Fitzgerald Street is already subject to Clearway restrictions the full length of the corridor. The only impact will be the extension of the Clearways, an additional one hour in the morning (starting at 6.30am instead of 7.30am) and 15 minutes in the evening (starting at 4.00pm instead of 4.15pm).
- The potential impact of the bus lanes on Fitzgerald Street has been assessed using the Main Roads WA traffic modelling software ROM24 which indicates a reduction of traffic on Fitzgerald Street of up to 35% south of Walcott Street following implementation of the bus lanes. North of Walcott Street, the reduction predicted is to be in the 10% to 20% range.
- The 'Base Case' Paramics model (a detailed simulation of the existing situation) shows that the existing network experienced significant levels of congestion in the AM peak, particularly at the Walcott Street and Newcastle Street intersections. Buses are frequently caught up in queues including those services joining Fitzgerald Street at Carr Street, which often block the aforementioned intersection.
- The 'Bus Lane Option' traffic model shows that the corridor was generally less congested as a result of the traffic reassignment when providing bus lanes.
- The benefits to local residents and patrons of PTA bus services will be a more reliable bus service, with the estimated bus travel time savings when the bus lanes are implemented, (based on the Paramics model) being approximately 30% (five to six minutes) in the AM peak southbound direction. Conversely for private cars, the maximum increase in travel time is estimated at less than three minutes in the AM peak southbound direction, the majority of which is experienced north of Walcott Street.
- PTA is offering to install a dedicated bicycle parking station in Woodville Reserve. The idea being that local commuters could ride to the 'bike park', secure their bicycle, and catch the '960' bus into the City.
- PTA is willing to install the bus lanes in red asphalt at its full cost, however is not prepared to fund the town centre works which would involve major traffic signal and road works, exceeding \$350,000.
- PTA is still keen to commence community engagement and seek any funding for the project, however until the Council provides formal support no further progress can be made and if PTA does not receive Council's support in March 2016, then the project will not be able to be constructed this financial year.

Administration Comments:

PTA is eager to implement the AM/PM bus lanes along Fitzgerald Street.

The City previously discussed undertaking some improvement works within the road carriageway in the North Perth town centre, comprising a raised pedestrian plateau, moving the bus stop locations, additional traffic signals, similar to Wellington Street at Forrest Place, in conjunction with the bus lanes project, however the cost of this proposal was estimated to cost in excess of \$350,000 and this was outside of the scope of the PTA budget.

Therefore Administration is no longer recommending the town centre improvement works as a prerequisite to supporting the bus lanes proposal, however this could still be considered by Council in the future in the context of the City's long term financial plan.

CONSULTATION/ADVERTISING:

PTA will consult with the property owners, residents and businesses along Fitzgerald Street (Walcott Street to Newcastle Street).

LEGAL/POLICY:

Fitzgerald Street is a District Distributor A Road and comes under the care, control and management of the City.

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.

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

SUSTAINABILITY IMPLICATIONS:

The City endeavours to maintain its road infrastructure to an acceptable level of service to ensure a safe and efficient journey for all road users. The proposed bus lanes will not materially affect this level of service but will, advantageously, improve public transport services and attractions along Fitzgerald Street.

COMMENTS:

The City receives numerous calls and emails about increasing traffic congestion and 'rat running'. A more efficient public transport system is an obvious means to reduce car dependence. However there is also the negative perception that 'exclusive' bus lanes may reduce roadway capacity.

With the Beaufort Street peak period bus lanes now viewed as being a success, the PTA is seeking Council's support to replicate that success in Fitzgerald Street by constructing red asphalt bus lanes.

CONCLUSION:

Should the bus lanes in Fitzgerald Street be supported by Council, it is considered that the benefits to local residents and patrons of PTA bus services will be a more reliable bus service, with the estimated bus travel time savings being approximately 30% or five to six minutes in the AM peak southbound direction.

Conversely for private cars, the maximum increase in travel time is estimated at less than three minutes in the AM peak southbound direction, the majority of which is experienced north of Walcott Street.

In addition it is considered that a regular short interval bus service would benefit local businesses in the North Perth town centre. It is therefore recommended that Council advises the PTA that it has no objection to the proposal.

9.2.2 Proposed 50kph Speed Limit, Scarborough Beach Road between Ellesmere Street and Eucla Street, Mount Hawthorn

Ward:	North	Date:	19 February 2016
Precinct:	Precinct 1 – Mount Hawthorn	File Ref:	SC466, SC937
Attachments:	1 – Plan No 3310-RD-01		
Tabled Items:	Nil		
Reporting Officer:	A Brown, Engineering Technical Officer		
Responsible Officer	R Lotznicker, Director Technical Services		

OFFICER RECOMMENDATION:

That Council **ADVISES** Main Roads WA that it **ENDORSES** the proposal to permanently lower the posted speed limit along Scarborough Beach Road between Ellesmere and Eucla Streets, Mount Hawthorn, from 60kph to 50kph.

PURPOSE OF REPORT:

To advise Council of Main Roads WA (MRWA) proposal to lower the speed limit along Scarborough Beach Road between Ellesmere Street and Eucla Street from 60 kph to 50 kph.

BACKGROUND:

The City completed streetscape works along the above section of Scarborough Beach Road in 2009 converting the Road from a four lane carriageway to a single lane in each direction separated with a median. This treatment eventually changed the speed environment of the road.

The City subsequently wrote to MRWA in 2015 requesting that the posted speed limit be lowered from 60kph to 50kph.

DETAILS:

The City deployed vehicle classifiers in October 2015 to gather information to support its request to MRWA to reduce the posted speed limit along Scarborough Beach Road between Ellesmere and Eucla Streets with the following results.

ROAD	DATE		LOCATION	85% SPEED* (kph)
	START	FINISH		
Scarborough Beach Road	14-Oct-15	21-Oct-15	Egina – Ellesmere	53.6 kph
Scarborough Beach Road	14-Oct-15	21-Oct-15	Eucla – Federation	55.8 kph

Note:* 85% of vehicle were recorded as traveling at or below this speed and therefore the 85 percentile speed determines the speed environment of a road.

MRWA subsequently advised as follows (in part):

“the proposed speed limit appears reasonable for the environment being very similar to the previous section. Extending the 50kph speed limit will provide a safer environment for local residents, and consistency with the previous section currently speed zoned at 50 km/h.

As with all speed limits affecting Council controlled roads, Main Roads seeks formal endorsement for the abovementioned proposal. Once our office has received a formal letter of concurrence we can proceed and finalise the design and approval process.”

CONSULTATION/ADVERTISING:

MRWA and the WA Police will be advised of the Council's decision.

LEGAL/POLICY:

Nil.

RISK MANAGEMENT IMPLICATIONS:

Low: Mainly related to amenity improvements for residents and their visitors.

STRATEGIC IMPLICATIONS:

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

"Improve and maintain the natural and built environment and infrastructure;

1.1.5 *Take action to improve transport and parking in the City and mitigate the effects of traffic*

(f) *In partnership with the State Government and stakeholders, investigate options for a light rail system in the City, or alternative similarly dedicated service, to increase 'cross town' public transport."*

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

Not applicable.

COMMENTS:

An existing 50kph Speed Limit already exists along Scarborough Beach Road through the Mount Hawthorn town centre extending from Fairfield Street west to Buxton Street. Endorsing a lowering of the speed limit Street provides continuity and a safer pedestrian environment.

CONCLUSION:

The City undertook works in this section of Scarborough beach Road several years ago changing is from a four lane undivided road to a two lane divided road with on road cycle lanes.

This change has had the effect, over time, of changing driver behaviour resulting in lower vehicle speeds and MRWA's support for permanently lowering the posted speed limit on this section of road from 60kph to 50kph.

9.2.3 Proposed Parking Restrictions – Chatsworth Road, Cavendish Street, Harley Street and Lincoln Street, Highgate

Ward:	South	Date:	19 February 2016
Precinct:	Precinct 12 – Hyde Park	File Ref:	SC1847, SC732
Attachments:	1 – Consultation Summary 2 – Plan No 3308-PP-01 3 – Plan No 3232-PP-01A		
Tabled Items:	Nil		
Reporting Officers:	A Brown, Engineering Technical Officer C Wilson, Manager Asset and Design Services S Butler, Manager Ranger and Community Safety		
Responsible Officer	R Lotznicker, Director Technical Services		

OFFICER RECOMMENDATION:

That Council:

1. **NOTES** the comments received from the community regarding the implementation of parking restrictions in Chatsworth Road, Cavendish, Harley and Lincoln Streets, Highgate, as shown in Attachment 1;
2. **APPROVES** the introduction of 2P parking restrictions 8.00am to 8.00pm Monday to Sunday as follows (refer Plan No 3308-PP-01 in Attachment 2);
 - 2.1 Chatsworth Road – William to Beaufort Street, excluding the existing 1/4P parking at the Beaufort Street end;
 - 2.2 Cavendish Street – Chatsworth Road to Lincoln Street;
 - 2.3 Harley Street – Chatsworth Road to Lincoln Street; and
 - 2.4 Lincoln Street, – William to Beaufort Street excluding the existing 1/4P parking bays and the 5min adjacent the Highgate Primary School;
3. **CONSULTS** with residents of St Albans Avenue regarding changing the existing restriction in that street from 3P 8.00am to 5.30pm Monday to Friday to 2P 8.00am to 8.00pm Monday to Sunday to be consistent with the proposal for surrounding streets, as per clause 2, as shown on Plan No 3232-PP-01A in Attachment 3; and
4. **ADVISES** the residents of Chatsworth Road, Cavendish, Harley and Lincoln Streets, and other respondents, of its decision.

PURPOSE OF REPORT:

Considers the outcome of the public consultation regarding the proposed introduction of parking restrictions in Chatsworth Road, Cavendish, Harley and Lincoln Streets, Highgate.

BACKGROUND:

The City received a number of requests for the introduction of parking restrictions in Chatsworth Road and Cavendish Street following the introduction of 3P restrictions in the nearby St Albans Avenue in the latter part of 2015.

The St Albans Avenue restrictions were introduced as a result of complaints received from residents that the majority of the vehicles parked in the street on weekdays belonged to City workers catching the high frequency 950 Beaufort Street bus service to and from the Perth CBD. It is significantly cheaper for motorists to park in the unrestricted streets within the City of Vincent and catch public transport into the CBD than pay for all-day parking.

The City's past practice has been to incrementally implement parking restrictions one street at a time which generally results in the City commuters shifting to the nearest non-restricted street(s).

Chatsworth Road, Cavendish, Harley and Lincoln Streets (William Street to Beaufort Street) have become an unrestricted parking enclave within a largely restricted precinct. As a result Administration thought it appropriate to take a more holistic approach and assess the parking demand in all four streets.

A parking utilisation survey was duly undertaken in Chatsworth Road, Cavendish, Harley and Lincoln Streets.

DETAILS:

The majority of streets surrounding the Beaufort Street District Centre have existing restrictions other than the aforementioned streets. However the restrictions vary significantly across the immediate area. They all start 8.00am whereas the finish or conclusion time varies between 5.30pm and mid-night.

Mid-night applies to those streets, either fully or partially, subject to paid ticket parking.

Chatsworth Road:

The Administration undertook an investigation of the parking utilisation in Chatsworth Road, on three consecutive days, and at different times of the day, with the vehicle count and photos.

The image shows the parking congestion along Chatsworth Road with a maximum of 54 vehicles parking in the street at any one time, continuously occupying in excess of 90% of the available parking with minimal turnover or 'churn'.



Chatsworth Road

Cavendish Street:

Investigation of the parking utilisation in Cavendish Street over the three consecutive days, and again at different times throughout the day, was undertaken and the number of vehicles parked in the street were counted and photos taken.

The following image was taken at 09.30hrs and shows parking at near capacity from early in the day. This situation did not substantially differ throughout the day with up to 36 vehicles, >90% utilisation, being parked in the street at any one time.



Cavendish Street

Harley Street:

While the residents of Harley Street did not specifically raise the issue past experience indicates that some of the vehicles displaced from Chatsworth Road and Cavendish will move to Harley Street if it remains unrestricted. The current situation (image showing 45 vehicles equating to approximately 90% capacity) indicates that while the parking demand in this street is marginally lower than the other two streets, namely Cavendish Street and Chatsworth Road, Administration has concluded, that the introduction of parking restrictions on both sides of Harley Street, between Lincoln Street and Chatsworth Road, was also warranted if the other two proceed.

Note: Even though Harley Street is the same length as Cavendish Street it can accommodate more vehicles as there is no mid-block intersection (St Albans Avenue) and fewer crossovers.



Harley Street

Lincoln Street:

As a consequence of residents of Lincoln Street becoming aware of the City's proposed consultation in the aforementioned streets administration received a number of requests to extend the proposal to include Lincoln Street (William Street to Beaufort Street).

The parking demand in Lincoln Street varies significantly throughout the day, particularly during the school year, when it reaches saturation point during the morning drop off and afternoon pick-up peak periods. There is also evidence of commuter parking concentrated at either end of the street (William and Beaufort Streets) where there are conveniently located bus stops for both the inward and outward journeys.

During the random survey periods essentially every available unrestricted space (>90%, excluding the short term parking in front of the school) is generally taken during an average work day (capacity approximately 37 vehicles).



Lincoln Street

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
-------------------------	----	------------------------------------	-----

The residents of Chatsworth Road, Cavendish and Harley Streets were consulted regarding the introduction of a 2P parking restriction 8.00am to 5.30pm Monday to Friday. Refer comments in **Attachment 1**.

Chatsworth Road:

Consultation period	3 December 2015 – 17 December 2015
Comments Received	72 consultation packs were distributed. At the close of consultation 23 responses were received with 21 in favour , one against and one neither for nor against the proposal. Six respondents in favour suggested the restrictions should be to 8.00pm and four suggested they should be 3P in lieu of 2P.

Cavendish Street:

Consultation period	3 December 2015 – 17 December 2015
Comments Received	44 consultation packs were distributed. At the close of consultation 17 responses were received with 14 in favour , one against and two neither for nor against the proposal. Two respondents in favour suggested the restrictions should be to 8.00pm and one suggested they should be 3P in lieu of 2P.

Harley Street:

Consultation period	3 December 2015 – 17 December 2015
Comments Received	43 consultation packs were distributed. At the close of consultation 12 responses were received with nine in favour , two against and one neither for nor against the proposal. Two of the respondents in favour suggested the restrictions should be to 8.00pm and one suggested they should be 3P in lieu of 2P.

The residents of Lincoln Street were consulted regarding the introduction of a 2P parking restriction 8.00am to 6.30pm Monday to Friday.

Lincoln Street:

Consultation period	29 January 2016 – 12 February 2016
Comments Received	127 consultation packs were distributed. At the close of consultation 16 responses were received with 12 in favour , two against and one neither for nor against the proposal. A number of respondents suggested that the parking demand in the evenings was a problem, as was the activity around the two bakeries in Lincoln Street.

Administration Comments:

All of the four streets are currently unrestricted (other than the aforementioned sections in the officer recommendation) and workers, commuters, visitors to the area and residents have had (and still have) the luxury of being able to park for indefinite periods of time.

The proposal will have an effect, both negative and positive, in the area whereby resident's amenity will be protected with the CBD commuters being deterred, while workers and longer term visitors to the Beaufort strip will likely consider it an imposition.

Administration considers that a restriction to 8.00pm, Monday to Friday, as suggested by numerous respondents is more appropriate for the area. The restriction will help to combat Perth CBD commuters and those accessing businesses on Beaufort Street, including staff who park for lengthy periods, whilst allowing visitors and short term (less than two hours) use of the street. Residents will not be unduly impacted as they will be able to apply for Permits to park on the streets and exceed the restrictions. It is considered appropriate to make all streets in the area consistent to avoid pushing the parking problem elsewhere.

The subject streets are the only streets within the nib Stadium zone that currently do not have parking restrictions and this proposal will make these streets consistent with other adjoining nib zone streets, which will assist with parking enforcement in the area.

With regards to the request for 3P, standard practice has been as follows, radiating out from activity centres:

- At the district centre – 1P, numerous ¼ P and loading zones (both paid and un-paid).
- Moving further from the centre – 2P
- Angle parking and carparks – 3P (carparks first hour free).

St Albans, which currently has a 3P restriction is an anomaly that in hindsight should have been restricted to 2P (instead on 3P). It is suggested that the residents in St Albans Street be consulted regarding changing the restriction in this street from 8.00am to 8.00pm Monday to Sunday (currently 3P 8.00am to 5.30 pm Monday to Friday).

LEGAL/POLICY:

On road parking restrictions are regulated in accordance with the "City of Vincent Parking and Parking Facilities Local Law 2007".

RISK MANAGEMENT IMPLICATIONS:

Low: This proposal will improve the level of service and the amenity of the intersection.

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.

1.1.3 Take action to reduce the City's environmental impact and provide leadership on environmental matters.

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:

Description	Budget	% year	% spent
2015/2016 Budget supply and installation of parking signs and street name blades	\$63,620		
Expenditure to date	\$51,238	63%	80%
Estimated cost to install signage in Chatsworth Road	\$900		
Estimated cost to install signage in Cavendish Street	\$750		
Estimated cost to install signage in Harley Street	\$650		
Estimated cost to install signage in Harley Street	\$900		

COMMENTS:

The residents have voiced concerns that City commuters, and others, are using Chatsworth Road, Cavendish, Harley and Lincoln Streets as a convenient and free parking zone, making it difficult for residents, their visitors and patrons visiting local businesses to find parking in the street during the week.

These streets are the only streets within the nib Stadium zone that do not have parking restrictions. Making these streets consistent with other adjoining nib zone streets will also assist with parking enforcement during nib events.

CONCLUSION:

A recent parking survey of the Chatsworth Road, Cavendish, Harley and Lincoln Streets indicated that at any one time during the day the area is heavily parked out. While the consultation requested comments on a specific proposal, the officer recommendation is recommending that an alternative proposal be approved.

The alternative proposal has resulted from assessing the comments received and in an effort to provide the best amenity of the residents in the area. As such no further consultation is recommended to be undertaken regarding the proposal before Council.

9.3 CORPORATE SERVICES

9.3.1 Authorisation of Expenditure for the Period 1 January 2016 to 31 January 2016

Ward:	Both	Date:	19 February 2016
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:	R Tang, Accounts Payable Officer; G Garside, Manager Financial Services		
Responsible Officer:	J Paton, Director Corporate Services		

OFFICER RECOMMENDATION:

That Council RECEIVES the list of accounts paid under Delegated Authority for the period 1 January 2016 to 31 January 2016 as detailed in Attachment 1, 2 and 3 as summarised below:

Cheque numbers 79397 - 79456	\$89,775.37
EFT Documents 1888 - 1899	\$2,015,836.51
Payroll	\$1,011,884.28

Direct Debits

- **Lease Fees** \$192,314.25
- **Loan Repayment** \$145,729.18
- **Bank Fees and Charges** \$6,706.37
- **Credit Cards** \$7,113.10

Total Direct Debit	\$351,862.90
Total Accounts Paid	\$3,469,359.06

PURPOSE OF REPORT:

To present to Council the expenditure and list of accounts paid for the period 1 January 2016 to 31 January 2016.

BACKGROUND:

Council has delegated to the Chief Executive Officer (Delegation No. 3.1) 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)		
Automatic Cheques	79397 - 79456	\$94,194.37
Cancelled Cheques	79411	- \$4,419.00
EFT Payments	1888 - 1899	\$2,015,836.51
Sub Total		\$2,105,611.88
Transfer of Payroll by EFT		
	12/01/16	\$510,585.56
	25/01/16	\$501,298.72
	January 2016	\$1,011,884.28
Corporate Credit Cards (Attachment 3)		\$7,113.10
Bank Charges and Other Direct Debits		
Lease Fees		\$192,314.25
Loan Repayment		\$145,729.18
Bank Charges – CBA		\$6,706.37
Total Bank Charges and Other Direct Debits (Sub Total)		\$344,749.80
Less GST effect on Advance Account		0.00
Total Payments		\$3,469,359.06

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 the council.*
 - (2) *The 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 the 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 the council at the next ordinary meeting of the 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:

Expenditure has been incurred in accordance with the adopted Budget and/or authorised by Council which has been structured on financial viability and sustainability principles.

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 or has been authorised in advance by Council where applicable.

COMMENT:

Vouchers, supporting invoices and other relevant documentation are available for inspection at any time following the date of payment.

9.3.2 Financial Statements as at 31 January 2016

Ward:	Both	Date:	19 February 2016
Precinct:	All	File Ref:	SC357
Attachments:	1 – Financial Reports		
Tabled Items:	-		
Reporting Officers:	N Makwana, Accounting Officer G Garside, Manager Financial Services		
Responsible Officer:	J Paton, Director Corporate Services		

OFFICER RECOMMENDATION:

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

PURPOSE OF REPORT:

To present the Financial Statements for the period ended 31 January 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 January 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	6-35
5.	Capital Works Schedule and Funding and Graph	36-42
6.	Cash Backed Reserves	43
7.	Receivables	44
8.	Rating Information and Graph	45-46
9.	Beatty Park Leisure Centre Report – Financial Position	47
10.	Explanation of Material Variance	48-56

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

Summary of Financial Activity By Programme as at 31 January 2016

	Revised Budget \$	Year to date Budget \$	Year to Date Actual \$	Year to Date Variance \$	Year to Date Variance %
Operating Revenue	29,619,458	19,259,192	16,263,541	(2,995,651)	-16%
Operating Expenditure	(55,853,974)	(32,951,936)	(29,725,815)	3,226,121	-10%
Add Deferred Rates Adjustment	0	0	11,996	11,996	0%
Add Back Depreciation	11,058,555	6,450,682	5,887,156	(563,526)	-9%
(Profit)/Loss on Asset Disposal	(3,716,718)	(3,716,718)	(1,831,560)	1,885,159	-51%
Net Operating Excluding Rates	(18,892,679)	(10,958,780)	(9,394,682)	1,564,098	-14%
Proceeds from Disposal of Assets	4,662,151	4,662,151	2,630,273	(2,031,878)	-44%
Transfer from Reserves	2,441,967	1,531,967	532,536	(999,431)	-65%
	7,104,118	6,194,118	3,162,809	(3,031,309)	-49%
Capital Expenditure	(12,568,748)	(10,531,933)	(3,911,106)	6,620,827	-63%
Repayments Loan Capital	(760,288)	(435,228)	(435,228)	0	0%
Transfers to Reserve	(4,568,059)	(3,443,015)	(2,595,258)	847,757	-25%
	(17,897,095)	(14,410,176)	(6,941,592)	7,468,584	-52%
Net Capital	(10,792,977)	(8,216,058)	(3,778,783)	4,437,275	-54%
Total Net Operating and Capital	(29,685,656)	(19,174,838)	(13,173,465)	6,001,373	-31%
Rates	29,396,786	29,295,533	29,543,030	247,496	1%
Opening Funding Surplus/ (Deficit)	576,865	576,865	1,007,891	431,027	75%
Closing Surplus/(Deficit)	287,995	10,697,560	17,377,456	6,679,896	62%

**Totals and sub-totals may include rounding differences.*

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 16% (\$2.99m). This is due to reduced revenue in Transport - reduced fees and charges (\$384k) and Other Property and Services (\$1.86m) Tamala Park – profit from sale of land.

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

Operating Expenditure

The positive variance is currently at 10% and is primarily due to the delayed payment cycle for materials, contracts and depreciation charges being lower than budget.

Transfer from Reserves

This is in an unfavourable position as the Transfer from Reserves is aligned to the timing of commencement for Capital Works projects that are Reserve funded and some of the projects have been delayed.

Capital Expenditure

The variance is attributed to the budget phasing of projects and delayed commencement of some projects within the Capital Works Program. For further detail, refer to Note 5 on **Attachment 1**.

Transfer to Reserves

Monthly transfer to Asset Sustainability Reserve commenced in July based on budget phasing. This will be reviewed quarterly and transfers based on actuals will be adjusted after the review.

From July 2015, interest earned on Reserve Investment is transferred to Reserves and re-invested.

A sum of \$875,631 has been transferred to the Aged Person and Senior Citizens Reserve as approved at the Ordinary Meeting of Council (OMC) decision on 08 December 2015. This amount represents the nominal interest that would have been earned to 30 June 2015. In addition to this, and also in line with the OMC decision on 08 December 2015, additional interest of \$14,391 has been allocated to this reserve. This represents the interest that the \$875,631 would have earned from 01 July 2015 to 31 December 2015.

Opening Funding Surplus/(Deficit)

The surplus Opening Balance brought forward from 2014-15 is \$1,007,891, as compared to budgeted opening surplus balance of \$576,865.

Closing Surplus/(Deficit)

There is currently a surplus of \$17,377,456 compared to year to date budget surplus of \$10,697,560. This is substantially attributed to the positive variance in operating expenditure and the current level of Capital Expenditure.

Please note that the January 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 January 2016 is \$17,377,456.

4. Summary of Income and Expenditure by Service Areas (Page 6 – 35)

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

5. Capital Expenditure and Funding Summary (Note 5 Page 36 – 42)

The revised budget for Purchase of Furniture and Equipment Assets has been increased by \$12,105 for purchase of iPads for Councillors which is funded from Electronic Equipment Reserve.

The revised budget for Purchase of Plant and Equipment Assets has been increased by \$3,000 for purchase of an electric bike for the Mayor which is funded from Plant and Equipment Reserve.

The revised budget for Purchase of Building Assets has been increased by \$67,000 for Charles Veryard Reserve- clubroom upgrade which is funded from Capital Reserve.

Capital carry forward adjustments have been completed for the month of December as per OMC decision on 8 December 2015.

The following table is a Summary of the 2015/2016 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 7 of Attachment 1.

	Adopted Budget \$	Revised Budget \$	Year to date Budget \$	Year to Date Actual \$	Full Year Budget Remaining %
Furniture & Equipment	469,300	490,219	490,219	183,653	63%
Plant & Equipment	1,831,650	1,837,635	1,667,635	170,106	91%
Land & Building	2,858,272	2,921,606	2,646,606	752,304	74%
Infrastructure	7,498,125	7,319,288	5,727,473	2,805,043	62%
Total	12,657,347	12,568,748	10,531,933	3,911,106	69%

	Adopted Budget \$	Revised Budget \$	Year to date Budget \$	Year to Date Actual \$	Full Year Budget Remaining %
Capital Grant and Contribution	1,791,189	1,939,841	1,011,429	485,589	75%
Cash Backed Reserves	2,391,223	2,441,967	500,000	532,536	78%
Other (Disposal/Trade In)	135,000	135,000	42,000	69,269	49%
Own Source Funding – Municipal	8,339,935	8,051,940	8,978,504	2,823,711	65%
Total	12,657,347	12,568,748	10,531,933	3,911,106	69%

Note: Detailed analysis are included on page 36 – 42 of **Attachment 1**.

6. Cash Backed Reserves (Note 6 Page 43)

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 January 2016 is \$9,734,527. The balance as at 31 December 2015 was \$9,525,474.

7. Receivables (Note 7 Page 44)

Receivables of \$3,126,660 are outstanding at the end of January 2016, of which \$2,820,621 has been outstanding over 90 days. These comprise:

\$479,779 (15.3%) relates to Cash in Lieu Parking. The Cash in Lieu Parking debtors have special payment arrangements for more than one year.

\$182,484 (5.8%) relates to Other Receivables.

\$2,240,437 (71.7%) relates to unpaid infringements (plus costs). Infringements that remain unpaid for more than two months are sent to Fines Enforcement Registry (FER). FER collect the outstanding balance and return the funds to the City for a fee.

Finance 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.

8. Rating Information (Note 8 Page 45 – 46)

The notices for rates and charges levied for 2015/16 were issued on 27 July 2015.

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

First Instalment	31 August 2015
Second Instalment	2 November 2015
Third Instalment	5 January 2016
Fourth Instalment	8 March 2016

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)	\$12.00 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.

Rates debtors as at 31 January 2016 is \$4,133,496 (this includes deferred rates of \$151,304). This represents 13.73% of the collectable income compared to 13.34% at the same time last year. It should be noted that the final instalment is due on 8 March 2016 which forms part of Rates debtor as at 31 January 2016.

9. Beatty Park Leisure Centre – Financial Position Report (Note 9 Page 47)

As at 31 January 2016 the operating deficit for the Centre was \$44,382 in comparison to the year to date budgeted surplus of \$143,832.

The cash position showed a current cash surplus of \$374,738 in comparison to year to date budget estimate of a cash surplus of \$588,024.

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

10. Explanation of Material Variances (Note 10 Page 48 - 56)

The materiality threshold used for reporting variances is 10% on variances more than \$10,000. This threshold was adopted by Council as part of the Budget adoption for 2015-16 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:

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 revised budget. However, it should be noted that some of the capital expenditure has gone over budget due to reduction in budget after the carry forward adjustment. This expenditure was incurred prior to the carry forward adjustment and will be addressed as part of the mid-year budget review.

9.3.3 Expression of Interest – Lee Hops Cottage No. 176 (Lot 1) Fitzgerald Street, North Perth

Ward:	South	Date:	19 February 2016
Precinct:	Hyde Park (12)	File Ref:	SC351/SC632
Attachments:	1 – Submission from Jigsaw Search & Contact Inc 2 – Constitution 3 – Site Plan Lee Hops Cottage & Surrounds		
Tabled Items:	Nil		
Reporting Officer:	M Bancroft, Property Leasing Officer		
Responsible Officer:	J Paton, Director Corporate Services		

OFFICER RECOMMENDATION:

That Council:

1. **CONSIDERS** the submissions received for the Expressions of Interest to lease Lee Hops Cottage;
2. **ACCEPTS** the submission from Jigsaw Search & Contact Inc to lease Lee Hops Cottage;
3. **APPROVES** a three year lease of the premises located at 176 Fitzgerald Street, North Perth, being granted to Jigsaw Search & Contact Inc, as follows:
 - 3.1 **Term:** three years plus three year option;
 - 3.2 **Rent:** \$11,520 per annum incl GST indexed to CPI;
 - 3.3 **Outgoings:** to be paid by the Lessee;
 - 3.4 **Rates & Taxes:** to be paid by the Lessee;
 - 3.5 **Maintenance:** Lessee to keep premises and garden clean and in good repair, Lessor responsible for fair wear and tear and major structural maintenance;
 - 3.6 **Permitted Use:** Search and Contact Centre; and
4. **Subject to final satisfactory negotiations being carried out by the Director Corporate Services, AUTHORISES** the Mayor and Director Corporate Services to affix the common seal and execute the lease.

PURPOSE OF REPORT:

To consider the submission received for the expression of interest for the leasing of vacant Lee Hops Cottage, at 176 Fitzgerald Street, North Perth.

BACKGROUND:

Lee Hops cottage is located within Robertson Park. The Town of Vincent brochure “A Brief History of the Suburb of Perth, Town of Vincent Local Studies 2005” includes the following reference to Lee Hops Cottage.

“Lee Hops Cottage was built on the corner of Robertson Park [Lake Henderson] in 1903 by Dr Daniel Kenny who had purchased the property in the 1890s. Lee Hop occupied the cottage from 1903 to 1914. Altogether around six Chinese men worked the 18 acres of market garden. Lake Henderson was filled in during the early 1920s and by 1928 the market gardening had ceased. Later residents of the cottage included the park’s first caretaker, James Imray. Owned by the Town of Vincent since 1995, conservation works were completed in 2003 by Central TAFE students from the Aboriginal Programs Centre.” (the above reference to “owned” relates to the transfer from City of Perth to Town of Vincent.)

In respect to the broader Robertson Park property, the City's Heritage website included the following reference, "*Robertson Park is a product of the 'City Beautiful' movement. Occupying the site of the former Lake Henderson, within the streetblock bounded by Fitzgerald, Randell, Palmerston and Stuart Streets, it is an open grassed parkland with perimeter chain link fencing, that comprises grass tennis courts, along its northern side; tennis club room facilities, centrally located, the former bottleyard site in the south-east corner, and Lee Hops cottage and Halvorsen Hall in the south west quadrant of the park.*

The facilities are set within parkland elements, although the park has not had a formal design coherence and co-ordination until the recent management plan. Archaeological investigations in the vicinity of Lee Hops Cottage have demonstrated the nature of the market gardening activity that was undertaken on the foreshores of Lake Henderson and the nature of the layers of filling that produced the park formation."

Following the conservation works in 2003, Lee Hops Cottage has been leased out to various community groups. Life Without Barriers leased the property for the two year period from 1 June 2013 to 31 May 2015. Lee Hops Cottage has remained vacant since May 2015. The City received submissions for the lease of Lee Hops Cottage in June 2015 from the Department for Child Protection and Family Support and Jigsaw Search & Contact Inc and Council considered these submissions at its Ordinary Meeting held on 2 June 2015.

At the Ordinary Meeting of Council held 2 June 2015 (Item 5.3.5) Council resolved:

"That Council:

1. *NOTES the submissions received from Department for Child Protection and Family Support and Jigsaw Search and Contact WA Inc. to lease the property located at 176 Fitzgerald Street; and*
2. *DEFERS CONSIDERATION OF THE PROPOSAL FOR a five year lease from 1 July 2015 to 30 June 2020 for the premises located at 176 Fitzgerald Street, Perth, being granted to Department for Child Protection and Family Support, as per Attachment 1:*
3. *RECEIVES a further report on Council's options for this property from administration including disposal of the property."*

At the Ordinary Meeting of Council held 30 June 2015 Council considered a further report (Item 9.3.5) and resolved as follows:

"That Council REQUIRES the Chief Executive Officer to invite expressions of interest via local public notice for the leasing of Lee Hops Cottage."

DETAILS:

Property Details:

Address:	176 (Lot 1) Fitzgerald Street, Perth
Certificate of Title:	Plan 835, Volume 2782 Folio 188. (Robertson Park) <i>(Former: 1077/518)</i>
Status:	Freehold
Zoning/Land Use:	Local Scheme Reserve – Parks and Recreation. The approved use is office.
Heritage:	City's Municipal Heritage Inventory as Management Category A – Conservation Essential; and State Heritage Register.

Lee Hops Cottage is a small brick and tile building, approximately 72m² excluding verandahs and consists of four rooms, accessed from an entry hall, with a toilet built onto the rear verandah as part of the 2003 renovations. The cottage is simply decorated, with original features, including wooden floorboards throughout and fireplaces. The building is well maintained and is equipped with ducted reverse cycle air conditioning.

A small area of yard at the rear of the cottage is fenced off from the park and is proposed to be included as part of the 390m² leased premise.

Expression of Interest process

An Expression of Interest (EOI) was advertised in the Perth Voice on Saturday 30 January 2016 and closed at 4.00pm on Monday 15 February 2016.

The following Officers attended the opening of the Expressions of Interest:

- Property Leasing Officer; and
- Purchasing Officer.

Selection Criteria

Respondents were requested to address the following selection criteria.

<p>A. Proposed purpose for leasing Property</p> <p>Respondents must describe in detail the purpose for which they propose to lease the Property. Label the attachment addressing this selection criteria “Purpose”:</p>
<p>a) Provide details of why the Property is suitable for the proposed purpose.</p>
<p>B. Proposed business plan and relevant experience and skills</p> <p>Respondents must describe their business plan in detail and provide evidence of their experience and skills relevant to the proposed business. Label the attachment addressing this selection criteria “Proposed Business Plan and Skills and Experience”:</p>
<p>a) Business Plan. b) Evidence of skills and experience relevant to operating the proposed business. c) Membership to any professional or business associations. d) Qualifications relevant to the proposed business.</p>
<p>C. Lease details</p> <p>Respondents should outline the key terms they would like to be included in the lease for the Property. Label the attachment addressing this selection criteria “Lease details”:</p>
<p>a) Annual rent. b) Contribution to outgoings and maintenance of Property. c) Term of lease. d) Required fit-out of Property. e) Impact on heritage listing of Property.</p>

Indicative Timeline

The following Implementation Timetable was included in the EOI:

Invitation to submit EOI	30 January 2016
Closing date for Submissions	15 February 2016
Assessment of Submissions and shortlisting	19 February 2016
Report to Council to consider Submissions	16 March 2016
<i>Local Public Notice – request for public comment</i>	<i>14 April 2016</i>
<i>Closing date for public comment period</i>	<i>28 April 2016</i>
<i>Council/CEO to consider awarding Lease</i>	<i>31 May 2016</i>
Lease Commencement	To be negotiated

Note: The local public notice component was included in the event the preferred respondent was not exempt from the requirement of section 3.58 of the *Local Government Act*.

EOI Submissions Received

At the close of the EOI submission period on 15 February 2016 one submission from Jigsaw Search & Contact Inc (Jigsaw) was received.

Evaluation

The evaluation of the EOI was carried out by a panel comprising:

- Property Leasing Officer; and
- Director Corporate Services

The submission received from Jigsaw is attached in **Attachment 1**. Administration has considered the submission's satisfaction of the selection criteria and the findings are summarised below.

Jigsaw's Background

Jigsaw is a not for profit agency, founded in 1978 by adopted adults, birth parents and adoptive parents for the purpose of lobbying for legislative change and more openness in adoption. Jigsaw is financed by government grants, fees charged and donations and is managed by a volunteer committee of people directly involved in adoption. They employ a professionally qualified coordinator/counsellor to provide most client services. All of the staff have long term experience in adoption issues, some are personally involved.

Jigsaw's initial priorities were lobbying for legislative changes relating to adoption laws. In 1987 adopted people were given the right to access records relating to their birth parents and in 1994 parents were given the reciprocal right to access records. Jigsaw receives partial funding from the Department for Child Protection and Family Support which has enabled Jigsaw to expand and professionalise its services. Jigsaw specialises in providing information, counselling, search facilities, mediation, newsletters, library access and Facebook connection.

Proposed Purpose for leasing Lee Hops Cottage

Due to its current premises at the McCall Centre in Cottesloe being sold, Jigsaw needs to relocate. Jigsaw relies on government grants, fees charged and donations and therefore cannot afford a commercial rent.

Jigsaw operates and has members throughout the metropolitan area and state wide and therefore its location is not related to its membership. Jigsaw has indicated that the central location of Lee Hops Cottage and close proximity to public transport would be advantageous. Furthermore, the character and 'warmth' of Lee Hops Cottage, privacy and access to a backyard and park would be suitable for the nature of Jigsaw's work.

Jigsaw has two staff, one full time and one part time plus a number of volunteers who help with administration. Jigsaw has indicated that the staff would be in the property five days per week during business hours. Jigsaw will apply for two parking permits for the staff members.

Jigsaw has indicated it would like to contribute to the property over the lease term by erecting a "sail shade" system to make the rear yard more user friendly and installing a security screen door (subject to State Heritage approval).

Proposed Business Plan and relevant experience and skills

Jigsaw proposes to use Lee Hops Cottage to provide information, counselling, search and intermediary services to people separated by adoption. A Board of Management comprising of people personally involved in adoption and family separation govern the management of Jigsaw. Jigsaw operates pursuant to its Constitution, a copy of which is attached as **Attachment 2**, is open business hours Monday to Friday, is not-for-profit and has a "preferred provider" status with the Department for Child Protection and Family Support.

Jigsaw has been operating since 1978 and has an excellent record in providing client services. It is also a well-respected and stable organisation. Jigsaw operated for 25 years at the Brenda Cherry Centre in Subiaco, which is now closed, and subsequently in Cottesloe from the McCall Centre.

Jigsaw did not pay rent at either of these premises, however, its financial statements for the previous two years indicate that it is within Jigsaw's budget to pay a rent fee of \$11,520 (incl GST) per year (indexed to CPI). Jigsaw will also pay for all outgoing and maintain the property in good repair.

Lease details

Annual rent:	\$11,520 pa (inc GST) indexed to CPI
Payment of outgoing:	Lessee to pay all service and utility charges, taxes* and ESL
Maintenance:	Lessee responsible for cleaning, gardening and keeping the premises in good repair, Lessor responsible for major structural maintenance and fair wear & tear
Term of lease:	Three years with a three year option to renew
Fit out of property:	Office – 3 computers, server, photocopier, compactus, bookshelves, filing cabinets and industrial safe
Impact on heritage status:	No impact except installing security screen door (subject to approval by State Heritage)
Parking Permits:	To apply to the Ranger & Community Safety Services Section

*Jigsaw has indicated it will apply for a rates exemption pursuant to section 6.26(g) of the *Local Government Act 1995* as it will exclusively use Lee Hops Cottage for charitable purposes.

CONSULTATION/ADVERTISING:

The Expression of Interest was advertised in The Perth Voice on Saturday 30 January 2016 and closed on 15 February 2016.

Administration conducted an inspection of Lee Hops Cottage on Thursday 11 February 2016 with representatives of Jigsaw and another interested party (that did not submit an EOI).

As the lease meets the requirements of an exempt disposition, in accordance with Section 3.58(5) of the *Local Government Act 1995*, there is no requirement for the City to advertise an intention to enter into a lease with Jigsaw.

LEGAL/POLICY:

In accordance with Section 3.58(5)(d), 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; or*
- *The Crown in right of the State or the Commonwealth; or a department, agency, or instrumentality of the Crown in right of the State or the Commonwealth; or*
- *Another local government.*

City of Vincent Policy 1.2.1 – Terms of Leases:

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: Leaving the property vacant poses a high risk to the City due to the increased potential for vandalism and anti-social behaviour to occur.

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:

Jigsaw has proposed an annual lease payment of \$11,520 including GST (indexed to CPI). This is considered a reasonable lease fee given the nature of the building and its proposed use by Jigsaw.

Lee Hops Cottage has been vacant since 31 May 2015 and therefore has not generated any income for the City. Jigsaw is ready to move into Lee Hops Cottage and therefore it is in the City's financial interest to consider granting a lease to Jigsaw.

COMMENTS:

During the EOI process Administration were advised by the Department for Child Protection and Family Support that it would not be submitting an EOI as it no longer required the premises.

Administration advertised the availability of Lee Hops Cottage through the EOI which was advertised in the Perth Voice, on the City's website and on-site signage. Whilst an EOI could be advertised more widely in the Western Australian Newspaper, that would involve more cost and delay, leaving the premises empty.

Administration is of the opinion that the submission received from Jigsaw to operate a search and contact centre would be the most beneficial option to the City.

Further, it is proposed to achieve security of tenancy by offering a three year lease with an option term of a further three years.

9.3.4 Mid-Year Review of the Annual Budget 2015/2016

Ward:	Both	Date:	29 February 2016
Precinct:	All	File Ref:	SC245
Attachments:	1 – Mid-Year Budget Review – Statement of Comprehensive Income by Nature and Type 2 – Mid-Year Budget Review – Rate Setting Statement 3 – Supporting Schedule: Nature and Type Amendments 4 – Supporting Schedule: Operating Projects & Programs Amendments 5 – Supporting Schedule: Capital Expenditure Amendments 6 – Supporting Schedule: Reserve Schedule		
Tabled Items:	Nil		
Reporting Officers:	N Makwana, Accounting Officer B Wong, Accountant G Garside, Manager Financial Services		
Responsible Officer:	J Paton, Director Corporate Services		

OFFICER RECOMMENDATION:

That Council:

1. **APPROVES BY AN ABSOLUTE MAJORITY the Mid-Year Budget Review of the Annual Budget for the 2015/16 financial year as detailed in the report and Attachments 1 – 6, in accordance with Regulation 33A of the *Local Government (Financial Management) Regulations 1996*, inclusive of:**
 - a new Capital project for the 'Fitout and Relocation Expenses – Admin Building' \$85,800; and
2. **NOTES the Revised Budget provides for a Closing Balance of \$768,299, an improvement of \$515,571, which is achieved subsequent to the reimbursement of \$875,631 plus interest to the Aged Persons and Senior Citizens Reserve.**

PURPOSE OF REPORT:

To consider the Mid-Year Review of the Annual Budget for 2015/2016.

BACKGROUND:

The *Local Government Act 1995* and Regulation 33A of the *Local Government (Financial Management) Regulations 1996* requires that a Local Government undertake a review of its annual budget for that year between 1 January and 31 March.

The budget review must then be submitted to the Department of Local Government and Communities (DLGC) within 30 days after Council has made its determination. The DLGC does not prescribe a format for the budget review, however the Regulations prescribe that the review must –

- (a) consider the local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and
- (b) consider the local government's financial position as at the date of the review; and
- (c) review the outcomes for the end of that financial year that are forecast in the budget.

Council is to consider the review and is to determine whether or not to adopt the review, any parts of the review or any recommendations made in the review.

DETAILS:

A detailed review has been undertaken based on the actual year to date income and expenditure to 31 December 2015, with projections made to forecast the likely end of financial year result compared to Budget.

Based on the input from across the organisation, various adjustments have been proposed. The Proposed Revised Budget 2015/16, which are inclusive of previously endorsed amendments by Council and the Mid-Year Review are detailed in the following attachments:

- Statement of Comprehensive Income by Nature and Type (**Attachment 1**); and
- Rate Setting Statement (**Attachment 2**).

For comparison purposes, in addition to the 'Proposed Revised Budget 2015/16' the above statements include the following data:

- Previous Year Actuals 2014/15: the actual income and expenditure for the previous financial year;
- Adopted Full Year Budget 2015/16: the original 2015/16 budget adopted by Council in July 2015;
- Current Full Year Budget 2015/16: the original budget, plus (and minus) amendments separately approved by Council up to 31 December 2015;
- YTD Actuals at Dec 2015: actual income and expenditure recorded for the period 1 July 2015 to 31 December 2015; and
- Revised Budget Change 2015/16: the net difference between the Current Full Year Budget 2015/16 and the Proposed Revised Budget 2015/16.

The forecast Net Result from Operations, as detailed in **Attachment 1** is a deficit of - \$1.306 million, which is an improvement of \$1.189 million over the Adopted Budget. Similarly, the Net Result is being forecast as \$3.943 million, an improvement of \$0.816 million over the Adopted Budget.

The major factor in the improvement in the net operating result (revenue less expenditure) of \$1.189 million is a projected reduction in Depreciation Expense of \$0.955 million. As this is a 'non-cash item', the cash improvement, which represents a reduction in Municipal cash required to fund operations is \$0.233 million. Details of operating budgets proposed to be revised are listed on **Attachment 3 – Supporting schedule: Nature and Type Amendments**.

As a result of the review of the Capital Works Program, the Proposed Revised Capital Budget is projected to be \$11.682 million, which represents a reduction of \$0.887 million. The major influence in this reduction is the identification of projects that are unlikely to commence this financial year, with the funding therefore identified as being carried forward to the following financial year. This also impacts on Capital Grants, which have also been revised. Full details of capital projects where the budget is being reviewed are listed on **Attachment 5 – Supporting Schedule: Capital Expenditure Amendments**.

Budgeted transfers to Reserves are forecast to increase by \$0.605 million, which includes the \$0.876 million (plus interest) reimbursement of the Aged Persons and Senior Citizens Reserve, offset by a reduction to the Beatty Park Reserve to align with the projected surplus from the Beatty Park operations.

Surplus

As shown in the Rate Setting Statement (**Attachment 2**), the overall impact of all proposed Budget amendments on Municipal funds is an increase of the projected surplus as at 30 June 2016 of \$0.516 million to \$0.768 million. This represents the amount that is expected to be carried forward at the end of the current financial year into the next year as an opening balance.

As detailed later in this report, approximately \$0.468 million of this closing balance represents the capital funding for projects that are listed on the Capital Budget for 2015/16 but are deferred until the next financial year and should therefore be carried forward into 2016/17.

The main reasons for the increases in the surplus at the end of the year are:

- Opening balance up by \$0.431 million – an increase in the opening balance at 1 July 2015 from the estimate in the Adopted Budget of \$0.577 million to \$1.008 million. This was reported to Council as part of the adoption of the Annual Financial Report 2014/15 on 8 December 2015.
- Capital Expenditure down \$0.453 million – a net reduction in the cost of capital works funded by Municipal funds attributable mainly to the deferral of works into the 2016/17 financial year. Further explanation of the reduction is provided in the Capital section of this report and **Attachment 5**.
- Transfers to Reserves up \$0.605 million
- Operating result improvement of \$0.233 million – the improvement in net operating result after adjusting for depreciation (non-cash item).

Through the financial year, the forecast Closing Balance for 2015/16 has reflected the following progressive improvement:

Adopted Budget	\$0.0m
Post carry forward adjustments (OMC 8/12/2015)	\$0.253m
Mid-Year Review	\$0.768m

CONSULTATION/ADVERTISING:

The Chief Executive Officer, Directors and Managers, as well as other Officers where required, have been consulted and involved in the detailed review.

LEGAL/POLICY:

The *Local Government Act 1995* requires that a budget review be undertaken each financial year, in the period between January and March of a financial year.

Regulation 33A of the *Local Government (Financial Management) Regulations 1996* requires:

- (1) *Between 1 January and 31 March in each financial year a local government is to carry out a review of its annual budget for that year.*
 - (2A) *The review of an annual budget for a financial year must –*
 - (a) *consider the local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and*
 - (b) *consider the local government's financial position as at the date of the review; and*
 - (c) *review the outcomes for the end of that financial year that are forecast in the budget.*

- (2) *Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.*
- (3) *A council is to consider a review submitted to it and is to determine* whether or not to adopt the review, any parts of the review or any recommendations made in the review.*
- *Absolute majority required.*
- (4) *Within 30 days after a council has made a determination, a copy of the review and determination is to be provided to the Department.*

RISK MANAGEMENT:

High: Failure to undertake a Budget review in the period between January and March in any financial year would be a breach of the *Local Government Act (1995)*.

STRATEGIC IMPLICATIONS:

Plan for the Future Strategic Plan 2013-2023 - Key Result Area 4 – Leadership, Governance and Management:

“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) Adopt “best practice” to manage the financial resources and assets of the City.”

FINANCIAL/BUDGET IMPLICATIONS:

The overall result of the Mid-Year Budget Review is a Proposed Revised Budget for 2015/16 reflecting a moderate improvement, with the forecast surplus Closing Balance increasing from \$0.252 million to \$0.768 million. Of that, \$0.468m relates to the funding for deferred projects.

COMMENTS:

The Mid-Year Review of the Annual Budget was undertaken during January and February 2016 and based on data as at 31 December 2015. Overall, the performance has tracked relatively well to the Budget and is reflecting a moderate improvement.

Commentary on the Proposed Revised Budget 2015/16 arising from the Mid-Year Budget Review is summarised below. A detailed schedule of Operating Budget Amendments is included as **Attachment 3 – Supporting Schedule: Nature and Type Amendments**, which lists all amendments that propose a change to the budget greater than +/- 10% on items more than \$10,000 (consistent with Council’s adopted monthly reporting variance).

Operating Revenue

As detailed below, which is extracted from the Statement of Comprehensive Income by Nature and Type (**Attachment 1**), operating revenue is expected to reduce by \$0.144 million to \$53.212 million, which represents a 0.3% reduction.

	Actual 2014/15	Current Full Year Budget	Actual at 31 Dec 15	Proposed Revised Budget	Change
Rates	\$ 27,478,028	\$ 29,396,786	\$ 29,533,919	\$ 29,596,786	\$ 200,000
Operating Grants, Subsidies & Contributions	\$ 2,138,565	\$ 987,530	\$ 636,475	\$ 1,029,740	\$ 42,210
Fees & Charges	\$ 19,654,668	\$ 20,984,415	\$ 10,111,501	\$ 20,271,607	\$ (712,808)
Interest Earnings	\$ 907,919	\$ 785,980	\$ 642,508	\$ 920,645	\$ 134,665
Other revenue	\$ 1,418,990	\$ 1,201,655	\$ 786,257	\$ 1,393,944	\$ 192,289
	\$ 51,598,170	\$ 53,356,366	\$ 41,710,660	\$ 53,212,722	\$ (143,644)

Rates

The full year forecast has increased Rates income by \$0.200 million (0.7%) to \$29.597 million. This is due to growth in the rate base during the year, resulting in increased interim rates being levied.

Operating Grants, Subsidies and Contributions

Minor increase due to additional grants and contributions to be received.

Fees and Charges

The full year forecast has been revised down by \$0.713 million (3.4%), with the major areas contributing to the reduction being Parking (\$0.335m), Development Applications (\$0.200m) and Beatty Park (\$0.219m). It is noted with Beatty Park, that the revised forecast remains 7% higher than the previous financial year.

Interest Earnings

This revenue is being revised up by \$0.135 million to \$0.921 million, due to more competitive interest rates being offered for investments, together with the portfolio balance.

Other Revenue

Other revenue is being revised up by \$0.192 million to \$1.394 million, with major areas contributing to the increased performance being; an improvement in recovery of lease variable outgoings (\$0.130m) and Centrelink payments for Parental Leave (offset by increased employee costs for those staff on parental leave).

Operating Expenditure

Operating expenditure is expected to reduce by \$1.332 million to \$54.518 million. This represents a 2.4% reduction.

	Actual 2014/15	Current Full Year Budget	Actual at 31 Dec 15	Proposed Revised Budget	Change
Employee Costs	\$ (23,287,895)	\$ (24,790,490)	\$ (11,890,010)	\$ (24,584,527)	\$ 205,963
Materials & Contracts	\$ (14,237,564)	\$ (15,773,385)	\$ (7,356,818)	\$ (15,883,111)	\$ (109,726)
Utilities Charges	\$ (1,913,034)	\$ (1,946,150)	\$ (889,099)	\$ (2,012,555)	\$ (66,405)
Interest Expenses	\$ (1,163,983)	\$ (1,096,280)	\$ (495,341)	\$ (1,096,280)	\$ -
Insurance Expenses	\$ (1,137,988)	\$ (1,009,145)	\$ (459,790)	\$ (921,380)	\$ 87,765
Depreciation	\$ (11,214,551)	\$ (11,058,555)	\$ (3,595,070)	\$ (10,103,230)	\$ 955,325
Other Expenses	\$ (173,107)	\$ (176,650)	\$ 252,276	\$ 82,810	\$ 259,460
	\$ (53,128,122)	\$ (55,850,655)	\$ (24,433,852)	\$ (54,518,273)	\$ 1,332,382

Employee Costs

A forecast reduction of \$0.206 million (0.8%), due mainly to various vacancies throughout the organisation and a reduction in Beatty Park personnel to meet the reduced demand. However, this has been partially offset by additional costs for parental leave and termination payments.

Materials and Contracts

Overall, this expenditure area is being forecast to increase by \$0.110 million to \$15.883 Million (0.7%).

Utilities Charges

An increase of \$0.066 million to \$2.013 is forecast (3.4%), which is split between gas and electricity. The majority of this relates to the operation of Beatty Park.

Insurance Expenses

A reduction of \$0.088 million to \$0.921 million (8.7%) reflecting lower premiums and improvements to policy coverage.

Depreciation

A reduction of \$0.955 million to \$10.103 million (8.6%), which is a direct outcome from the revaluation of infrastructure assets at the end of the last financial year.

Other Expenses

This expense category which includes a range of expenditure types, including recoveries is being forecast to be reduced by \$0.259 million.

Operating Summary

	Actual 2014/15	Current Full Year Budget	Actual at 31 Dec 15	Proposed Revised Budget	Change
Operating Revenue	\$ 51,598,170	\$ 53,356,366	\$ 41,710,660	\$ 53,212,722	\$ (143,644)
Operating Expenditure	\$ (53,128,122)	\$ (55,850,655)	\$ (24,433,852)	\$ (54,518,273)	\$ 1,332,382
Net Operating Result	\$ (1,529,952)	\$ (2,494,289)	\$ 17,276,808	\$ (1,305,551)	\$ 1,188,738

The change (improvement) in the net operating result (revenue less expenditure) is a reduction of net expenditure of \$1.189 million. As previously noted, the largest factor in this change is the reduction in Depreciation of \$0.955 million, so the actual cash improvement is a moderate \$0.233 million.

Proposed amendments to those budget items that were included in one of the Supporting Schedules in section 6 of the Adopted Budget have been recorded in **Attachment 4 – Supporting Schedule: Operating Projects and Programs – Listing of Amendments** for further information.

Capital

An important part of the Mid-Year Budget Review is an update of the status of all projects on the 2015/16 Capital Works Program. This review has identified a requirement for a number of adjustments to the project budgets, as detailed in **Attachment 5 - Supporting Schedule: Capital Project Amendments**.

	Actual 2014/15	Current Full Year Budget	Actual at 31 Dec 15	Proposed Revised Budget	Change
Purchase of Land and Buildings	\$ 2,858,272	\$ 2,921,606	\$ 733,497	\$ 2,198,201	\$ (723,405)
Purchase Infrastructure assets	\$ 7,498,125	\$ 7,319,288	\$ 2,629,523	\$ 7,109,538	\$ (209,750)
Purchase Plant and Equipment	\$ 1,831,650	\$ 1,837,635	\$ 145,596	\$ 1,872,979	\$ 35,344
Purchase Furniture and Equipment	\$ 469,300	\$ 490,219	\$ 82,601	\$ 501,219	\$ 11,000
	\$ 12,657,347	\$ 12,568,748	\$ 3,591,217	\$ 11,681,937	\$ (886,811)

The Proposed Revised Budget for the Capital Works Program, as summarised above is projected to be \$11.682 million, which represents a reduction of \$0.887 million. In reviewing projects, particularly where an increase is required, Administration has endeavoured to identify opportunities where the funds to be allocated from savings, generally within the same area of responsibility. These 'recommendations' are listed in the comments section of **Attachment 5 – Supporting Schedule: Capital Expenditure Amendments**.

The overall Capital Budget reduction (\$0.887m) reflects:

- a net decrease of \$0.147 million due to a combination of project savings and review of project requirements, partially offset by some permanent increases; and
- \$0.739 million due to timing variances (deferral) – projects which are not expected to be commenced by 30 June 2016 and will carry forward into the 2016/17 financial year.

In respect to deferred projects, this relates to the following 'Buildings' projects:

Litis Stadium (\$0.090m)

The original budget provided for \$0.150m for remediation of the grandstand, however Council approved the reduction of the budget by \$0.060m to facilitate the refurbishment of a changeroom. Plans for the refurbishment of the grandstand are on hold.

Cheriton Street Redevelopment (\$0.650m)

The work on this property has a project budget of \$0.650 million, of which \$0.271 million would be funded from a Lotterywest grant. This project is unlikely to commence in the current financial year. As the grant can only be claimed after the work is completed and paid for, this grant (and the capital project) will be carried forward into 2016/17. A separate report is proposed to be presented to Council to provide a status update.

It is also noted, that the 2015/16 Budget included a project for the 'Depot Fitout and relocation expenses'. The works associated with this project were greater than originally anticipated, that has required an increase in funding, which has been included in the amendments.

In addition to this, it has also been recognised that works are required at the Civic Centre to enable a subsequent realignment of work areas, associated with internal restructuring, relocation of staff and additional positions being brought on in 2015/16.

To enable this to occur, the review has identified the requirement for an additional project as detailed below:

Fitout and relocation expenses – Admin Building \$85,800

Funding Amendments

The funding impact of the proposed amendments to project Budgets as detailed below identifies a net reduction in Municipal funding of \$0.453 million.

Reason for Change	Municipal	Reserve	Grant	Total
Project Budget	58,921	0	(101,273)	42,352
	(44,000)	(61,200)	0	(105,200)
Timing	(467,812)	0	(271,447)	(739,259)
Total	(452,891)	(61,200)	(372,720)	(886,811)

Grant revenue is expected to reduce by \$0.373 million from the current budget due primarily to the changed status of the following capital projects:

- **Cheriton Street property redevelopment**
The deferral of this project means the \$0.271 million Lotterywest funding would also be deferred.
- **Roadworks – Beaufort Street (Brisbane to Parry)**
The original Beaufort St Improvement Project was listed at \$0.153 million, to be 2/3 MRWA funded (\$0.102 million). Subsequent to the budget adoption, the Public Transport Authority agreed to undertake elements of the project so as to incorporate Peak Period Bus lanes. The MRWA funding has subsequently been withdrawn, and the City will use the remaining Municipal funds on the Beaufort/Brisbane Street intersection.

Transfers to and from Reserves

As a result of the overall proposed amendments to the budget, the transfers to and from Reserves have been adjusted. Full details are included in **Attachment 6 – Supporting Schedule: Reserves Schedule**, however in summary, relate to the following movements between Reserves and Municipal.

- **Transfer from Reserves down \$0.061m** – transfers from reserves (to Municipal) to fund capital projects is reduced due to savings on those projects.
- **Transfer to Reserves up \$0.605m** – this is contributed by:
 - the original budget included a transfer to the Beatty Park Leisure Centre reserve (i.e.: Municipal expenditure) of \$0.473m. This has been reduced to \$0.147m to match the expected operating surplus from Beatty Park; and
 - the approved reimbursement of the Aged Persons and Senior Citizens reserve of \$0.876 plus interest.

In undertaking the Mid-Year Budget Review, reference is also made to previous requests from Council. In that respect, the following is noted:

- Council Chambers - Video Streaming

An estimate has been received for the provision of equipment to implement live video and audio streaming of Council meetings. The setup and installation is estimated to be in the order of \$9,000 plus a monthly charge of approximately \$500 for the 'live stream' hosting service. Costing is based on off-site storage by a live stream vendor.

It is recognised however, that the Chamber equipment is in need of upgrading to provide more effective management of meetings. A Budget item is proposed to be listed as part of the 2016/17 budget development for consideration to undertake this project. There may well be advantages in undertaking the live streaming project at the same time to achieve efficiencies and integration.

9.3.5 Leederville Gardens Retirement Village Estate

Ward:	North	Date:	25 February 2016
Precinct:	Leederville - 3	File Ref:	SC313/SC308
Attachments:	1 – Leederville Gardens Inc. Constitution 2 – Report 9.3.2 OMC 8 December 2015 3 – Aged Persons and Senior Citizens Reserve		
Tabled Items:	Nil		
Reporting Officer:	J Paton, Director Corporate Services		
Responsible Officer:	J Paton, Director Corporate Services		

OFFICER RECOMMENDATION:

That Council:

1. **NOTES** that in the past the City’s Administration erred in some of its advice to Council and the Leederville Gardens Inc. (Association) Board in respect to the surplus funds of the Association and that legal advice has now confirmed that under the terms of the Trust established under the Leederville Gardens Inc. Constitution, the surplus funds transferred by the Association to the City:
 - 1.1 must be held in the City’s Trust account, despite clause 39(3) of the Constitution specifying it is to be held in a particular Reserve account;
 - 1.2 must be distributed by the City to other public benevolent institution in accordance with the terms of the Trust of the Constitution valid at the time of the transfer, as defined in clauses 39(3) and (4) of the Constitution (and its earlier equivalent); and
 - 1.3 in accordance with clause 39 (or its earlier equivalent) of the Constitution, neither the City nor the Association are eligible to be the recipients of any surplus funds held in Trust by the City;
2. **NOTES** the balance of the City’s Aged Persons and Senior Citizens Reserve (the Seniors Reserve) at 31 December 2015 was \$4,167,058;
3. **APPROVES BY ABSOLUTE MAJORITY** the transfer of the balance of the Seniors Reserve, including accumulated interest to the City’s Trust Account, in accordance with the terms of the Trust established in the Leederville Gardens Inc. Constitution;
4. **APPROVES BY ABSOLUTE MAJORITY**, in accordance with section 6.8(1)(b) of the Local Government Act 1995 the reimbursement and transfer to Trust of \$62,648 plus interest, transferred from the Seniors Reserve in 1998/99 and 1999/00 as a contribution towards the cost of constructing the Adult Day Care Centre at Royal Park;
5. **INVITES** the Board of Leederville Gardens Inc. to consider Administration’s recommendation for its reimbursement and subsequent transfer to Trust of \$212,591 plus interest, transferred from the Seniors Reserve in 2002/03, 2007/08 and 2008/09 for works undertaken at Leederville Gardens Village and **NOTES** that a further report will be presented to Council once a decision is received from the Board;
6. **NOTES** that Administration intends to prepare a Draft Policy for discussion with Council Members to establish a framework for the disposition of surplus funds received from Leederville Gardens Inc. and held on Trust, to worthy and eligible organisations active in the City of Vincent, in accordance with the provisions of the Constitution; and
7. **REAFFIRMS** its commitment to the stewardship of the Association as outlined in the Leederville Gardens Inc. Constitution.

PURPOSE OF REPORT:

To provide a comprehensive update on Leederville Gardens Inc., together with a broad outline of the history and transition of the Association and an explanation on the terms of the Trust established through the Constitution to enable Council to make informed strategic decisions in respect to its future role at a Constitutional level.

BACKGROUND:

Leederville Gardens Retirement Village (the Village) is located at 37 Britannia Road, Leederville. Relevant property details are:

Lot:	100 on Diagram 83036
Certificate of Title:	Volume 1939 Folio 303
Owner:	Leederville Gardens Inc.
Area:	15,829m ²
Land Use:	Retirement Village
Development:	66 residential retirement units plus clubroom

In 1991 the City of Perth promoted the formation of the Lake Monger Senior Citizens' Centre and Homes (Inc), which was incorporated on 2 December 1991 and registered a name change on 26 June 1995 to Leederville Gardens Inc. (the Association). The Association was to develop and manage a retirement complex on land in Leederville, which was to be made available by the City and ownership transferred free of charge to the Association.

Given the Association initially had no assets or collateral, the City of Perth provided additional support for the establishment of the Village in the form of a guarantee of performance. The guarantees were in two forms:

1. The early Agreements to Lease included a guarantee that the premises would be constructed; and
2. A guarantee in the Leases to the effect that if the Association enters into liquidation or receivership, the City shall ensure fulfilment of the Lease conditions.

Constitution

The project was clearly intended as a non-profit benevolent venture, with the original Constitution having the following stated objects of the Association:

- “(1) To promote and undertake or assist in promoting and undertaking assistance for elderly people irrespective of creed, class or colour, within the City and without in any way limiting the generality of the foregoing provision the Association shall have power to do or assist in doing any of the following things, namely:*
- (a) To provide benevolent relief to elderly people by establishing and maintaining a club or clubs.*
 - (b) To establish and maintain a meals delivery service.*
 - (c) To organise and maintain a visiting service.*
 - (d) To establish and maintain hostels, nursing homes and day care centres for the accommodation and care of aged and disabled persons entitled to relief under the Aged and Disabled Persons Homes Act 1954 as amended or any statute enacted in substitution thereof.*
- (2) To provide homes or housing within the City for those aged married couples or single persons who are, in the opinion of the Board, by reason of age, ill health, accident or infirmity, wholly or in part unable to maintain themselves by their own exertions.*
-

- (3) *To promote and assist the general good of all elderly people in the City by assisting the work of statutory authorities and voluntary organisations engaged in respect of elderly people in providing facilities for physical and mental recreation, developing physical improvement, furthering health, relieving poverty, distress or sickness, or in pursuing any objects which are benevolent.*
- (4) *To promote and organise co-operation in the achievement of the above purposes and to that end bring together in Committee representatives of the authorities and organisations engaged in the furtherance of the above purposes.*
- (5) *To assist any other benevolent body or bodies financially or otherwise in furtherance of any of the above purposes.*
- (6) *To promote and carry out or assist in promoting and carrying out surveys relating to the needs of elderly people and arrange for forwarding to the proper authorities and organisations the relevant facts regarding such cases and causes of distress as it appears to be within the power of those authorities and organisations to alleviate.*
- (7) *To arrange and provide for or join in arranging and providing for the holding of exhibitions, meetings, lectures and classes in furtherance of the objects of the Association or any of them.”*

Clause 5 of the Constitution dealt with membership of the Association and stated:

- “5. *The Board may receive and invite applications from and admit as members of the Association:*
- (a) *all residents and the spouses if residents of any premises that constitute or continue to constitute a place of residence which is managed by the Association;*
 - (b) *any person who has knowledge or who has experience that may be of assistance to the Association.”*

In addition, Clause 6 of the Constitution entitled the City to nominate three representatives to be members of the Association (for the purpose of sitting on the Board).

The Constitution provided for the establishment of a Board of Management (the Board), comprising “*six members, three of which shall be persons appointed by the City from time to time*”. The Board was to appoint a Chairman from among the three members appointed by the City, with each member of the Board entitled to one vote, “*providing that in the case of an equality of votes the Chairman at the meeting shall have a second or casting vote*”.

In respect to the financial arrangements of the Association, the constitution provided:

“Income and Property

41. *The income and property of the Association shall be applied solely towards the promotion of the objects of the Association and no portion thereof shall be paid or transferred directly or indirectly by way of dividend bonus or otherwise howsoever to its members providing that nothing herein shall prevent the payment in good faith or remuneration to any officer or servant of the Association for services actually rendered to the Association.”*
-

And

“Accumulated Operating Surplus

- 46.3 *If at the end of a financial year the amount of the accumulated operating surplus exceeds the base amount then the Association shall within thirty (30) days after the date of the auditor’s certificate pay the amount of that excess to the City to be deposited by the City in a Particular Trust Account and disbursements therefrom shall only be made to public benevolent institutions which are located within the municipality of the City of Perth and which are covered by the provisions of sub-paragraph 78(1)(a)(ii) of the Income Tax Assessment Act and that the Deputy Commissioner of taxation in Western Australia shall be provided with a copy of that account, each year, at the completion of the audit.”*

The City of Perth had a key ‘approving’ role in the following two clauses of the Constitution:

“Dissolution

- 43 *If at a General Meeting of members of the Association with the prior written approval of the City, a resolution for the dissolution of the Association is passed by a special resolution of the members present at that meeting, the Association shall, thereupon or at such future date as is specified in that resolution, after paying and discharging out of the Association’s funds and assets all debts and other liabilities either transfer the proceeds of realisation to an organisation accepted as being covered by the provisions of sub-paragraph 78(1)(a)(ii) of the Income Tax Assessment Act, and that the Deputy Commissioner of Taxation in Western Australia will be informed in writing of the date of dissolution.”*

“Alteration To The Constitution

- 45 *Subject to the prior written approval of the City and the Deputy Commissioner of Taxation in Western Australia the Constitution of the Association may be altered added to or repealed at any General Meeting of the Association by a special resolution passed by the members of the Association.”*

In a report to the Ordinary Meeting of Council on 16 December 1996, it was stated that -

“The membership of the Association is concerned that the potential beneficiary of “public benevolent institutions” is too broad. A Special General Meeting of the organisation held on 10 December 1996 unanimously passed a motion to recommend to Council the change to clause 46(3) of the Constitution as shown in the above recommendation. An amendment to the Constitution requires the approval of both the Council and the Deputy Commissioner for Taxation.”

The same report included the following Recommendation:

“That the Council:

- (i) *Recommend to the Deputy Commissioner of Taxation in Western Australia that clause 46(3) of the Leederville Gardens Incorporated Constitution be amended to read as follows:-*

If at the end of a financial year the amount of the accumulated operating surplus exceeds the base amount then the Association shall within thirty (30) days after the date of the auditor’s certificate pay the amount of that excess to the Town. This payment to the Town shall be on the basis of a trust to the Town requiring that the Town deposit the surplus in a particular Trust Account and disbursements from such account shall only be for the acquisition, provision, maintenance, management or extension of the existing village or purchase or construction of a similar type of village within the Towns boundaries, which are for the benefit of senior citizens and which are covered by the provisions of sub-paragraph 78(1)(a)(ii) of the Income Tax Assessment Act and that the Deputy Commissioner of Taxation in Western Australia shall be provided with a copy of that account, each year, at the completion of the audit.”

Council deferred the item and therefore the recommendation was not adopted. The proposed amendment to the Constitution was the subject of protracted dealings, including further legal advice, drafting and a requirement for presentation back to the members of the Association.

As a consequence, on 29 September 1998, a Notice of Special Resolution from the Association was registered at the Ministry of Fair Trading, amending Clause 43 and 46 of the Constitution as follows:

“43 (1) *If at either a General Meeting of the members of the Association, with the prior written approval of the Town, a resolution for the dissolution of the Association is passed by a special resolution of the members present at that meeting, the Association shall, thereupon or at such future date as is specified in that resolution, after paying and discharging out of the Association's funds and assets all debts and other liabilities, transfer the proceeds of realisation to one or any of those organisations which:*

- (a) have objectives similar to the Association;*
- (b) exist for the acquisition, construction, provision, maintenance, management or extension of residential villages for senior citizens within the Town's boundaries; and*
- (c) are covered by the provisions of section 78(4) and Item 4.1.1 of the Income Tax Assessment Act;*

and the Deputy Commissioner of Taxation in Western Australia will be informed in writing of the date of dissolution.

(2) *If no organisation exists which satisfies the requirements set out in clause 43(i) at the date of dissolution of the Association, the Association shall transfer the proceeds of realisation in the manner set out in clause 43(1) to one or any of the organisations which:*

- (a) are covered by the provisions of section 78(4) and item 4.1.1 of the Income Tax Assessment Act; and*
- (b) are approved in writing by the Town of Vincent as appropriate recipients of the proceeds or realisation, prior to the transfer taking place,*

and the Deputy Commissioner of Taxation in Western Australia will be informed in writing of the date of dissolution.”

“46 (3) *If at the end of the financial year the amount of the accumulated operating surplus exceeds the base amount, then the Association shall within 30 days after receipt of the Association's auditor's certificate pay the amount of that excess to the Town. This payment to the Town shall be on the basis of a trust to the Town requiring that the Town deposit the excess in a particular Trust account and payments from that account shall be made to one or any of those organisations which:*

- (i) have similar aims and objectives to the Association;*
- (ii) exist for the acquisition, provision, maintenance, management or extension of the existing village operated by the Association, or the purchase or construction of a similar type of village for senior citizens within the Town's boundaries; and*
- (iii) are covered by the provisions of section 78(4) and Item 4.1.1 of the Income Tax Assessment Act,*

and the Deputy Commissioner of Taxation in Western Australia shall be provided with a copy of the financial records of the Trust in each financial year at the completion of the audit referred to in clause 25.”

and

“46 (4) *If no organisation exists which satisfies the requirements set out in clause 46(3) the Town may transfer the excess in the manner set out in clause 46(3) to one or any of those organisations which:*

- (a) are covered by the provisions of section 78(4) and item 4.1.1 of the Income Tax Assessment Act; and*
- (b) are approved in writing by the Association as appropriate recipients of the excess prior to the transfer taking place.*

and the Deputy Commissioner of Taxation in Western Australia shall be provided with a copy of the financial records of the Trust in each financial year at the completion of the audit referred to in clause 25.”

A major review of the Constitution was commenced in 2003 and finalised in 2006. In a report to the Ordinary Meeting of Council on 22 August 2006, it was indicated the “*improvements included removing transitional clauses, re-wording the document in ‘plain English’ and adapting the Constitution so it better reflects the administrative requirements of the village*”.

Council approved the proposed amended Constitution and at the Association’s 2006 AGM, a special resolution was then passed by the members endorsing the amended Constitution. Confirmation of lodgement of the amended Constitution was issued by the Department of Consumer and Employment Protection on 10 November 2006. Key changes to the Constitution (refer to **Attachment 1**) included:

- The Objects of the Association were substantially reduced to reflect:

“3. *The objects of the Association shall be:*

- (a) To establish and maintain housing, villages, flats apartments or similar accommodation specifically for the use enjoyment and well being of retired persons.*
- (b) To arrange and provide for or join in arranging and providing for the holding of exhibitions, meetings, lectures and classes in furtherance of the objects of the Association or any of them.”*

- The Accumulated Operating Surplus (now clause 39, previously clause 46) was amended to change reference for the payment of the surplus to the ‘Town’ to be on the basis of a Trust requiring that the Town deposit the excess “*in a particular **reserve** account*”.

- Subclause 46(3)(ii) was amended to read (tracked changes included for ease of comparison) –

(ii) exist for the acquisition, provision, maintenance, management or extension of ~~the~~ any existing village housing, villages, flats apartments or similar accommodation operated by the Association, or the purchase or construction of a similar type of ~~village~~ facility for senior citizens within the Town’s boundaries; and

Board of Management

The Constitution includes the following specific clauses defining a role for the City in the structure of the Board:

- 5(a) “*The City may in its discretion nominate up to six (6) persons to be members of the Association. Three (3) may be Board Members and three (3) Deputy Board Members.*”
-

7(a) *"The Board shall comprise up to six (6) Board members, three (3) of whom shall be appointed by the City and three (3) of whom shall be elected by the members."*

10 *The Board shall at its first meeting following every annual general meeting appoint:*

(a) *A Chairman from amongst the three (3) members appointed by the City;"*

Whilst the reference to the *"City may in its discretion nominate up to six (6) persons to be members of the Association"* does not restrict the appointment to be made from members of Council, it was past practice by the City of Perth and subsequently by the City of Vincent for those nominated members to be Council Members.

However, at the Ordinary Meeting of Council on 17 November 2015, Council resolved:

"That Council:

1. *NOTES that six nominations were received to fill the three vacant positions on the Board of Leederville Gardens Inc.; and*
2. *APPOINTS:*
 - 2.1 *Ms Sally Congdon, Ms Rosa-Napolitano-Lincoln and Mr Bradley Schrader to serve as Board Members for the Board of Leederville Gardens Inc. for a term of three years, commencing from 18 November 2015 and ending on 18 November 2018, subject to the outcome of reference checks being to the satisfaction of the Chief Executive Officer; and*
3. *ADVISES the Board of Leederville Gardens Inc. of Council's decision."*

Village Management

A confidential report (Item 10.4.5) was presented to the 20 November 2001 Ordinary Meeting of Council on the subject of the management of the Leederville Gardens Retirement Village. At that time, the Village was managed by Eldercare Pty Ltd, which was part of the St Ives Group.

Following consideration of that report, Council resolved:

"That;

- (i) *the report on the Management of Leederville Gardens Retirement Village Inc be received;*
 - (ii) *this report be submitted as an agenda item for the next Leederville Gardens Retirement Village Inc Board;*
 - (iii) *the Council instructs the Town of Vincent Board Members to support the proposal for the management of the Leederville Gardens Retirement Village Inc to be awarded to the Town of Vincent;*
 - (iv) *in the event that (ii) and (iii) above are approved, the Chief Executive Officer be authorised to implement the necessary legal and administrative arrangements to manage the Leederville Gardens Retirement Village Inc;*
 - (v) *the Chief Executive Officer be authorised to make public this report (or any part thereof) at the appropriate time; and*
 - (vi) *the Council write to all Board Members and the Management organisation and inform them of Council's decision and that the Council wishes to assume responsibility for management of the Leederville Gardens Retirement Village Inc."*
-

On 23 April 2002, a further report was presented to Council, outlining:

- the outcome of the establishment of a working group by the Leederville Gardens Board, which included the then Town's Chief Executive Officer; and
- a proposed administrative structure for the Town to undertake the management role for Leederville Gardens.

As a result, Council adopted the following resolution:

"That the Council;

- (i) *ENDORSES the action taken by the Chief Executive Officer to implement the necessary legal and administrative arrangements for the Town's management of the Leederville Gardens Retirement Village (Inc); and*
- (ii) *notes that the Town's management of the Village is effective from 1 July 2002."*

DETAILS:

Administration has been undertaking a review of management and operational practices associated with the Village, including compliance and strategic consideration of the City's role on the Board. The review has centred on three key areas:

1. Management of the Accumulated Operating Surplus
2. The City's ability to 'Guarantee Performance'
3. The City's stewardship role under the Constitution

These three areas are discussed in detail below.

1. Management of the Accumulated Operating Surplus

There are three aspects to this issue:

- The correct accounting treatment and facility for holding the funds;
- Ensuring the transfer of the surplus is compliant; and
- Determining how the funds can be applied.

A detailed report dealing with the Aged Persons and Senior Citizens Reserve (the Seniors Reserve) (Item 9.3.2 – **Attachment 2**) was presented to the Ordinary Meeting of Council on 8 December 2015. As a result, Council resolved:

"That Council:

1. *NOTES the legal advice that the surplus funds transferred to the City by the Leederville Garden's (Inc) in accordance with clause 39(3) of its Constitution is transferred in 'trust' and is therefore not for the benefit of the City;*
2. *APPROVES BY ABSOLUTE MAJORITY, in accordance with section 6.8(1) of the Local Government Act 1995 the unbudgeted transfer of \$889,803 from the City's Municipal fund into the Aged Persons and Senior Citizens Reserve, to reimburse \$745,352 transferred from the Reserve in 2014/15 together with accrued interest;*
3. *NOTES the Annual Financial Report for the year ended 30 June 2015 has been amended on the advice of the City's Auditor to reflect the movement of \$875,631 (\$745,352 plus interest to 30 June 2015) from Unrestricted Cash to Restricted Cash, effectively neutralising the transfer approved by the Council on 18 November 2014; and*

4. *NOTES that a further report will be provided to Council to advise on the broader requirements for the management of the funds held on trust in the Aged Persons and Senior Citizens Reserve."*

The report to Council (Item 9.3.2) on 8 December 2015 also included the following comment:

"The advice from McLeods raises broader issues in respect to the application of the surplus funds and appropriateness of the transfer of the surplus funds in the context of the Code of Fair Practice for Retirement Villages 2009 (the Code). Further research is required to reconcile the relevant transfer and Reserve balance with the specific constitution wording and timing of the introduction of the Code. It is proposed that a subsequent report will be provided to Council addressing the broader issues once it has been fully researched."

Clause 20 of the Code states:

"The administering body of a retirement village must apply any surplus in the operating budget of the retirement village towards the future operating expenses of that village, except if the residents, by special resolution, approve the application of the whole or a part of the budget surplus to any other purpose or purposes generally for the benefit of the residents of that retirement village."

Further legal advice has been sought from McLeods Barristers & Solicitors (McLeods) to determine whether there is any conflict between the requirement of clause 39 of the Constitution to transfer the 'Accumulated Operating Surplus' to the City and clause 20 of the Code, which requires the 'surplus' to be applied *"towards future operating expenses of the village"*.

In seeking this advice, Administration highlighted that the City operates two accounts for the Association; the Estate or 'Village' account and the 'Inc.' account. A 'Village Budget' is prepared based on the transactions processed through the 'Village' account in accordance with clause 17 of the Code, which defines relevant operating income and expenditure to be included. The surplus of this account must be handled in accordance with clause 20 of the Code.

The 'Inc.' account, however, includes the applicable transactions related to the entry and vacation of residential units under the Code, which defines them as a 'premium'. These transactions are unrelated to the annual income and expenditure reflected in the 'Village Budget'. Whilst the definition of Accumulated Operating Surplus in clause 39 of the Constitution may capture the Village operations, the actual accumulated surplus appears to have consistently been achieved from the 'Inc.' activities. Therefore, the latest advice received from McLeods includes the following:

"Unless the residence contract requires the premium (Lease Bond) to be applied to the operating budget, the Board is free to deal with those funds in a manner consistent with the Code and Constitution. Speaking generally, a premium will commonly be applied to capital expenditure, with excess funds being profit for the management body (where the management body is a profit making entity). The use of premiums as part of a capital reserve is acknowledged by the Code where cl.17(4) requires the reserve fund budget to include "income payable to the reserve fund in the form of amounts deducted from premiums repayable to residents who have permanently vacated the village"

Therefore, based on the information presently available, we would agree with your view that the 'operating surplus' caught by cl.20 of the Code:

- (a) *Includes any surplus accounted for in the Estate Account; and*
- (b) *Does not include any additional 'surplus' funds reflected in the Inc. Account.*

However, please note that this opinion is expressed without reference to the residence contracts or an examination of the Inc. Account or the Estate Account, and is therefore based on the assumption that the accounting practices adopted for the Board's accounts are correct."

Based on the current accounting treatment and legal advice, the requirements of clause 39(3) of the Constitution are generally not in conflict with the Code, providing the calculation of the accumulated operating surplus does not include any surplus derived from the Village account. This will need to be reviewed for past years, however it appears from recent years that the Village account has actually been carrying a deficit.

In respect to the management of the surplus funds transferred to the City, it is recognised that the funds are to be held on trust by the City and therefore should be transferred from the Seniors Reserve into the City's Trust account.

Given the City's enhanced understanding of the nature of the restriction on the funds, it is necessary to consider how the funds can be used in the future and validate that they have been used correctly in the past. In that respect, the City can only deal with the funds in terms of the trust which applied under clause 39 (or its equivalent – clause 46) at the time the particular surplus funds were transferred to the City.

At 31 December 2015, the Seniors Reserve held a balance of \$4,167,058 (refer to **Attachment 3**), which is inclusive of the reimbursed \$889,803 plus interest, approved at the Ordinary Meeting of Council on 8 December 2015.

A review of past transactions reflects the following transfers from the Seniors Reserve:

Year	Transfer \$	Purpose
1998/99	49,570	Adult Day Care Centre – Royal Park
1999/00	13,078	Adult Day Care Centre – Royal Park
2002/03	25,000	Leederville Gardens - Workshop
2007/08	152,688	Leederville Gardens - Painting
2008/09	34,903	Leederville Gardens - Painting
TOTAL	275,239	

Each of the above transfers were in response to payments made by the City. In previous advice provided on 22 October 2015, McLeods considered whether the City would be an organisation that met the requirements of clause 39 of the Constitution and in particular subclause 39(3)(iii). McLeods concluded:

"A Local Government would therefore not qualify for registration as a charity under the ACNFP Act, nor could it be considered to be a 'registered public benevolent institution'. This means that a local government could not be an organisation by which payments from the Seniors Reserve could be made to under clause 39(3) of the Constitution or the exception under clause 39(4)."

In assessing whether the funds can be paid to the Association, McLeods provided the following advice by email on 19 February 2016:

"First, the primary obligation under cl.39(3) in relation to payments from the Surplus is that the payment be to "one or any of those organisations" which meet the requirements that follow in (i) to (iii). The organisations in question must logically be organisations other than the Village itself. This is reinforced by the terms of cl.39(4), which operates where no organisation referred to in cl.39(3) exists – although I note there is a typographical error in cl.39(4) where it refers to cl.42(3) instead of cl.39(2).

Second, the ordinary grammatical approach to paragraphs (ii) and (iii) would require that they be read conjunctively (as if the word 'and' appeared between them) rather than disjunctively (as if the word 'or' appeared between them).

Third, read as a whole clause 39 clearly operates on the basis that the Surplus is not required by the Village. That is because the Surplus excludes both the base amount (approx. \$500K) and capital reserves. The Constitution therefore allows a substantial buffer which can be applied to improvements etc at the Village."

At the centre of this issue appears to be the defined purpose of the Seniors Reserve as detailed below:

- *"For the acquisition, provision, maintenance, management or extension of the existing Leederville Gardens Village; or*
- *The purchase or construction of a similar type of village for Senior Citizens; or*
- *Provision of aged or senior citizens facilities, within the City's boundaries."*

This purpose is very similar to the recommendation of the members adopted at the Special General Meeting on 10 December 1996, however that is not the specific wording that ultimately formed the amendment that was registered in 1998.

Consequently, the purpose of the Seniors Reserve is inconsistent with the Constitution and fails to recognise that the payments should be made to organisations (that meet specific criteria) *other* than the City and the Association.

In view of this, each of the transfers from the Seniors Reserve listed earlier in this section (amounting to \$275,239) are not in accordance with the terms of the Trust. Those funds, with interest, will therefore need to be reimbursed to the City's Trust Account, with the following suggested approach:

- \$62,648 Reimbursed to the Trust Account by the City, given the funds were used for the upgrade of any existing City asset.
- \$212,591 Reimbursed to the City's Trust Account by the Association as the funds were spent on the Association's asset and would otherwise have been incurred by the Association (the accumulated funds of the Association at 30 June 2015 was \$2,033,401. It is therefore considered it has the capacity to make the reimbursement).

These two reimbursements are additional to the proposed transfer of the balance of the Seniors Reserve to the Trust Account as required by the Leederville Gardens Inc. Constitution.

Going forward, Council will need to consider how the surplus funds held on Trust should be utilised. In that regard, specific consideration will need to be given to the terms of the Trust which applied under clause 39 of the Constitution (or its equivalent clause 46) at the time the funds were transferred. The restrictions imposed by the Constitution amendments are detailed below:

1991

Clause 46(3) required disbursements *"therefrom shall only be made to public benevolent institutions which are located within the municipality of the City of Perth and which are covered by the provisions of sub-paragraph 78(1)(a)(ii) of the Income Tax Assessment Act"*

The City received the first transfer of **\$925,405** in 1997/98, so this amount, with interest can be paid to any public benevolent institution located within the boundary of the City of Perth (however Council could select an organisation located or active in the City of Vincent).

29 September 1998

Clause 46(3) then required payments *“from that account shall be made to one or any of those organisations which:*

- (i) have similar aims and objectives to the Association;*
- (ii) exist for the acquisition, provision, maintenance, management or extension of the existing village operated by the Association, or the purchase or construction of a similar type of village for senior citizens within the Town’s boundaries; and*
- (iii) are covered by the provisions of section 78(4) and Item 4.1.1 of the Income Tax Assessment Act, ...”*

Transfers received between 1998/09 and 2005/06 totalled **\$573,101** (plus interest). Payment of this amount is heavily restricted by the Constitution. Whilst the Association still had very broad Objectives, read in conjunction with subclause (ii) and (iii), the type of organisations that could be considered eligible recipients is quite limited.

10 November 2006

Similar to the previous version, however subclause (ii) has been amended to read:

“exist for the acquisition, provision, maintenance, management or extension of any existing housing, villages, flats apartments or similar accommodation operated by the Association, or the purchase or construction of a similar type of facility for senior citizens within the Town’s boundaries”.

Transfers received from 2006/07 so far total **\$948,915** (plus interest). Payment of this amount is potentially even more restricted than under the previous version of the Constitution due to the heavily restricted Objects of the Association now defined by the Constitution.

“The objects of the Association shall be:

- (a) To establish and maintain housing, villages, flats apartments or similar accommodation specifically for the use enjoyment and well being of retired persons.*
- (b) To arrange and provide for or join in arranging and providing for the holding of exhibitions, meetings, lectures and classes in furtherance of the objects of the Association or any of them.”*

2. The City’s ability to ‘Guarantee Performance’

In June 2015, it was noted that the standard lease for residential units at the Village included the following Guarantee provision by the City:

“14.1 The City HEREBY AGREES WITH AND GUARANTEES to the Resident that in the event that:

- (a) LEEDERVILLE GARDENS (INC) is dissolved;*
 - (b) LEEDERVILLE GARDENS (INC) permits the land to be attached or taken in execution of upon any legal process;*
-

- (c) *LEEDERVILLE GARDENS (INC) enters into liquidation or receivership whether voluntarily or otherwise or makes any assignment with its creditors for payment of its debts by composition,*

The City shall duly and promptly perform the covenants and conditions contained in the Lease of the part of the Lessor to be observed and performed and shall be entitled to the benefit of the covenants and conditions contained in this Lease on the part of the Resident to be observed and performed.

- 14.2 *This Guarantee shall continue for the duration of this Lease and for any holding over thereunder."*

As the Dissolution clause under the Constitution does not provide for the Village land to be transferred to the City, legal advice was sought on the ability of the City to honour the guarantee.

In correspondence dated 5 June 2015, McLeods provided the following opinion:

"In all of the circumstances included in the Guarantee Clause, the Land will not be transferred to the City. Therefore, the City is not in a position to provide the guarantee contained in the Guarantee Clause and the Guarantee Clause should be deleted from the Proposed Lease."

In view of that, Leases entered into between the Board and Village Residents from June 2015 have not included the Guarantee.

3. The City's Stewardship Role under the Constitution

The City's stewardship role over the management of the Village is visibly demonstrated through the following aspects of the Constitution:

1. The original Constitution provided a Board structure that has remained unchanged in the current Constitution. The Board consists of six members, three elected by residents and three nominated by the City. The Chairman of the Board is required to be elected from the City nominated members. In the event of a tied vote on any Board decision, the Chairman shall have a second or casting vote.
2. Any amendment to the Constitution must be approved by the City.

This structure is likely to have been established to obtain a spread of interest and skills, including from actual residents. However, whilst not articulated, ensuring 50% of the membership is made up of non-residents, ensures a long-term focus to the management and achievement of the Association's Objectives.

The casting vote held by the Chairman, being one of the City nominees adds confidence to this process, as does the ability for the City to veto amendments to the Constitution that may detract from the long term aims, particularly given the majority of the Association members, who are able to vote at general meetings are residents, who may have a different focus or understanding of the Association's Objectives.

In compiling information required to assess options available in respect to the Council's future role with the Association, a key issue required to be understood is whether the requirement for the City's consent to alter or amend the Constitution is consistent with the *Associations Incorporations Act* or any other relevant legislation.

McLeods has advised in correspondence dated 16 February 2016:

"We do not think there are any inconsistencies for the reasons that follow.

First, the AI Act 1987 contemplates that the rules of an incorporated association can impose requirements additional to those in s.17(1), provided there is no direct conflict. There would be no purpose in clause 11 of Schedule 1 if the rules could do no more than re-state section 17(1).

Second, the requirement to obtain the City's written consent does not alter or detract from the requirement for a special resolution. The City cannot itself initiate or carry out an amendment to the Constitution. Rather the City's consent is an additional requirement over and above the special resolution required by s.17(1).

In our experience the requirement for the consent of a local government to an amendment to the rules of an incorporated association is not uncommon in the context of retirement villages."

This is an important principle, as it confirms the City's future role is at the discretion of the Council, not the Board or membership of the Association, although if the City wished to seek an amendment to the Constitution to (for example) broaden the field of potential recipients of future surplus transfers, support of the members would be required.

CONSULTATION/ADVERTISING:

A report is proposed to be prepared for presentation at the next meeting of the Leederville Gardens Inc Board generally reflecting the information and advice provided within this report.

In this regard, it should be noted that two of the Council appointed Board members have since resigned from their roles, with the third member currently contemplating assuming the role of Chairperson to enable the business of the Board to progress. Administration will be submitting a separate report to Council by April to consider appointing replacement Board Members.

Unfortunately, the reluctance of the three Council appointed Board members to accept the role of Chairperson has, to date, prevented the holding of a formal Board meeting since late last year, even though the Board members have convened to discuss issues on several occasions since then. Administration is working with the Board to resolve this issue and is actively communicating with all residents to keep them apprised of both the Board and management issues.

LEGAL/POLICY:

Local Government Act 1995

6.9 Trust Fund

- (1) *A local government is to hold in the trust fund all money or the value of assets —*
 - (a) *that are required by this Act or any other written law to be credited to that fund; and*
 - (b) *held by the local government in trust.*
 - (2) *Money or other property held in the trust fund is to be applied for the purposes of, and in accordance with, the trusts affecting it.*
-

- (3) *Where money or other property is held in the trust fund, the local government is to —*
- (a) *in the case of money, pay it to the person entitled to it together with, if the money has been invested, any interest earned from that investment;*
 - (b) *in the case of property, deliver it to the person entitled to it.*

RISK MANAGEMENT IMPLICATIONS:

Medium: Although this is a compliance matter, ventilation of the issues raised in this report will likely attract some scrutiny or criticism of the City's past practices and decisions in respect of Leederville Gardens, which will need to be addressed and managed. Having said that, the City through Council decisions and direction is now proactively taking steps to remedy any past issues of non-compliance and to put measures in place to ensure compliance with the Constitution and relevant Code.

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:

The Seniors Reserve currently holds a balance of \$4,167,058, however it is proposed that the entire balance be transferred to the Trust account, because these funds were transferred to the City by the Association for the purpose of being held on Trust.

These funds are not available for use by the City or the association of Leederville Gardens, however could be distributed to eligible organisations that meet the requirements of the Leederville Gardens Inc. Constitution.

The above balance is in addition to the required reimbursement and transfer to the Trust account of \$275,239 which was incorrectly applied in previous years, with \$62,648 to be reimbursed by the City and the balance reimbursed by Leederville Gardens Inc.

In addition, it is noted that a surplus was recorded by the Association in 2014/15, with those funds yet to be transferred to the City to hold on Trust.

COMMENTS:

Whilst the original proposal for the creation of the Association, transfer of the land free of charge and the establishment of the Board was based on non-profit 'benevolent' principles it appears those prevailing principles have been diluted over the years - something that may have originated from a lack of clarity being provided during the transition from the City of Perth to the Town of Vincent.

Listed below are two quotations from a Council report (Item No 16) dated 14 September 1994 which gives a hint to the intent and understanding of the Town at that time:

“The initial role of the Council was the development of the concept and provision of the land free of cost. A continuing involvement would help to ensure that the ownership of land reverts to the Council in the future if that necessity arose.”

“Clause 43 of the Constitution provides that if this Association is dissolved, the assets and liabilities pass to an “acceptable” (tax exempt) organisation. Clearly, the Town of Vincent would be so qualified, or it could be in a position to lead, and for this reason, should retain involvement with the Board”.

The Retirement Village industry is a heavily regulated field, covered by the *Retirement Villages Act 1992*, *Retirement Villages Regulations 1992*, *Fair Trading Act 2010*, *Fair Trading (Retirement Villages Code) Regulations 2015* and *Code of Fair Practice for Retirement Villages 2015* (the Code).

The Foreword to the Code states:

“An increasing number of retired people are finding the concept of retirement villages attractive. These villages exist in a number of forms with a range of tenures and accommodation types. Different financial arrangements and forms of contract include lease, licence, a right conferred by shares, strata title, or freehold title. Retirement villages also differ widely with regard to the nature of care and other amenities and services that may be available.

The Code, the Retirement Villages Act 1992 and the Retirement Villages Regulations 1992 provide a package for the regulation of the retirement village industry that safeguards the rights of both the residents and the owners of retirement villages, and provides clear guidelines for the industry. The Code sets out the practices that apply to the promotion, sale and operation of retirement villages.”

The purpose of the *Retirement Villages Act 1992* is to regulate arrangements between the management of the Village and the residents, which goes to the contractual rights of residents and of the manager/owner (in this case the Association) with its residents. The *Retirement Villages Act 1992* is independent of any relationship established between the Association and its members under the Constitution (even though members are residents). In the case of a conflict, the Act and Code would prevail.

In the case of Leederville Gardens, the residents not only receive the protection of the *Retirement Villages Act 1992* and the Code and enjoy occupancy under the terms of their Lease, they have also been provided an opportunity to be represented on the Board.

It would appear from past resolutions of the members of the Association, they would like to quarantine a substantial proportion of the accumulated operating surplus (arguably the owners' profit) to be applied at the Village for the benefit of the residents occupying the 66 units.

In calculating the surplus to be transferred under clause 39 of the Constitution, a base amount, as specified in clause 39(b) is first deducted, to ensure the Association has a buffer to meet its ongoing requirements. The base amount in the original Constitution and each of the subsequent Constitutions has specified the value as \$500,000 (with CPI indexed from 30 June 1992).

The members resolved at the AGM held on 27 September 2007, to amend clause 39(b) of the Constitution by increasing the base amount to \$1,000,000. The minutes of the meeting record that the City's Director Corporate Services advised in response to the proposal that the *"increase in this base figure will reduce the amount of funds available for transfer and will allow more of the funds to be retained in the Leederville Gardens Inc. accounts, where the revenue had been generated."* Whilst Administration has found no record that this special resolution of the members was approved by Council or lodged with the Commissioner in accordance with clause 17(2) of the Associations Incorporation Act 1987 (required for the amendment to take effect), it has been taken into account in subsequent audits for the purpose of calculating the accumulated operating surplus. In view of that, the latest audit identified the surplus as \$232,731, however had the base of \$500,000 been applied, rather than \$1,000,000, the accumulated surplus would actually be \$1,133,066.

The Association has significant assets, in addition to the land, and therefore needs to ensure it is planning for and has the financial capacity to undertake the future asset renewal requirements.

For this reason, it is important that there is an appropriate basis for the establishment of the 'base' amount, however, history would indicate that a surplus is still achievable.

If the surplus is applied towards the Village, it would either need to be in the form of:

1. Additional facilities (subject to land availability), which would increase the annual operating costs and therefore the service charge levied on residents through the 'Village Budget'; or
2. Subsidising the annual operations and thereby reducing the annual service charge. The Village Budget is prepared in accordance with the requirements of the Code and consistent with the Lease which each resident has accepted. The current Objects of the Association provide no basis for subsidising the annual charge (however it is open to the Board to absorb or not pass on some charges); or
3. Reduced 'entry' or 'exit' charges, which would effectively mean discounting the Lease Bond (premium). The Objects of the Association do not provide a basis for discounting.

It is noted that options 2 and 3 above may be in conflict with clause 34 of the Constitution as detailed below (highlight added for emphasis):

"34. The income and property of the Association shall be applied solely towards the promotion of the objects of the Association and no portion thereof shall be paid or transferred directly or indirectly by way of dividend bonus or otherwise howsoever to its members providing that nothing herein shall prevent the payment in good faith or remuneration to any officer or servant of the Association for services actually rendered to the Association."

The original concept for the Village and Association was admirable, if somewhat ambitious in respect to the capacity of the Board to deliver on the original Objects. However, whilst that concept has been significantly diluted over the years, it does not detract from the potential benefit of continued profits or dividends being generated (without detriment to the Village residents) for distribution to the wider Vincent community.

In Administration's opinion, the best community outcome would be achieved by the City retaining an active interest in the Constitution and ensuring appropriately qualified and experienced individuals are appointed to the Board to ensure the facility is well managed and resident's rights are protected in accordance with the Code and their Lease. Through that process, any profits (surplus) should continue to be transferred to the City, but seek an amendment more aligned to the original Constitution in that the City could make payment to suitable benevolent or not for profit organisations active in the City of Vincent.

9.4 COMMUNITY SERVICES

9.4.1 Draft Terms of Reference – Reconciliation Action Plan Working Group

Ward:	-	Date:	24 February 2016
Precinct:	-	File Ref:	-
Attachments:	1 – Terms of Reference – Reconciliation Australia 2 – Draft Terms of Reference – City of Vincent Reconciliation Action Plan Working Group		
Tabled Items:	Nil		
Reporting Officers:	S Bennett, Community Development Officer R Slavin, A/Manager Community Development		
Responsible Officer:	R Hall, A/Director Community Services		

OFFICER RECOMMENDATION:

That Council:

- ADOPTS the Terms of Reference for the establishment and operation of a new Reconciliation Action Plan Working Group as shown in Attachment 2; and**
- REQUESTS the Chief Executive Officer to advertise for Community Representatives to the Reconciliation Action Plan Working Group for membership until 20 October 2017.**

PURPOSE OF REPORT:

To consider adopting draft Terms of Reference for the establishment and operation of a new Reconciliation Action Plan Working Group.

BACKGROUND:

A Budget of \$10,000 was allocated for the 2015/2016 financial year to commence the development of a City of Vincent Reconciliation Action Plan.

At its meeting held on 22 September 2015, Council approved the establishment of a Reconciliation Action Plan Working Group to achieve the establishment of a Reconciliation Action Plan (RAP) and requested Administration to submit a further report to Council to consider draft Terms of Reference for the establishment and operation of a new Reconciliation Action Plan Working Group.

DETAILS:

Reconciliation Australia's inaugural State of Reconciliation in Australia report defines reconciliation has having five dimensions. These dimensions woven together make up the fabric of reconciliation. Reconciliation Action Plans provide an avenue to advance through the following dimensions:

- Historical acceptance: widespread acceptance of our nation's history, and agreement to stop the wrongs of the past from being repeated;
- Unity: Aboriginal and Torres Strait Islander histories, cultures and rights are valued and recognised as part of a shared national identity;
- Equality and equity: Aboriginal and Torres Strait Islander Australians participate equally and equitably in all areas of life;

- Race relations: positive relationships between Aboriginal and Torres Strait Islander and non-Indigenous Australians that are built on trust and respect;
- Institutional integrity: political, business and community institutions actively support all dimensions of reconciliation.

It is proposed to develop a Reconciliation Action Plan in consultation with Reconciliation Australia, using its toolkit, templates and resources (see **Attachment 1**). The first essential 'minimum element' for developing a Reconciliation Action Plan is to establish a working group made up of Aboriginal and Torres Strait Islander staff and/or stakeholders and non-Aboriginal and Torres Strait Islander staff and/or stakeholders.

It is essential for the City to establish a Reconciliation Action Plan Working Group to develop a Reconciliation Action Plan that identifies strategies and actions which the City will take to recognise and respect Aboriginal and Torres Strait Islander people. The Group would also provide valuable input into the City's implementation of the Reconciliation Action Plan for a period of time after its adoption.

The Draft Terms of Reference included as **Attachment 2** is based on the template provided by Reconciliation Australia. It is recommended that membership of the Reconciliation Action Plan Working Group comprise Council Members, representatives of the Noongar community, Department of Aboriginal Affairs, Aboriginal Health Council (WA) and other relevant Aboriginal education, training and/or service providers.

CONSULTATION/ADVERTISING:

Nil.

LEGAL/POLICY:

The Audit Committee is the City of Vincent's only Statutory Committee, as prescribed by the *Local Government Act 1995*. All Committees, Advisory and Working Groups have Terms of Reference and can only deal with matters referred to them by the City. The City's various Groups and Committees can only make recommendations, which are reported to Council for information and/or consideration.

Low/Medium: Advisory and Working Groups play an advisory role, however do not have any legal status under the *Local Government Act 1995*. The operation of the Groups must be monitored to ensure compliance with the City's Policy No. 4.2.12 – Advisory Groups.

STRATEGIC IMPLICATIONS:

"3.1 Enhance and promote community development and wellbeing

- 3.1.1 Celebrate, acknowledge and promote the City's cultural and social diversity.*
- 3.1.3 Promote health and wellbeing in the community.*
- 3.1.5 Promote and provide a range of community events to bring people together and to foster a community way of life.*
- 3.1.6 Build capacity within the community to meet its needs."*

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The Terms of Reference for and operation of the Reconciliation Action Plan Working Group will provide the foundations for the City to work with interested groups to develop and implement Reconciliation Action Plan.

It is recommended that Council adopts the Draft Terms of Reference for the establishment and operation of a new Reconciliation Action Plan Working Group included as **Attachment 2**.

9.5 CHIEF EXECUTIVE OFFICER

9.5.1 Motions from the Annual General Meeting of Electors held on 2 February 2016

Ward:	Both	Date:	26 February 2016
Precinct:	All	File Ref:	SC2048
Attachments:	Nil		
Tabled Items:	Nil		
Reporting Officer:	Len Kosova, Chief Executive Officer		
Responsible Officer:	Len Kosova, Chief Executive Officer		

OFFICER RECOMMENDATION:

That Council, having considered the Motions of the Annual General Meeting held on Tuesday 2 February 2016:

1. **NOTES** that Administration is currently reviewing the application of new technologies in the City's parking management practices and this will, in part, be considered through the review of the Parking Permits Policy, which is due to be presented to Council by May 2016;
2. **NOTES** that Administration will review the continued use of the "Street prostitution" web page, particularly in respect of its currency and continued relevance and appropriateness;
3. **NOTES** that Administration will raise the co-naming of Weld Square for consideration by the City's new and yet to be appointed Reconciliation Action Plan Working Group;
4. **NOTES** that Policy No. 4.2.7 – Council Members – Allowances, Fees and Reimbursement of Expenses is due to be reviewed this year and when doing so Council can review the amount of any allowances paid to Council Members and can consider whether there is any value in introducing any reporting of expenses paid from such allowances;
5. **NOTES** that the current Planning Policy review will consider the suggestions contained in AGM Motion No. 4.5 (for plot ratio to correspond with the proposed bonus sought) and Motion No. 4.8 (for additional greening standards to apply to development sites 1,500 square metres or more in area); and
6. **NOTES** that Administration will undertake a heritage assessment of the building at the corner of Newcastle Street and Charles Street, West Perth to consider the building for inclusion on the City's Municipal Heritage Inventory

PURPOSE OF REPORT:

To consider motions received at the Annual General Meeting of Electors (AGM), held on 2 February 2016.

BACKGROUND:

The Annual General Meeting of Electors of the City of Vincent was held on Tuesday 2 February 2016. The *Local Government Act 1995* requires that any decisions made at an Elector's Meeting are to be considered at the next Ordinary Council Meeting or, if that is not practicable, at the Council Meeting after that Meeting.

DETAILS:

At the AGM, 16 Motions were received and moved from the floor. All Motions (with numbering+ as per the AGM Minutes) are detailed below, along with Administration comment.

4.1 Debbie Saunders – 150 Oxford Street, Leederville

That Council make public the results of all community consultations and online surveys within a reasonable timeframe following the closing date of submissions.

Response by Chief Executive Officer:

The only way this AGM Motion could effectively be implemented is if all consultation “responses” (as opposed to “results” – which are not always clear or simple) were published verbatim immediately after the close of the consultation period. Administration does not support this approach for several reasons, including privacy and the nature of some written submissions, which are not appropriate for publication. Conversely, the intent of this Motion could be achieved if a superficial level of information were published immediately after the close of the consultation period – such as the number of responses received and whether those responses are for or against the particular proposal/issue.

If the consultation relates to an issue to be considered by Council, then the consultation results (usually summarised and grouped into key themes) are made public in the report to Council. This is the most appropriate time to do so because the consultation is an input to that decision-making process and the consultation outcomes should therefore be considered at the same time that a decision needs to be made. Furthermore, the administrative work involved in evaluating, summarising and sorting consultation responses can take considerable time and is not always concluded soon after the close of consultation.

Notwithstanding, the questions of why, how, when and to whom consultation responses should be publicised, are worthwhile questions for Council to consider in the context of a review of the City’s Consultation Policy, which Administration is endeavouring to undertake in 2016. The City’s new Community Engagement Panel could also be involved.

4.2 Colin Scott – 17 Deague Court, North Perth

That a small portion of Tamala Park revenue stream is quarantined for future environmental projects in the next plan.

Response by Director Technical Services:

The City is currently preparing Asset Management Plans to inform the Long Term Financial plan also currently being developed. Once the plan/s has been finalised and priorities determined based on maintaining the City’s current assets at an acceptable level of service, all revenue sources, including that from Tamala Park, will be used to fund priority projects including appropriate environmental projects.

4.3 Jake Schapper – 65 Harold Street, Highgate

That the City of Vincent no longer plants plane trees as a street tree and that those planted in the last two years be removed. Further to this, a street tree strategy be developed that takes into account three aspects equally – health, ecology and a sense of place with a priority going to native West Australian trees.

Response by Director Technical Services:

The City has a comprehensive policy and street tree management plan that outlines all aspects of street tree management and selection within the urban environment.

The City does encourage the use of native species and their increased use is evident throughout the many 'greening' projects that are undertaken each year however there is always much debate with regards to street tree selection.

Consultation with specific groups and advice from qualified arboriculturists has resulted in a preference at times for exotic species such as the Plane tree and in view of their hardiness and success there is no current intention to progressively remove this species from the streetscape.

4.5 Dudley Maier – 51 Chatsworth Road, Highgate

Character Retention Area Policy:

1. That the City recognises that adopted policy 7.5.15 (Character Retention Areas) is totally different to the draft policy that was advertised for public comment; and
2. Requests that the City advertise the currently adopted Character Retention Area policy seeking community input in order to ensure that the policy conforms with the spirit of Clause 47 of the Town Planning Scheme.

Response by Director Development Services:

The changes made to the Character Retention Area Policy following advertising did not alter the purpose or intent of the policy. The changes relate to changes in the format and layout, as community consultation responses indicated the advertised format was too cumbersome. The changes were reported in detail in the Council item.

While Clause 47 has now been superseded by the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015*, both clause 47 and replacement clause 4(3) allows Council to adopt a local planning policy with or without amendments, following the advertising period and without the need for further advertising.

Timely production of Council Minutes:

That the Chief Executive Office be requested to make public the draft minutes of all Council and Committee meetings within three business days of the meeting, rather than the current practice of releasing them at the latest time allowed for in the Act.

Response by Chief Executive Officer:

In accordance with Regulation 13 of the *Local Government (Administration) Regulations 1996*, the (unconfirmed) minutes of a Council Meeting are to be published within 10 business days of the meeting.

Administration makes every effort to compile and publish the unconfirmed minutes of each Council Meeting in fewer than 10 business days, although this is not always possible and varies according to the nature and complexity of each meeting and the current operational need for the Chief Executive Officer to check and authorise the Minutes. The timeliness of producing the Minutes will be greatly enhanced by the commencement of the City's new Manager Governance and Risk, in April 2016.

Parking Permit Technology:

1. That the City investigate the use of Radio Frequency ID (RFID) technology and Automatic Number Plate Recognition technology in the management of resident parking permits and visitor parking permits in order to provide a better service to residents and improve efficiency; and
2. The default duration of validity of Resident Parking Permits be set at 3 years in accordance with clause 10 (a) of policy 3.9.3 (Parking Permits).

Response by A/Director Community Services:

The City is currently looking into a range of solutions involving innovative technology to better manage car parking. The City is also reviewing the Parking Permits Policy and this request will be considered as part of that review.

Ex-Gratia Payments – Seniors Reserve:

In recognition of the fact that the transfer of funds from the Aged Persons and Senior Citizens Reserve which was approved in November 2014 was not valid, the City make ex-gratia payments to cover any verified legal costs that were incurred by members of the public in relation to the transfer of funds.

Response by Director Corporate Services:

The City has not received any request for reimbursement of legal costs from any member of public. In any event, this issue was identified as a direct result of Administration's subsequent review into the City's role in and management of Leederville Gardens, not in response to any third party legal argument.

Review use of Street Prostitution web page:

That the City review the continued use of its "Street prostitution" web page.

Response by A/Director Community Services:

It is acknowledged that this web page has not been updated recently. This request has merit and will be further investigated.

Weld Square Co-naming:

1. Notes that the proposal to co-name Weld Square was never referred to the Aboriginal Liaison and Reconciliation Advisory Group as required by the Council decision of 12 July 2012; and
2. That the City recommence the initiative to place a name, which is acceptable to the Aboriginal community, at Weld Square.

Response by A/Director Community Services:

It will be appropriate for this matter to be considered by the City's own Reconciliation Action Plan Working Group. Draft Terms of Reference for that Group are presented in this Council Agenda.

Clarifying Discretion Policy:

That the City, as a matter of urgency, and as an interim measure until the planning policy review is complete, amend policy 7.5.11 (Exercise of Discretion) to make it clear that where a bonus is contemplated, the deemed to comply plot ratio will be modified in line with the proposed bonus (e.g. where a bonus is sought to allow an additional storey in an area with a prescribed height of three storeys, the deemed to comply plot ratio will be increased by 33%).

Response by Director Development Services:

Commencing any change to this Policy now is likely to be overtaken by the process of completing the current Planning Policy review. This suggestion will be considered as part of the finalisation of the new suite of Planning Policies.

Disability Access and Inclusion:

1. That the Council notes that the Oxford Street Park development did not meet universal access requirements and needed subsequent modification at an estimated cost of \$18,000;
2. That the City's adopted Disability Access and Inclusion Plan (DAIP) states that infrastructure design will incorporate enhanced, as opposed to minimum, access standards, and therefore the omission of appropriate access was contrary to the DAIP; and
3. Requests the Chief Executive Officer to provide details of the steps that were taken, and when they were taken, to ensure that this problem does not happen again, therefore demonstrating the City's commitment to the DAIP.

Response by Director Technical Services:

1. While funding was allocated in the 2015/2016 budget to provide an accessible ramp to one of the raised grassed areas, this project is still being reviewed to ascertain if the funding is sufficient and if in fact the ramp is required. The City has engaged a building certifier and assessor to conduct an access audit of the park.

In addition, Members of the Leederville Town Centre Working Group including the Project Landscape Architect, who developed the final design, were confident that the overall park design catered for universal access through the site however, as above it may be unreasonable to provide universal access to all areas.

The Building Code of Australia (BCA) (Section D – Access and Egress) requires *“the provision of safe, equitable and dignified access to a building and its services, as far as is reasonable”*.

It also explains the following:

“As far as is reasonable” – There may be occasions when the application of a rule is “unreasonable”. Use of the phrase “as far as is reasonable” indicates that the BCA provisions are not absolute.

“Equitable” – The concept of “equitable” does not necessarily mean that everybody should be able to access all parts of a structure.

2. The City has been actively implementing the recommendations of the Disability Access and Inclusion Plan (DAIP) with many of its buildings and facilities being improved over successive financial years.
3. This will be addressed on a case-by-case basis, informed by specialist consultant advice, through the progressive implementation of a Project Management Framework at the City.

IT Allowance:

1. In keeping with the City's commitment to openness, accountability and transparency, Policy 4.2.7 (Allowances, Fees and Re-imbusement of expense) be amended to require elected members to provide, in a timely manner, the details of how the IT Allowance has been spent;
2. That elected members be required to provide details of how they spent the allowances they have received in the past; and
3. That the City review the above policy with a view to the City providing the required infrastructure, or to identifying the level of support that is deemed reasonable.

Response by Chief Executive Officer/Director Corporate Services:

The Local Government Act provides that local governments may decide to pay an annual allowance as determined by the Salaries and Allowances Tribunal, rather than reimbursing Council Members for a particular type of expense. The Salaries and Allowances Tribunal assesses and determines the value of those allowances every year. City of Vincent Council Members receive an IT allowance in line with the Tribunal's determination. There is no objection at law for Council Members receiving an allowance to demonstrate or prove how they are spending that allowance. Notwithstanding, Policy No. 4.2.7 is overdue for review and will be reviewed in 2016. This matter can be considered by Council in detail at that time.

4.6 Colin Scott – 17 Deague Court, North Perth

That the City of Vincent provides feedback to the community regarding the benefits, the pros and cons regarding fixed traffic devices on roads within the City.

Response by Director Technical Services:

The WA Police is ultimately responsible for enforcing speed limits on roads; however, to improve safety and amenity for residents and to provide deterrents for non-local traffic using residential streets, the City, where justified, implements traffic calming. Prior to traffic calming being implemented, the speed and volume of traffic are assessed, including the accident history of the street. If traffic calming is warranted a plan is developed, residents are consulted, funds allocated by Council and the project implemented. Very rarely are traffic measures removed after a period of time as they would revert back to the pre-calming scenario.

4.7 Debbie Saunders – 150 Oxford Street, Leederville

The Council ensure that all Precinct Groups are not discriminatory to any business in their Precinct.

Response by Chief Executive Officer:

Administration has no reason to believe that Precinct Groups discriminate towards any businesses, but that does not mean all businesses will always agree with the position and initiatives of those Groups.

4.8 Jake Schapper – 65 Harold Street, Highgate

That Council investigate amending the Planning Scheme so that new multiple storey developments on sites of 1,500 square metres and over need to have an equal amount of site area in greening on the building in the form of roof gardens, vertical walls and/or green balconies.

Response by Director Development Services:

This recommendation will be considered as part of finalising the current Planning Policy review.

4.9 Marie Slyth – 89 Carr Street, West Perth

That Council does what it can or takes steps to try and protect the heritage character building on the corner of Newcastle and Charles Streets.

Response by Director Development Services:

The City will review the building's heritage assessment for possible inclusion on the City's MHI.

CONSULTATION/ADVERTISING:

Nil.

LEGAL/POLICY:

Council must consider the motions from the AGM but is not obliged to make a decision on all or any of those Motions. If Council chooses to make a decision in response to an AGM Motion then reasons for that decision need to be recorded in the Minutes of the Council Meeting.

The *Local Government Act 1995* states:

"5.33 Decisions made at electors' meetings

- (1) *All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable –*
 - (a) *at the first ordinary meeting after that meeting; or*
 - (b) *at a special meeting called for that purpose,*

whichever happens first.
- (2) *If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting."*

RISK MANAGEMENT IMPLICATIONS:

Nil.

STRATEGIC IMPLICATIONS:

Nil.

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

It is recommended that the Council receive Administration's report in response to the AGM Motions as required by the *Local Government Act 1995* and notes the manner in which some of those Motions will be addressed by the City.

9.5.2 Information Bulletin

Ward:	-	Date:	26 February 2016
Precinct:	-	File Ref:	-
Attachments:	-		
Tabled Items:	-		
Reporting Officer:	A Radici, A/Executive Assistant		
Responsible Officer:	Len Kosova, Chief Executive Officer		

OFFICER RECOMMENDATION:

That the Council RECEIVES the Information Bulletin dated 8 March 2016 as distributed with the Agenda.

DETAILS:

The items included in the Information Bulletin dated 8 March 2016 are as follows:

ITEM	DESCRIPTION
IB01	Unconfirmed Minutes of the Safer Vincent Crime Prevention Partnership (SVCPP) Meeting held on 4 November 2015
IB02	Unconfirmed Minutes of the Parks Working Group (PWG) Meeting held on 2 December 2015
IB03	Unconfirmed Confidential Minutes of the Design Advisory Committee Meeting held on 20 January 2016
IB04	Unconfirmed Confidential Minutes of the Design Advisory Committee Meeting held on 21 January 2016 (Confidential – Council Members Only)
IB05	Unconfirmed Minutes of the Design Advisory Committee Meeting held on 5 February 2016
IB06	Unconfirmed Minutes of the Design Advisory Committee Meeting held on 10 February 2016
IB07	Minutes of Mindarie Regional Council Meeting held on 18 February 2016
IB08	Minutes of Tamala Park Regional Council Meeting held on 18 February 2016
IB09	Register of Petitions – Progress Report – March 2016
IB10	Register of Notices of Motion – Progress Report – March 2016
IB11	Register of Reports to be Actioned – Progress Report – March 2016
IB12	Register of Legal Action (Confidential – Council Members Only) – Monthly Report as at 19 February 2016
IB13	Register of State Administrative Tribunal (SAT) Appeals – Progress Report as at 19 February 2016
IB14	Register of Applications Referred to the MetroWest Development Assessment Panel – Current
IB15	Register of Applications Referred to the Design Advisory Committee – Current

10. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

10.1 Review of Local Law provisions relating to Storage of Items on Verge

That Council REQUESTS the Chief Executive Officer to provide a report to Council by October 2016 to consider introducing discretion in respect of clauses 4.8(c) and 4.11(1)(b) of the City of Vincent Parking and Parking Facilities Local Law.

REASON:

Clause 4.8(c) of the City's Parking and Parking Facilities Local Law prohibits the parking of a trailer or caravan in a thoroughfare when unattached to a motor vehicle, while clause 4.11(1)(b) prohibits the parking of a commercial vehicle or bus, or a trailer or caravan on a verge, when unattached to a motor vehicle.

It is considered reasonable to allow a trailer or caravan to be parked in a thoroughfare or on a verge without having to be hitched to a vehicle, in some circumstances and subject to certain conditions and limitations. These circumstances might include when moving house, unloading soil, mulch or other materials, during approved construction activities, or when friends and family come to visit. Conditions might include restrictions on size, prevention of obstruction to pedestrians and other vehicles and the duration of parking.

ADMINISTRATION COMMENTS:

Administration has no objection to the proposed Motion. The timeframe for reporting back to Council is considered achievable and will enable workshopping with Council Members beforehand.

10.2 Mayor John Carey and Cr Emma Cole – Review of Development Assessment Panels

That Council:

1. **ADVOCATES for the abolition of Development Assessment Panels (DAPs) on the basis that:**
 - 1.1 **DAPs by means of their majority unelected membership are not democratic bodies representing the ratepayers and accordingly do not reflect the aspirations or values of the community;**
 - 1.2 **DAPs represent a significant erosion of planning powers by elected representatives who have been given a mandate by ratepayers to make these decisions; and**
 - 1.3 **Previous decisions made by the Metro West Joint Development Assessment Panel have gone well beyond the purpose, intent and application of relevant Local Planning Policies adopted by the City of Vincent.**

 2. **ADVOCATES for consideration of the following reforms, in the event that DAPs remain in place, to ensure greater accountability, transparency and procedural fairness for ratepayers through the Panel's assessment and decision making processes:**
 - 2.1 **Abolishing the current opt-in mechanism which allows applicants to choose either elected Councils or the DAP as the decision maker and reinstating the minimum threshold for consideration of development applications by the DAP at \$7 million and indexed annually;**
 - 2.2 **Requiring equal membership on the DAP between Local Government and Appointed Specialist members;**
 - 2.3 **Requiring the DAP to set the meeting date for consideration of the development applications no later than five working days after the application being received to better enable ratepayer inclusion within the community consultation process;**
 - 2.4 **Requiring the DAP agenda and local government report and recommendation to be published no less than ten business days prior to the scheduled meeting date;**
 - 2.5 **Requiring a minimum of five business days between publishing the DAP agenda and the date by which ratepayers can apply to make public presentations to the DAP, to provide more time to prepare a formal response;**
 - 2.6 **Mandating that respondents to the development application can nominate email or Australia Post as their preferred contact method for information and requiring the local government to contact registered respondents throughout the process as deadlines are reached;**
 - 2.7 **Providing a public template for ratepayers to assist with the preparation of feedback as part of the Community consultation process;**
-

- 2.8 Requiring any changes to a development application between the community consultation period and final proposal for decision by the DAP to be published on the local government's website and to notify all respondents to the original community consultation of those changes; and**
- 2.9 Removing the need for the local government to obtain the applicant's consent for further consultation or an extension of time to report the applicant's development proposal to a DAP meeting for determination.**

ADMINISTRATION COMMENT:

DAPs have largely (and deliberately) removed opportunities for local 'political' and community-based issues to be considered in the decision-making process. These issues represent the fine-grain fabric of what is important to a local community in terms of its future character, landscape and amenity, and elected Council Members are usually best placed to interpret and represent those views. Further, these local issues cannot always be easily captured through Local Planning Policies; as a result, subjectivity and discretion will always have a role to play in such decisions.

Whilst the specialist DAP members are well qualified and experienced in their fields, they do not have the same appreciation and ownership of local issues as elected members. Specialist DAP members will also typically not have the same enduring accountability to justify or 'live with' the consequences of DAP decisions as elected members have, which comes from being a resident of the local community.

DAPs may have a place in some local governments if and where local political or populist issues are influencing development outcomes at the expense of relevant planning considerations and established planning policies. However, this is not considered to be the case at the City of Vincent, where the focus is on making good planning decisions that are well balanced and considerate of both allowable development standards and local issues. This view is supported by a number of recent planning decisions made by Council and Administration (under delegated authority) which have resulted in well-informed and well-explained decisions, notwithstanding the prospective popularity of such decisions.

On balance, based on the City's extensive experience working within the DAP process, Administration is of the view that abolition of DAPs in their entirety is unlikely and therefore supports Recommendation 2 only instead of Recommendation 1.

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”)

14.1 CONFIDENTIAL REPORT: Appointment of Community Members to the City of Vincent Advisory and Working Groups

Ward:	-	Date:	19 February 2016
Precinct:	-	File Ref:	Various
Attachments:	New Nominations received: Confidential – Art Advisory Group Confidential – Business Advisory Group Confidential – Children and Young People Advisory Group Confidential – Environmental Advisory Group Confidential – Road Safety Advisory Group		
Tabled Items:	Nil		
Reporting Officer:	Len Kosova, Chief Executive Officer		
Responsible Officer:	Len Kosova, Chief Executive Officer		

DETAILS:

The Chief Executive Officer is of the opinion that this report is of a confidential nature as it contains information concerning:

(b) *the personal affairs of any person.*

LEGAL:

The Local Government Act 1995, Section 5.23(2) prescribes that a meeting or any part of a meeting may be closed to the public when it deals with a range of matters.

The City of Vincent Local Law Relating to Standing Orders states the following:

“2.14 Confidential business

(1) All business conducted by the Council at meetings (or any part of it) which are closed to members of the public is to be treated in accordance with the Local Government (Rules of Conduct) Regulations 2007.

The confidential report is provided separately to Council Members, the Acting Chief Executive Officer and Directors.

In accordance with the legislation, the report is to be kept confidential until determined by the Council to be released for public information.

At the conclusion of these matters, the Council may wish to make some details available to the public.

14.2 CONFIDENTIAL REPORT: Sub Lease for proposed Wellness Centre – portion of Woodville Reserve, 10 Farmer Street, North Perth

Ward:	North	Date:	19 February 2016
Precinct:	North Perth (8)	File Ref:	SC1795
Attachments:	Confidential – Map of proposed leased area Confidential – Letter dated 27 January 2016 to MSC Confidential – Emails from MSC dated 9 and 12 February 2016		
Tabled Items:	Nil		
Reporting Officer:	M Bancroft, Property Leasing Officer		
Responsible Officer:	J Paton, Director Corporate Services		

DETAILS:

The Chief Executive Officer is of the opinion that this report is of a confidential nature as it contains information concerning:

- (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.*

LEGAL:

The *Local Government Act 1995*, Section 5.23(2) prescribes that a meeting or any part of a meeting may be closed to the public when it deals with a range of matters.

The City of Vincent Local Law Relating to Standing Orders states the following:

“2.14 Confidential business

- (1) *All business conducted by the Council at meetings (or any part of it) which are closed to members of the public is to be treated in accordance with the Local Government (Rules of Conduct) Regulations 2007.*

The confidential report is provided separately to Council Members, the Acting Chief Executive Officer and Directors.

In accordance with the legislation, the report is to be kept confidential until determined by the Council to be released for public information.

At the conclusion of these matters, the Council may wish to make some details available to the public.

14.3 CONFIDENTIAL REPORT: LATE ITEM: Leederville Gardens Retirement Village – Board Appointments

Ward:	North	Date:	3 March 2016
Precinct:	Leederville	File Ref:	SC1670; SC313
Attachments:	Confidential – Letter McLeods Barristers & Solicitors		
Tabled Items:	Nil		
Reporting Officers:	R Hall, Acting Director Community Services		
Responsible Officer:	R Hall, Acting Director Community Services		

DETAILS:

The Chief Executive Officer is of the opinion that this report is of a confidential nature as it contains information concerning:

Local Government Act 1995 – Section 5.23(2)

- (b) *the personal affairs of any person;*
- (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.*

LEGAL:

The *Local Government Act 1995*, Section 5.23(2) prescribes that a meeting or any part of a meeting may be closed to the public when it deals with a range of matters.

The City of Vincent Local Law Relating to Standing Orders states the following:

“2.14 Confidential business

- (1) *All business conducted by the Council at meetings (or any part of it) which are closed to members of the public is to be treated in accordance with the Local Government (Rules of Conduct) Regulations 2007.”*

The confidential report is provided separately to Council Members, the Chief Executive Officer and Directors.

In accordance with the legislation, the report is to be kept confidential until determined by the Council to be released for public information.

At the conclusion of these matters, the Council may wish to make some details available to the public.

15. CLOSURE
