



CITY OF VINCENT

AGENDA
Late Reports
Council Briefing
30 January 2018

Time: 6.30pm
Location: Administration and Civic Centre
244 Vincent Street, Leederville

Len Kosova
Chief Executive Officer

Order Of Business

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5 DEVELOPMENT SERVICES**5.9 LATE REPORT: NO. 137 (LOT: 141; D/P: 1197) WEST PARADE, MOUNT LAWLEY - PROPOSED TWO MULTIPLE DWELLINGS AND CHANGE OF USE OF EXISTING SINGLE HOUSE TO GROUPED DWELLING**

TRIM Ref: D17/171484

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Ward: South

Precinct: 15 – Banks

Attachments:

1. Attachment 1 - Consultation and Location Map  
2. Attachment 2 - Development Plans and Applicant's Report  
3. Attachment 3 - Summary of Submissions  
4. Attachment 4 - Applicant's Response to Submissions  
5. Attachment 5 - Design Advisory Committee Comments  
6. Attachment 6 - Determination Advice Notes  

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 development application for Two Multiple Dwellings and Change of Use of Existing Single House to Grouped Dwelling at No. 137 (Lot: 141; D/P: 1197) West Parade, Mount Lawley in accordance with the plans included as Attachment 2, subject to the following conditions, with the associated determination advice notes in Attachment 6:

1. Boundary Wall

The owners of the subject land shall finish and maintain the surface of the boundary (parapet) wall facing No. 139 West Parade in a good and clean condition prior to occupation or use of the development. The finish of the walls are to be fully rendered or face brickwork to the satisfaction of the City;

2. External Fixtures

All external fixtures and building plant, including air conditioning units, piping, ducting and water tanks, shall be located so as to minimise any visual and noise impact on surrounding landowners, and screened from view from the street, and surrounding properties to the satisfaction of the City;

3. Car Parking and Access

- 3.1. A minimum of two resident bays and one visitor bay for the multiple dwellings and a minimum of one car bay for the grouped dwelling shall be provided onsite;
- 3.2. Vehicle and pedestrian access points are required to match into existing footpath and right of way levels;
- 3.3. The car parking and access areas shall be sealed, drained, paved and line marked in accordance with the approved plans and are to comply with the requirements of AS2890.1 prior to the occupation or use of the development;
- 3.4. The visitor parking bay is to be sign posted, to the satisfaction of the City, prior to the occupation or use of the development;

4. Landscape and Reticulation Plan

4.1. A detailed landscape and reticulation plan for the development site and adjoining road verge is to be lodged with and approved by the City prior to commencement of the development. The plan shall be drawn to a scale of 1:100 and show the following:

4.1.1. The location and type of existing and proposed trees and plants;

4.1.2. Areas to be irrigated or reticulated; and

4.1.3. The provision of 13.6 percent of the site area as deep soil zones, 20 percent canopy cover at maturity for the proposed Multiple Dwelling lot and two mature trees with canopy coverage of 11 square metres on the proposed Grouped Dwelling lot as shown on the approved plans; and

4.2. All works shown in the approved detailed landscape and reticulation plans as identified in Condition 4.1 above shall be undertaken to the City's satisfaction, prior to occupation or use of the development and shall be maintained thereafter to the satisfaction of the City at the expense of the owners/occupiers;

5. Schedule of External Finishes

Prior to commencement of development a detailed schedule of external finishes (including materials and colour schemes and details) shall be submitted to and approved by the City. The development shall be finished in accordance with the approved schedule prior to the use or occupation of the development;

6. 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 shall be lodged with and approved by the City prior to the commencement of the development. The Construction Management Plan shall be prepared in accordance with the requirements of the City's Policy No. 7.5.23 – Construction and shall accord with the Public Transport Authority's *Procedure: Working In and Around the PTA Rail Reserve*. The management of the site shall thereafter comply with the approved Construction Management Plan;

7. Stormwater

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

8. Verge Trees

No verge trees shall be removed without the prior written approval of the City. The verge trees shall be retained and protected from any damage including unauthorised pruning to the satisfaction of the City;

9. Clothes Drying Facility

All external clothes drying areas shall be adequately screened in accordance with State Planning Policy 3.1: Residential Design Codes prior to the use or occupation of the development and thereafter to the satisfaction of the City;

10. Front Fence

The proposed front fence within the West Parade street setback area shall comply with the deemed-to-comply standards of the City's Policy No. 7.1.1 – Built Form;

11. Drainage Infrastructure

- 11.1. Prior to the commencement of development, full engineering details are required to be submitted to demonstrate how the City's and Water Corporation's drainage infrastructure will be protected to the satisfaction of the City; and
- 11.2. Prior to the Occupation of the Development an easement in gross in favour of the City of Vincent for the purpose of protecting the City's drainage infrastructure shall be provided on the title of No.137 (Lot 141) West Parade, Mount Lawley. The applicant/landowner shall pay all costs associated with preparing all documentation and lodgement of the easement on the title;

12. Screening Assessment

A screening assessment undertaken in accordance with Appendix A of The Implementation Guidelines for *State Planning Policy 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning* shall be lodged with and approved by the City prior to the commencement of the development. All mitigation measures identified in the approved screening assessment shall be implemented to the satisfaction of the City prior to the use or occupation of the development;

13. Right of Way Widening

- 13.1. A 1.2 metre right of way setback to any buildings and structures is to be maintained at all times to enable future right of way widening; and
- 13.2. The 1.2 metre right of way setback area referred to in condition 13.1 above, is to be ceded free of cost to the City on subdivision of the land, including Built Strata subdivision; and

14. General

Conditions that have a time limitation for compliance, and the condition is not met in the required time frame, the obligation to comply with the requirements of the condition continues whilst the approved development exists.

PURPOSE OF REPORT:

To consider an application for development approval for two Multiple Dwellings and change of use from Single House to Grouped Dwelling at No. 137 West Parade Mount Lawley.

BACKGROUND:

Landowner:	China Plate Development Pty Ltd
Applicant:	Aaron Sice
Date of Application:	30 August 2017
Zoning:	MRS: Urban TPS1: Zone: Residential R Code: R60 TPS2: Zone: Residential R Code: R60
Built Form Area:	Residential
Existing Land Use:	Single House
Proposed Use Class:	Multiple Dwelling – "P" Use Grouped Dwelling – "P" Use
Lot Area:	491m ²
Right of Way (ROW):	Located on the western side of the site with a width of 3.6 metres. The ROW is sealed and privately owned by the City in freehold.
Heritage List:	Not applicable

The subject site is located¹ on the western side of West Parade, Mount Lawley, between Chertsey Street and Guildford Road as shown in **Attachment 1**. The site is zoned Residential with a density of and is currently occupied by a single house which has vehicular access from West Parade. The adjoining land to the north and west of the subject lot is zoned Commercial and is occupied by commercial land uses. The land to the south, which fronts West Parade and Lord Street, is zoned Residential with a density of R60 and is predominantly characterised by a mix single, grouped and multiple dwellings predominately between single and two storeys. At No.131 West Parade there is an existing multiple development that is three storeys in height.

The application proposes to construct two multiple dwellings, situated at the rear of the site behind the existing single house, to a maximum of three storeys in height. Given the site is currently one lot and there is more than one dwelling on the lot, the existing single house fronting West Parade, the application also triggers a change in classification of this existing dwelling from 'Single House' to 'Grouped Dwelling'. The applicant has indicated their intention to strata subdivide the existing lot as follows:

- Rear Lot: To include the two proposed multiple dwellings with a site area of 231 square metres;
- Existing Dwelling Lot: To include the grouped dwelling fronting West Parade with a site area of 260 square metres.

The visitor car bay and car parking for the residents for the two proposed Multiple Dwellings are proposed to be accessed from Right of Way. Vehicular access to the Grouped Dwelling will remain unchanged from West Parade. The plans which form the basis of this report are included as **Attachment 2**.

DETAILS:

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 (TPS1), the City's Policy No. 7.1.1 – Built Form and the State Government's Residential Design Codes. In each instance where the proposal requires the discretion of Council, the relevant planning element is discussed in the Detailed Assessment section following from this table.

Planning Element	Use Permissibility/ Deemed-to-Comply	Requires the Discretion of Council
Density/Plot Ratio		✓
Street Setback	✓	
Front Fence	✓	
Building Setbacks/Boundary Wall		✓
Building Height/Storeys	✓	
Roof Form	✓	
Open Space	✓	
Outdoor Living Areas	✓	
Landscaping	✓	
Privacy	✓	
Parking & Access	✓	
Bicycle Facilities	✓	
Solar Access	✓	
Site Works/Retaining Walls	✓	
Essential Facilities	✓	
External Fixtures	✓	
Surveillance	✓	
Setback from Right of Way	✓	
Environmentally Sustainable Design	✓	

Detailed Assessment

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

Plot Ratio

Deemed-to-Comply Standard	Proposal
R-Codes - Clause 6.1.1	
Plot ratio of 0.7 which equates to 161.7m ² of gross building floorspace	Plot ratio of 0.74 or 170.94m ² of gross building floorspace
Lot Boundary Setbacks	
Deemed-to-Comply Standard	Proposal
Built Form Policy – Clause 5.3 R-Codes – Clause 6.1.4	
<u>Northern Boundary</u>	<u>Northern Boundary</u>
Second Floor setback a minimum of 5.4m	Second Floor setback a minimum of 3m
<u>Southern Boundary</u>	<u>Southern Boundary</u>
Second Floor setback a minimum of 5.4m	Second Floor setback minimum of 3.069m increasing to 4.1m
<u>Boundary Wall (Northern Boundary)</u>	
Maximum Height of 3.5m	Maximum Height of 9.1m
Average Height of 3m	Average Height 9.1m

The above elements of the proposal do not meet the specified deemed-to-comply standards and are discussed in the comments section below.

CONSULTATION/ADVERTISING:

Community consultation was undertaken for a period of 21 days in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015* and the City's Policy No. 4.1.5 – Community Consultation, from 7 November 2017 to 27 November 2017. The method of community consultation included advertising the proposal on the City's website and 57 letters being mailed to all owners and occupiers within a radius of 100 metres to the subject site, as shown on **Attachment 1**. A total of four submissions were received, one objection and three letters of no-objection. The objection received was not from the immediately abutting lots. The comments raised in the objection can be summarised as follows:

- The proposal does not meet requirements for plot ratio and open space as required by the R-Codes;
- The variations to the setbacks and boundary wall will not minimise the perceived bulk of the dwelling;
- The height of the building is to be restricted to two storeys;
- The proposal does not meet the landscaping requirement;
- The windows on the southern elevation are to be screened to prevent any overlooking of adjoining properties; and
- The proposal should comply with the requirements of the R-Codes.

A detailed summary of the objection received during the consultation period and Administration's response to each matter raised is included in **Attachment 3**. The applicant's response to the objection is included in **Attachment 4**.

Following advertising the applicant modified the plans to address the submissions received as well as the comments of the City's Design Advisory Committee (DAC) and the City's officers. The changes are identified as follows:

- The stairs to the first floor were modified to become common to more than one dwelling and therefore excluded from the calculation of the plot ratio. The amended plans reduce the plot ratio from 0.816 as advertised to 0.74;
- A store to the Grouped Dwelling was provided and the development now complies with the deemed-to-comply of the R-Codes in this regard; and
- Landscaping was proposed within the front setback which accords with the deemed-to-comply standards of the R-Codes.

Design Advisory Committee (DAC):

Referred to DAC: Yes

Plans for the development were first presented to DAC on the 5 July 2017. At that time the DAC requested that the amended plans be referred back to the DAC when received. Amended plans were referred by email to DAC Chair for comment. The DAC Chair advised that the amended plans were supported. An extract of the Minutes of the meeting and the DAC Chair's response are provided in **Attachment 5**.

LEGAL/POLICY:

- *Planning and Development Act 2005*;
- *Planning and Development (Local Planning Schemes) Regulations 2015*;
- City of Vincent Town Planning Scheme No. 1;
- State Planning Policy 3.1 – Residential Design Codes;
- Policy No. 4.1.5 – Community Consultation; and
- Policy No. 7.1.1 – Built Form Policy.

In accordance with Schedule 2 Clause 76(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* and Part 14 of the *Planning and Development Act 2005*, the applicant has the right to apply to the State Administrative Tribunal for a review of Council's determination.

It is noted that the landscaping provisions of the City's Built Form Policy require approval of the Western Australian Planning Commission (WAPC) and as a result the assessment will only have 'due regard' to these provisions.

Draft Local Planning Scheme No. 2 (Draft LPS 2)

On 8 December 2017, the Acting Minister for Planning announced that the City's draft Local Planning Scheme No. 2 (LPS2) is to be modified before final approval will be granted. The Schedule of modifications was confirmed in writing by officers at the Department of Planning, Land and Heritage (the Department). The Department also advised that the modifications to LPS2 would be required before the Acting Minister would finally grant approval to the Scheme. In this regard the LPS2 should be given due regard as part of the determination of this application. Proposed LPS2 and the modifications required do not impact on the subject property.

Delegation to Determine Applications:

This matter is being referred to Council as the proposal is for development classified 'Category 1' as the development is three storeys in height.

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:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:Plot Ratio

The application proposes a plot ratio of 0.74 (170.94 square metres of gross building floorspace) which is great that the deemed-to-comply plot ratio of 0.7 (161.7 square metres gross building floorspace) set by the R-Codes for this R60 site.

The submission received raised concern with the proposed plot ratio and that the proposed plot ratio and height had added bulk and scale to the development. The subject lot is within a three storey building height area with the adjoining land zoned Commercial. The plot ratio proposed is less than 10 square metres greater than the deemed-to-comply standard set by the R-Codes for this site and is not considered to add obvious bulk to the development. The development has been designed to comply with the height requirements and the building elevation is well articulated with contrasting materials and colours. These factors, combined with the proposed landscaping, will soften the bulk and scale of the development to adjoining properties, the ROW and the streetscape.

The surrounding area is intended to be rezoned under LPS2 with the land on the western side of the ROW proposed to be up coded to R100 providing for development up to six storeys. It is considered that the proposed design and density of the development is consistent with the changing character of the area.

Lot Boundary Setback*Northern Boundary*

The second floor is setback three metres from the northern boundary in lieu of the 5.4 metres deemed-to-comply standard set in the R-Codes. The adjoining property at No.139 West Parade is zoned Commercial and has an existing boundary wall at a height of 6.17m for the length of the boundary adjoining the proposed units. The section of wall proposing the reduced setback does not contain any major openings and due to the orientation of the lot will not result in any overshadowing to the north. Given the existing commercial development on the adjoining property it is considered that the setback variation will not impact on the adjoining property.

Table 4 of the R-Codes sets out a maximum height of 3.5 metres and an average height of 3 metres for boundary walls. The development proposes a boundary wall to the northern property boundary up to 9.1 metres in height. As outlined above the adjoining property to the north at No. 137 West Parade is zoned Commercial and contains a large commercial development which occupies almost 75% of the lot area and presents a boundary wall at a height of 6.1 metres to the northern boundary of the subject site. The existing boundary wall on this site is longer than the proposed boundary wall and as a result the 9.1 metre high boundary wall proposed will not be visible from the adjoining property, West Parade or the ROW and is considered appropriate in this instance.

Southern boundary

In accordance with the Lot Boundary Setbacks of the R-Codes the second floor is setback between 3.069 metres to 4.1 metres from the southern boundary in lieu of the deemed-to-comply standard of 5.4 metres set in the R-Codes. Whilst the proposal does not comply with the lot boundary setbacks, the dwelling is setback to comply with the Visual Privacy standards of the R-Codes and will not result in any overlooking. In addition the wall is well articulated with staggered sections of wall, a variety of materials and finished and the inclusion of openings to reduce the bulk of the development. The proposal complies with the overshadowing requirements and will not impact on the outdoor living areas of the adjoining property. Given the above, the proposed setback to the southern boundary is considered to meet the relevant design principles of the R-Codes.

Landscaping

The City's Built Form Policy sets out a deemed-to-comply standard of 15 percent deep soil zone and 30 percent canopy cover at maturity. These provisions have yet to be adopted by the WAPC, however, are given due regard in the assessment of the application. The assessment of the landscaping requirements is based on the whole site area (491 square metres), with the application proposing 13.25 percent of the site as deep soil zone and 20 percent canopy coverage. Additional landscaped areas in the submitted landscaping plan are identified as deep soil zone, however, these do not meet the one metre minimum dimension requirements in accordance with the Built Form Policy.

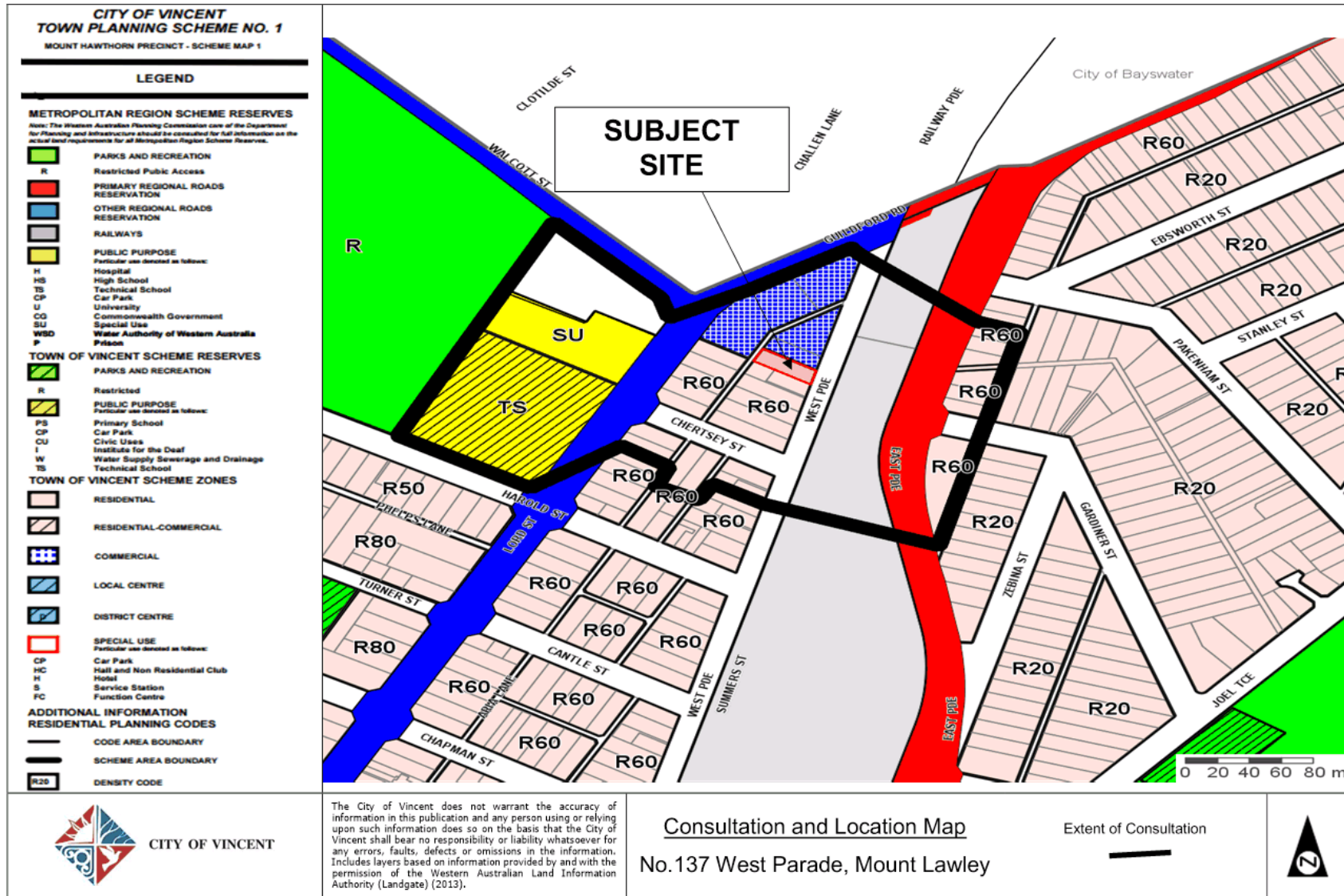
Consistent with the objectives of the City's Built Form Policy the application proposes the retention of the existing dwelling. The redevelopment of the land to the rear of the existing dwelling and the need for visitor car parking and a store for the existing dwelling results in a limited area for additional canopy coverage to be provided on site. The development proposes to retain the existing mature tree at the front of the site and has designed the pedestrian access and letterbox in order to protect this important contributor to canopy coverage. The application also proposes a creeper over the pergola in the new ground floor outdoor living area, which will further contribute to the landscaping of the site. Given the retention of the existing tree fronting West Parade and the proposed arbour above the pergola, it is considered that the development responds to the intent of the City's policy and provides an appropriate landscaping outcome.

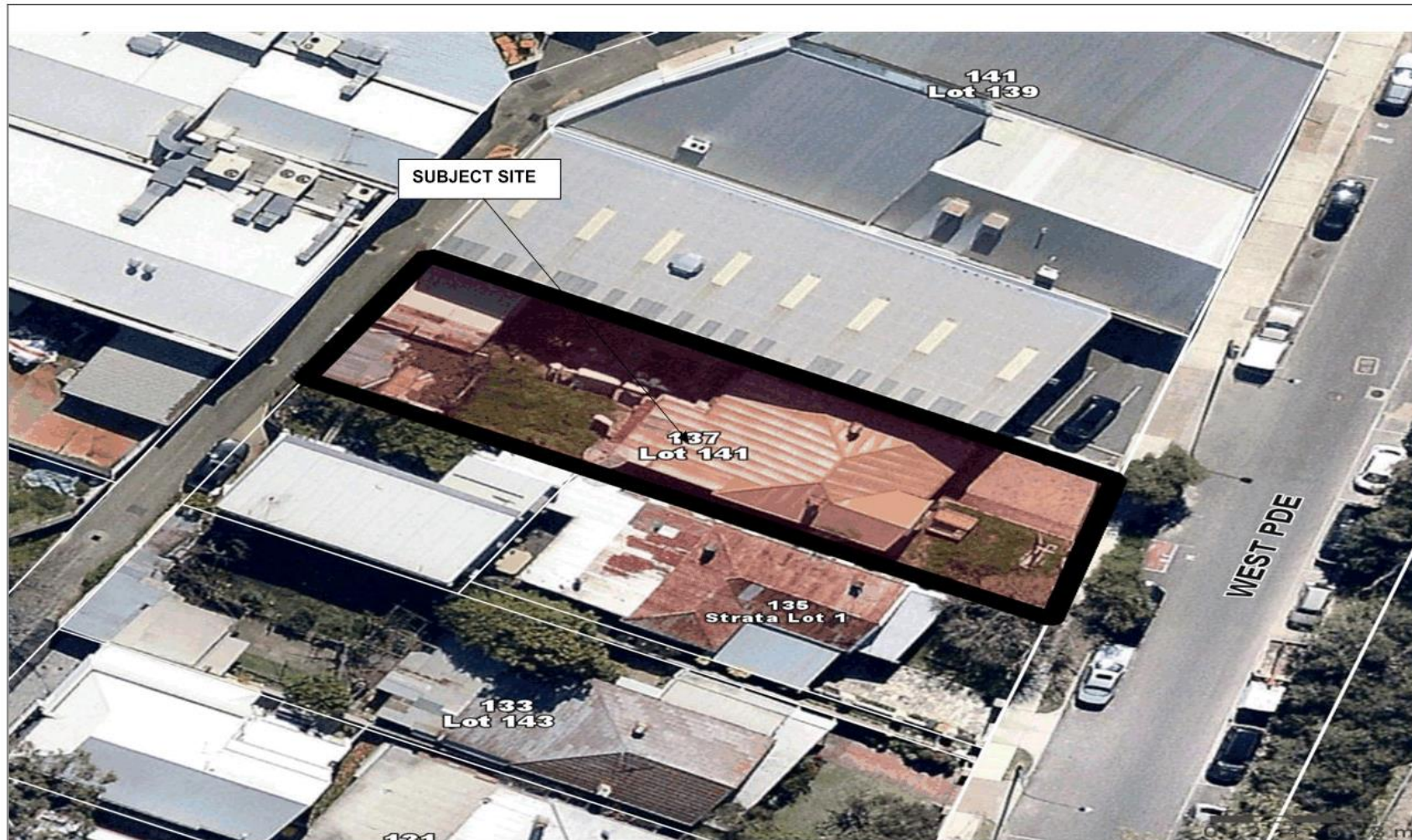
Drainage Infrastructure

The subject lot is traversed by the Water Corporation's Mount Lawley main drain, a 1600 diameter brick drainage structure running east to west across the north east corner of the lot. The City's 375 RC drainage pipe also runs along the same alignment. The construction of the multiple dwelling above this drainage infrastructure will require engineering solutions for the protection of both drainage systems in accordance with the Water Corporation's requirements. It is recommended that a condition be imposed on any approval requiring the development to be undertaken in accordance with the Water Corporation and City's requirements with the landowner required to enter into an easement for protection of this infrastructure prior to occupation of the new development to ensure its ongoing protection. The applicant is aware of this requirement and has not raised any concerns.

Conclusion

The proposal requires the Council to exercise its discretion in relation to plot ratio and building setbacks. Both of these elements of the proposal are considered to meet the relevant design principles set out in the R-Codes and local housing objectives set out in the Built Form Policy. The proposal is recommended for approval subject to conditions.



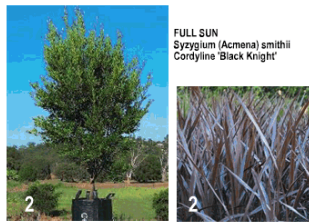


CITY OF VINCENT

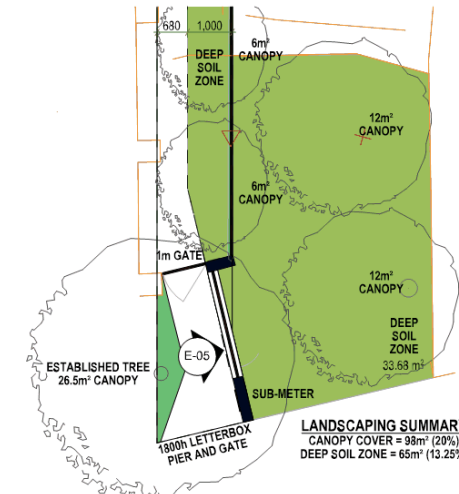
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NO.137 WEST PARADE MOUNT
LAWLEY

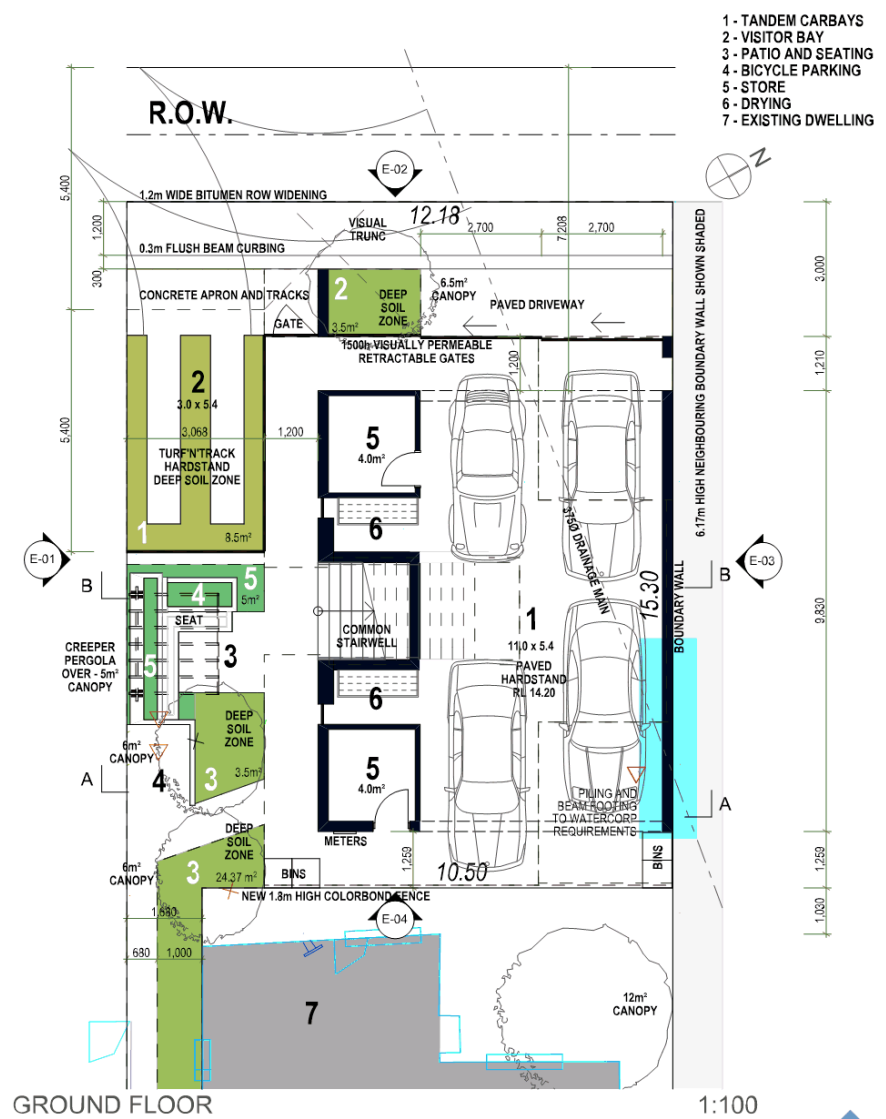




LANDSCAPING

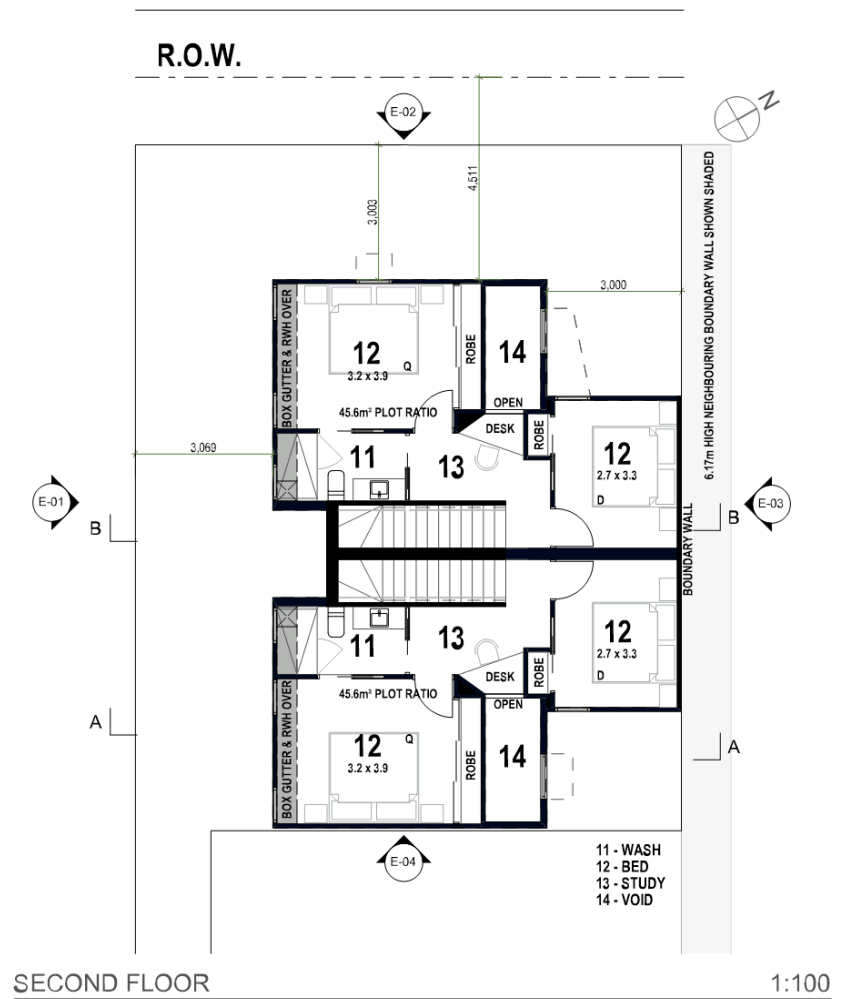
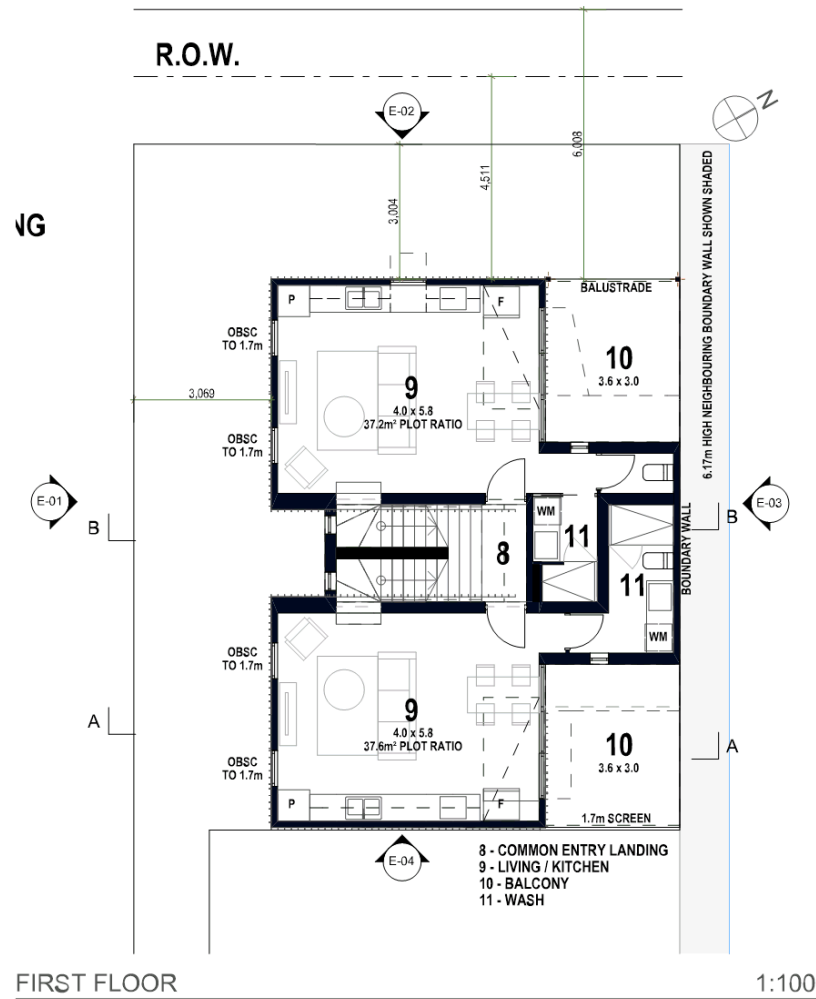


GATE & FRONT YARD 1:100



PROPOSAL FOR TWO (2) MULTIPLE DWELLINGS BEHIND EXISTING HOUSE
 REAR 137 WEST PARADE, MOUNT LAWLEY
 CHINA PLATE DEVELOPMENTS PTY LTD
 © AARON SICE

R80
 231m²
 SHEET 01 OF 05
 REV 6c - DEC 2017



PROPOSAL FOR TWO (2) MULTIPLE DWELLINGS BEHIND EXISTING HOUSE
 REAR 137 WEST PARADE, MOUNT LAWLEY
 CHINA PLATE DEVELOPMENTS PTY LTD
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231m² R80
 SHEET 02 OF 05
 REV 6c - DEC 2017



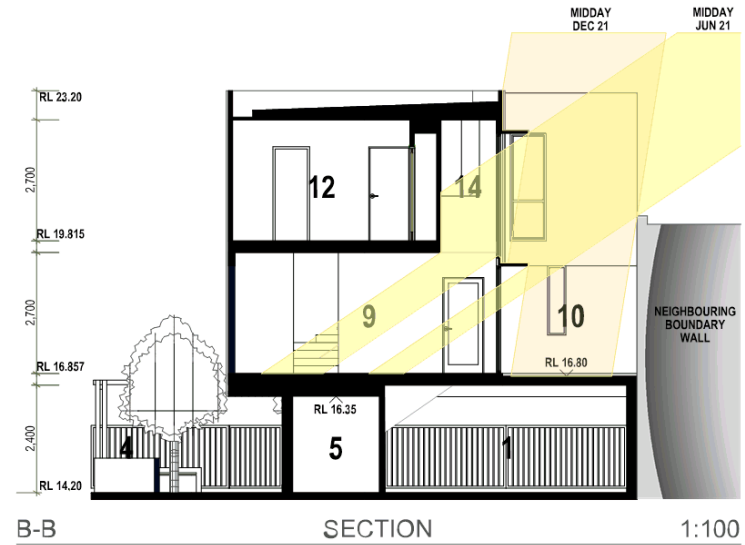
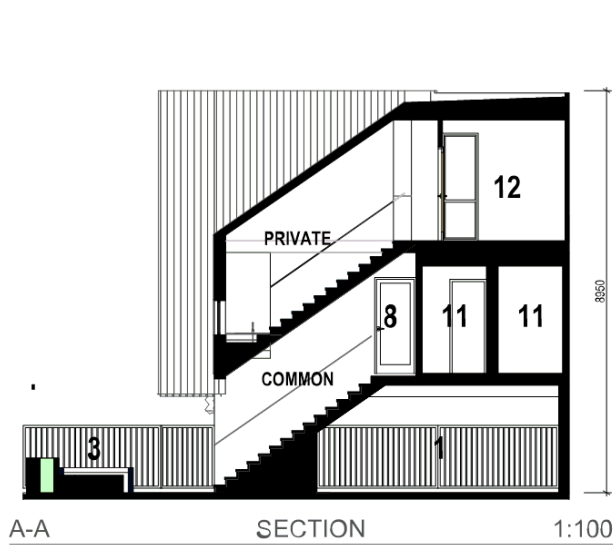


MATERIAL PALETTE

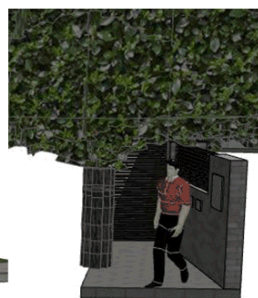
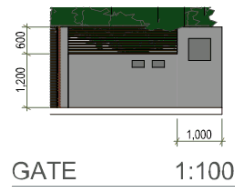


PROPOSAL FOR TWO (2) MULTIPLE DWELLINGS BEHIND EXISTING HOUSE
 REAR 137 WEST PARADE, MOUNT LAWLEY
 CHINA PLATE DEVELOPMENTS PTY LTD
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231m² R80
 SHEET 03 OF 05
 REV 6c - DEC 2017



ROW ELEVATION



GATE



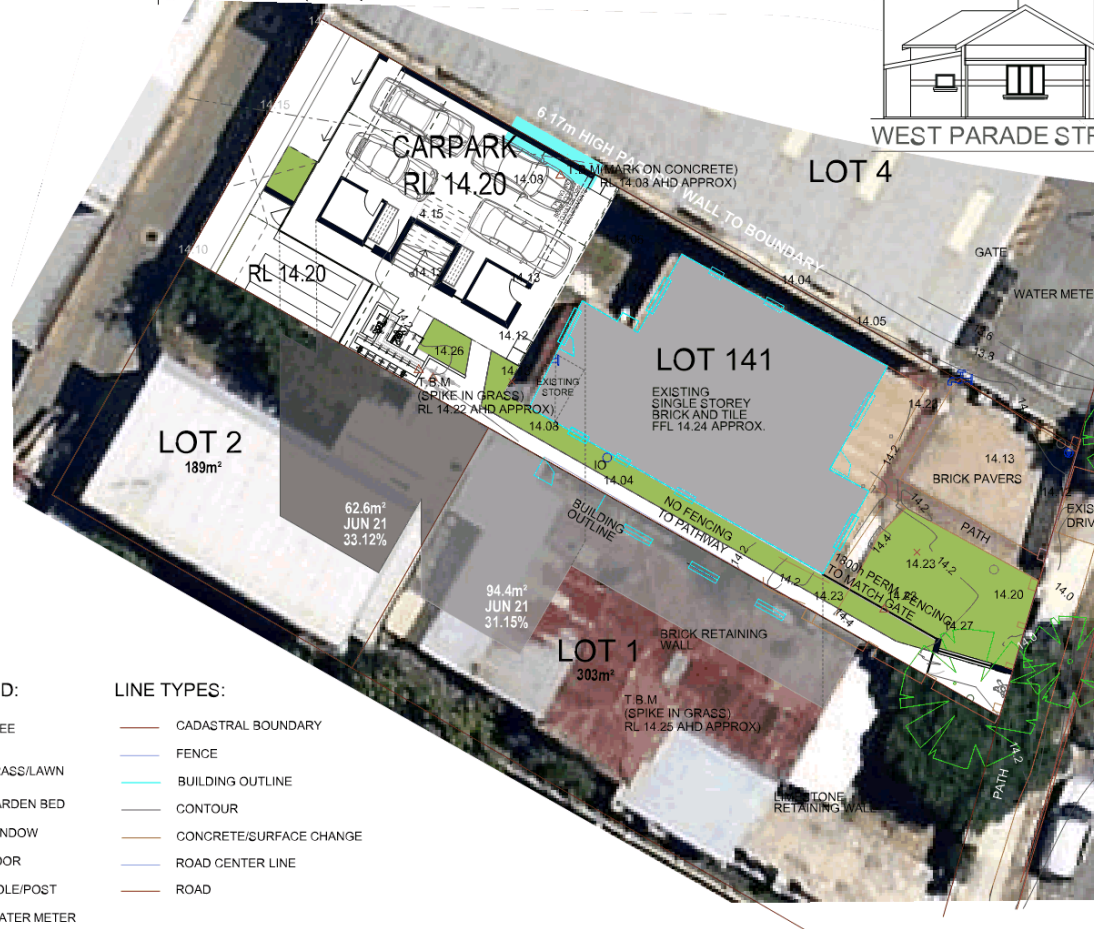
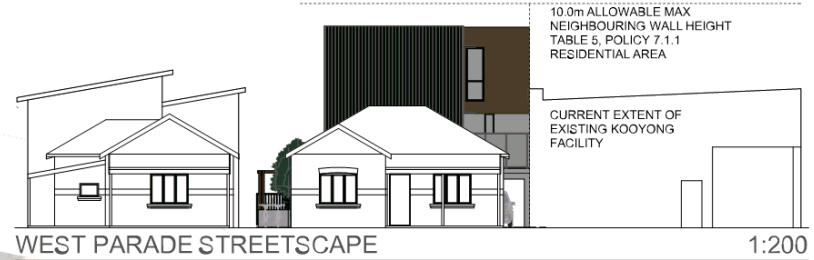
SOUTH ELEVATION

PROPOSAL FOR TWO (2) MULTIPLE DWELLINGS BEHIND EXISTING HOUSE
 REAR 137 WEST PARADE, MOUNT LAWLEY
 CHINA PLATE DEVELOPMENTS PTY LTD
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231m² R80
 SHEET 04 OF 05
 REV 6c - DEC 2017



DEVELOPMENT AREA - 231m²
 R60 PLOT RATIO - 161.7m² (0.7)
 TOTAL PLOT RATIO - 171.0m² (0.74)



- LEGEND:**
- TREE
 - GRASS/LAWN
 - GARDEN BED
 - WINDOW
 - DOOR
 - POLE/POST
 - WATER METER
 - WATER TAP
 - SEWER INSPECTION OPENING
- LINE TYPES:**
- CADASTRAL BOUNDARY
 - FENCE
 - BUILDING OUTLINE
 - CONTOUR
 - CONCRETE/SURFACE CHANGE
 - ROAD CENTER LINE
 - ROAD

SITE PLAN WITH AERIAL



CURRENT STREETScape

1:200

PROPOSAL FOR TWO (2) MULTIPLE DWELLINGS BEHIND EXISTING HOUSE
 REAR 137 WEST PARADE, MOUNT LAWLEY
 CHINA PLATE DEVELOPMENTS PTY LTD
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231m² R60
 SHEET 05 OF 05
 REV 6c - DEC 2017





06 June 2017

City of Vincent
PO Box 82
LEEDERVILLE WA 6902

[ATTN: Director, Planning Services | Two \(2\) Multiple Dwellings behind Existing Dwelling –137 West Parade, Mt Lawley.](#)

Dear Sir / Madam,

Please find attached Proposed Plans for submission to the Development Advisory Committee for comment prior to formal Development Application lodgement.

#137 West Pde is a 491m² R60 site with an existing period dwelling. The Proposed Development for two (2) Multiple Dwellings is behind the existing dwelling on 231m², leaving 360m² for the front lot. The site is a flat, sandy site, adjacent the KOOYONG factory and has public ROW access; however, the existing dwelling does not use the ROW for access.

The site is within the Banks precinct and is not affected by road widening or any easement burden. The ROW requires widening and ceding back to the City.

This site has previously been up to DAC for a similar proposal with a different building designer; however, the owners have requested I submit a fresh proposal due to the inability of the previous design to reconcile a number of problematic issues.

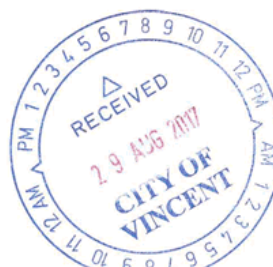
We are seeking Design Excellence for this application to assist a reasonably compliant proposal.

This correspondence for the DAC submission references the Proposed Development against City of Vincent Built Form Policy 7.1.1 Residential Areas, incl Appendix 1 'Design Principles'.

Appendix 1 – Design Principles.

1. Context and Character

The immediate area has many examples of a similar pattern of subdivision and built form. The Proposed Development is a 'buffer' property adjacent a commercial area with a large boundary wall along the entire North boundary; therefore an innovative solution is needed to provide the best outcome for any future occupants. The built form is bold and modern and is a progression of the continuing modern styling of laneway development. Materials reflect the immediate commercial surrounds and modern laneway dwellings. The proposal is located within 400m of East Perth train station and two high-frequency bus routes, providing the opportunity to increase density in the immediate location. The proposal maintains the intent behind a Residential R60 zoning in that only small concessions to Plot Ratio and side boundary wall heights are requested. Neighbouring amenity is not affected by bulk and scale or overshadowing; and with conflicting private areas well separated, will further maintain all existing neighbouring amenity.



aaron sice



2. *Landscape Quality*

The Proposed Development has a high emphasis on passive and active landscaping. With a small creeper patio to the Common seated planter, occupants have an extra outdoor dimension to enjoy at their leisure outside of their minimum private outdoor area. The gatehouse to West Pde provides for the retention of the existing tree within the front setback with a considered approach to the common property size and position in this location. A turf-cell visitor bay and driveway is the same model as successfully trialled by the City of Bayswater for crossovers, providing for a large reduction in unshaded paved area and heat island effect. A landscaped buffer between the West Pde access path and existing dwelling forces regular and casual users away from the side windows of the existing dwelling, maintaining privacy and likely to reduce occupant interruption. Small Deep Soil Zones are supplied for appropriate tree planting and accompanying ground cover.

3. *Built Form and Scale*

A majority of laneway development in the immediate location is two storeys – some with lofts. Three (3) floors is proposed at a height that is 1m under maximum for the location per Figure 2 (7.1.1) – however the form is strong and bold; yet with intricate articulation and layers of identity.

Existing Laneway character is a strong trend towards bold and modern design. The Proposed Development seeks to continue the evolving language of Laneway Development in the immediate area; a well considered approach is proposed to increase amenity for the occupants with landscaped and seated Common Area to supplement North facing private balconies; and a high level of internal amenity. Private and Common areas are well defined, and delineated from the Public ROW.

4. *Functionality and Build Quality*

A podium style of development is proposed to set the dwellings above the laneway which is frequented with commercial vehicles. Building materials are common for use but a re-imagining of the materials in the immediate area – commercial cladding and simple face brickwork. Minimal overlap of the dwellings ensures reduced noise transfer with similar adjacent rooms and an exclusive stairwell between them. The Common area is easily accessible and the private outdoor areas are placed to the North side and well separated from each other.

5. *Sustainability*

The proposal seeks to capture as much natural light as possible over the neighbouring two-storey parapet wall, providing a strong seasonally passive element to the Proposed Development. The use of location-appropriate low-water use plantings and building materials with low embodied energy and maintenance requirements (like timber framing and local bricks) continues the energy efficient design ideal. With a high degree of local materials, minimal concrete and a high level of recyclability (cladding, framing etc), the Proposed Development is an exercise in life-cycle and economic rationalisation. Rainwater capture, storage and re-use is provided for the common areas.

6. *Amenity*

Dwellings are open to three sides providing for maximum natural light and cross-flow ventilation for occupants. With North-facing living areas and balconies, this light is filtered into all stories with the use of a small two-storey void open to the living room below and the study recess adjacent. Visual privacy is maintained for all occupants and neighbouring dwellings without the use of 'highlight' windows, furthering the everyday amenity for future occupants.

Oversize outdoor living areas are supplemented with a Common outdoor area with all ancillary uses (drying lines, AC units etc) outside of these private spaces and placed appropriately to avoid any impact on neighbouring properties.

Well-sized rooms are easily furnished as demonstrated with a good amount of internal storage. Utility areas are well separated and similar room uses are proposed adjacent each dwelling. The podium style of development provides for adequate shelter for a user of the spaces surrounding the building.

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7. Legibility

Wayfinding to and through the site is obvious and apparent. The gate-house from West Pde sets the pedestrian entry off the street, with the termination of vista to the Common seating area beyond. Visitor parking is the only obvious available space from the ROW. Once inside the development, the stairwell to the apartment entries is wide and defined. The built form is legible to read as a casual observer and utility areas well concealed with easy access.

8. Safety

Podium development is proposed to set the dwellings above the ROW which is narrow and frequented by commercial vehicles. The dwellings provide for a number of Major Openings providing surveillance of the approach to the dwelling and the ROW, including an unscreened balcony for effective surveillance and an immediate visually defensible space. Common areas are open and easily surveyed from the grounds and dwellings. The access from West Pde is gated and secured and the termination of vista is the Common seated planter area. Vehicle and pedestrian areas are well separated and clearly defined.

9. Community

The Proposed Development is designed to 'mind its own business'. It's the new kid on the block, in a discrete corner of the neighbourhood. With a small communal area for the use of occupants and deep-soil zones for planting of small/medium trees to provide a landscape buffer to the neighbours, the proposed development has a high level of respect for the immediate neighbourhood. Two (2) dwellings total are provided as 2 bed, 2 bath dwellings – known to be the most flexible dwelling types for small families, sharing roommates etc and each dwelling is provided with two (2) car bays and a separate study nook in recognition of this. The Proposed Development is within walkable catchment of a train station and two high frequency bus routes to Beaufort Street, Perth CBD, Bayswater and beyond.

10. Aesthetics

The general approach to the design of the dwellings is one of function over form. The functions of the pedestrian and vehicle interfaces were separated, the legibility of the common areas and transitional spaces considered, dwelling design and their relationships to each other formalised with a strong sense of individuality, and the bulk and scale sculpted where possible and minimise the visual mass of the proposal.

The proposal is bold and doesn't try to hide it – being adjacent to a commercial area it shows strength in style and form; yet respects its residential location with articulate façade treatment and appropriate massing to reduce bulk and scale. A classic urban podium design is proposed that allows the space underneath to be used as transition in conjunction with the Common area adjacent; to maximise the functionality of the site.

Material of the podium matches the adjacent parapet wall and the remaining materials draw on influence of the immediate area – cladding, commercial profiles and a modern palette.

Built Form Policy 7.1.1 Section 5 – Residential Areas

5.1 Site Area

Multiple Dwellings proposed. No minimum lot area. Existing Dwelling on 360m².

5.2 Street Setback

Proposed development abuts a ROW. Not applicable.



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5.3 Lot Boundary Setback

C5.3.1(i) Boundary wall proposed 8.9m high. Wall abuts a commercial property with commercial zoning. Finish of wall above 6.17m of commercial parapet adjoining North boundary matches the proposed development.

C5.3.2 Setback of 4.5m to habitable rooms provided to centreline of ROW per C5.3.4. Balcony setback provided at 6m to property boundary per Clause 6.4.1 (C1.1i) R Codes.

5.4 Open Space

5.4.1 Open Space is calculated at 66.1%.

5.5 Communal Open Space

18m² provided supplemental to the required outdoor living provision. No requirement for communal open space.

5.6 Building Height

C5.6.1 Building height per Figure 2 is three (3) stories. Table 5 requires a maximum of 9m wall, 10m concealed roof wall / skillion and 12m pitched roof. Proposal provides for a maximum parapet height of 8.95m.

5.7 Setbacks of Garages and Carports

Car parking is provided from a Right of Way. Parking provision is less than 50% of the frontage, fully permeable and visually subservient to the Proposed Development.

5.8 Garage Width

No provisions apply.

5.9 Street Surveillance

C5.9.1 Proposed Development abuts a ROW. Three (3) separate habitable room windows and an unscreened balcony provide direct visual surveillance of the entire length immediate to the Proposed Development.

5.10 Street Walls and Fences

C5.10.1 Proposed gate entry is similar in scale and construction to other rear lot developments along West Pde.

C5.10.2(a) Brick fencing and gates are not more than 1.8m above NGL.

(b) Piers are 1.8m high.

(c) Gate is visually permeable for the full height.

(d) Piers are not wider than 400mm at their edge (350mm provided) but are 1.0m deep to provide a protected alcove off the street for letter collection and gate use.

(e) Pedestrian gate provided so distance between piers is less than their height.

C5.10.3 Not applicable.

C5.10.4 All front fencing is brick construction.

5.11 Sight Lines.

All minimum visual truncations provided to the Right Of Way.



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5.12 Appearance of Retained Dwelling

The existing dwelling is in good condition with an enclosed front yard compliant with current requirements per 5.10. It is currently undergoing a minor cosmetic update.

5.13 Outdoor Living Areas

The individual private outdoor living areas are 11m² balconies with a minimum dimension of 3.0m.

5.14 Landscaping

P5.14.1 Landscaping has been designed with due consideration to all neighbouring dwellings. The existing dwelling is provided with a landscape buffer strip to force occupants away from Major Openings and trees are planted between the Proposed Development and the neighbouring dwellings to the South.

P5.14.2 Appropriate Small/Medium trees are provided between the proposed development and existing neighbouring dwellings. A Small/Medium tree is also provided to the ROW setback area. The Common area is provided with a creeper pergola to increase Summer shade. The existing tree within the front setback is retained adjacent the gate house from West Pde.

P5.14.3 Appropriate selected waterwise species are proposed to ensure sustainable management of all landscaping components.

P5.14.4 A minimum of three (3) new trees are proposed along with the retention of the established tree within the front setback area. One new tree is proposed to the Western façade to assist with reduced heat loading. The creeper pergola is adjoining an irrigated planter for increased Summer shade. The driveway and visitor parking bay are deep-soil turf-cells to eliminate the heat island effect of bare paving treatments.

P5.14.5 As previously mentioned, the existing tree to the front setback area is retained, along with the provision of 40m² of deep soil zones, 25% of this allocation is for appropriate tree species.

P5.14.6 ROW landscaping is appropriate and contributes to the enhancement of space while remaining safe and practical to manoeuvre.

5.15 Parking

Requirements are two (2) car bays, one (1) visitor bay and two (2) bicycle bays. The Proposed Development provides for four (4) car bays, one (1) visitor and two (2) bicycle bays.

5.16 Design of Car Parking Spaces

Occupant car bays are B85 in tandem per AS2890. Visitor bay is B85 in tandem with 0.3m per side for obstructions per AS2890. Bicycle bays are 1.8 x 0.6m per AS2890. Spaces are easily accessible, covered and secured behind automatic gates.

5.17 Vehicular Access

Access is provided by the ROW where supplied.

5.18 Pedestrian Access

Pedestrian access and movement around the site is legible and separate from manoeuvring areas and the ROW.

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5.19 Site Works

All site works proposed are within 0.15m of NGL.

5.20 Retaining Walls

No retaining walls are proposed.

5.21 Stormwater management

Stormwater solution is provided with simple soakwell solutions due to the Class 'A' sandy site as overflow from the capture and storage system provided for common landscaping.

5.22 Visual Privacy

All setbacks for Major Openings are in excess of the requirements for Visual Privacy compared against the R Codes. Only the Eastern-most proposed balcony requires an obscured screen to 1.7m AFL; and is provided.

5.23 Solar Access for Adjoining Sites.

The proposal provides for 15.81% shadow to Lot 1 and 33.12% shadow for Lot 2; well inside the maximum allowable of 50% at midday, June 21.

5.24 Outbuildings

No outbuildings are proposed, but the creeper pergola is not more than 2.4m high.

5.25 External Fixtures

C5.25.1 Meterboxes are located to the East side of the carparking area, away from casual observation.

Air conditioning compressors are roof-mounted to the North side of the development.

Washing lines are located to a screened area inside the carparking area.

C5.25.2 Washing lines are screened with a minimum 75% visual obscurity.

C5.25.3 Not applicable.

5.26 Utilities and Facilities.

Not applicable (C5.25.2)

5.27 Ancillary Dwellings

Not applicable

5.28 Aged or Dependent Persons Dwellings

Not applicable

5.29 Single Bedroom Dwellings

Not applicable.



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5.30 Environmentally Sustainable Design (Per Clause 1.8)

- P1.8.1 Section B-B, Sheet 4 highlights the natural and direct light penetration. With dwellings open on three sides, cross-flow ventilation is assured.
- P1.8.2 Storage tanks provided adjacent to the soakwells in carparking area with bilge-pump to supply rainwater to common gardens.
- P1.8.3 Awnings provided to the North and Western windows. Creeper Pergola provides shade in summer for Common area.
- P1.8.5 The development seeks a minimum 5 Star Green / 7 star NCC energy rating.

5.31 Developments on Rights of Way

- C5.31.1 The Proposed Development meets Planning Bulletin 33.
- C5.31.2 The Proposed Development addresses, draws access from and surveys the ROW.
- C5.31.3 The Proposed Development is set back 1.5m from the ROW after widening.
- C5.31.4 The pedestrian access leg is 1.68m wide.
- C5.31.5 The ROW is already sealed and trafficable. Widening is proposed as a concrete apron per Technical Services requirements.

The Proposed Development is a bold statement that provides a considered interpretation of the commercial to residential buffer. It draws on sustainable and efficient building practises to provide a high level of occupant amenity without unduly affecting the residential neighbours; all within a quality and legible landscaped setting.

Please contact me as soon as practically possible with any questions or clarifications required.

Sincerely,

Aaron Sice.



aaron sice

Summary of Submissions:

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

Comments Received in Support:	Officer Technical Comment:
<p><u>Main Roads</u></p> <p>No objection to the proposed development subject to the applicant undertaking a screening assessment in accordance with Appendix A of the Implementation Guidelines for State Planning Policy 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning.</p>	<p>Noted. A condition to this effect has been recommended on the approval.</p>
<p><u>Public Transport Authority</u></p> <p>No objection subject to the proposed development complying with the Public Transport Authority's <i>Working In and Around Rail Reserves</i> document as the development is in close proximity to the rail reserve.</p>	<p>Noted. This requirement has been included in the Construction Management Plan condition recommended on the approval.</p>
Comments Received in Objection:	Officer Technical Comment:
<p><u>Plot Ratio and Open Space</u></p> <p>The proposal does not comply with the required plot ratio and open space. The development should be reduced to two storeys.</p>	<p>The subject lot is within a three storey building height area with the adjoining land zoned Commercial. The plot ratio proposed is less than 10 square metres greater than the deemed-to-comply standard set by the R-Codes for this site and is not considered to add obvious bulk to the development. The development has been designed to comply with the height requirements and the building elevation is well articulated with contrasting materials and colours. These factors, combined with the proposed landscaping, will soften the bulk and scale of the development to adjoining properties, the right of way and the streetscape.</p> <p>The surrounding area is intended to be rezoned under LPS2 with the land on the western side of the right of way proposed to be up coded to R100 providing for development up to six storeys. It is considered that the proposed design and density of the development is consistent with the changing character of the area.</p>
<p><u>Boundary Setback</u></p> <p>The variations to the boundary setbacks and the height of the boundary wall will have a visual impact on the adjoining properties in terms of bulk and scale.</p>	<p>The adjoining property to the north, at No.139 West Parade is zoned Commercial and has an existing boundary wall at a height of 6.17m for the length of the boundary adjoining the proposed units. The existing boundary wall on this site is longer than the proposed boundary wall and as a result the 9.1 metre high boundary wall proposed will not be visible from the adjoining property, West Parade or the right of way and is considered to meet the relevant design principles of the R-Codes and be appropriate in this instance.</p>

Summary of Submissions:

Comments Received in Objection:	Officer Technical Comment:
	<p>Whilst the proposal does not comply with the lot boundary setbacks to the south, the dwelling is setback to comply with the Visual Privacy standards of the R-Codes and will not result in any overlooking. In addition the wall to the southern boundary is well articulated with staggered sections of wall, a variety of materials and finished and the inclusion of openings to reduce the bulk of the development. The proposal complies with the overshadowing requirements and will not impact on the outdoor living areas of the adjoining property. Given the above, the proposed setback to the southern boundary is also considered to meet the relevant design principles of the R-Codes.</p>
<p><u>Height</u> The height of the proposed development should be restricted to two storeys.</p>	<p>The subject lot is within a three storey building height area and the three storey height proposed fully accords with this deemed-to-comply standard.</p>
<p><u>Landscaping</u> The proposed development does not comply with the required landscaping.</p>	<p>The redevelopment of the land to the rear of the existing dwelling and the need for visitor car parking and a store for the existing dwelling results in a limited area for additional canopy coverage to be provided on site. The development proposes to retain the existing mature tree at the front of the site and has designed the pedestrian access and letterbox in order to protect this important contributor to canopy coverage. The application also proposes a creeper over the pergola in the new ground floor outdoor living area, which will further contribute to the landscaping of the site. Given the retention of the existing tree fronting West Parade and the proposed arbour above the pergola, it is considered that the development responds to the intent of the City's policy and provides an appropriate landscaping outcome.</p>
<p><u>Windows</u> The windows on the upper floors on the southern elevation are to be obscured up to 1.6 metres.</p>	<p>The windows on the first floor on the first floor are obscured and fixed up to 1.6 metres above the floor level. The windows on the second floor comply with the deemed-to-comply privacy setback standards set in the State Government's R-Codes.</p>
<p><u>Non-Compliant Plans</u> The plans are to be amended to comply with the requirements of the R-Codes.</p>	<p>The State Government's R-Codes do not require that developments meet all of the deemed-to-comply standards set by the R-Codes. Rather they require applications that do not meet these deemed-to-comply standards to be assessed against the relevant Design Principles of the R-Codes. Each element of the application that does not meet these deemed-to-comply standards has been assessed against the relevant Design Principles and has been found to meet these principles in each instance. As a result the application is recommended for approval.</p>

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

Plot Ratio and Open Space

The plot ratio was advertised with the assumption the ground floor stairwell was not common, which it is – therefore is removed from Plot Ratio calculations. The revised calculation by Approval Services is 0.74, or 171m², which is only 10m² requested concession and could not be ameliorated simply by reducing the height of the proposal. There is no connection between open space and plot ratio.

The City's Built Form Policy Fig 2 and The Residential Design Codes all allow three (3) floors for this property. Being immediately adjacent an established light industrial area, and properties the rear (fronting Loftus Street) allowing for up to six (6) floors, this property will have negligible impact on the surrounding properties once established.

Boundary Setback

The South boundary setback complies with the Design principles of Clause 6.1.4 (P4.1) Lot boundary setbacks and supports a reduced setback, because;

The proposal provides for no more overshadowing than allowed for per Clause 6.4.2 (C2.1) being 50%; providing only 32% total.

The proposal's mass and built form is strongly articulated to the Southern façade.

The windows are adequately screened and/or obscured per Clause 6.4.1 (C1.1) i and ii.

Providing 5.4m setbacks to both sides as mentioned (10.8m setback total) to a 12m wide lot is simply not practical by any reasonable measure.

The boundary wall is 9.1m in height to provide continuity to the built form as it abuts a 6.2m high boundary wall along the entire Northern boundary. The portion of wall above the neighbouring boundary wall is clad to match the remainder of the development to lighten the placement of the mass and built form in the immediate surrounds. It also abuts a commercial zoning, therefore the Residential Design Codes do not apply to this boundary.

Height

As previously mentioned, the heights are as per the City's Built Form Policy 7.1.1 Fig 2 and the Residential Design Codes – both allowing three (3) floors. The City's Design Advisory Committee also agree with the height and number of floors proposed.

Landscaping

This statement is incorrect. Tree canopy cover has been increased to 30% per the City's policy with deep soil zones and communal landscaped setting provided for occupants. Landscaping is demonstrated to be compliant after minor changes to the chosen tree species.

Windows

The windows meet the requirements of the Residential Design Codes Clause 6.4.1 (C1.1) i and ii. The casual views from these windows are over houses to the City skyline beyond, not down into a courtyard with established tree canopy and shade sails.

This proposal is only slightly non-compliant with the highlighted Deemed-to-comply provisions of the R Codes, but meets the City's Built Form Policy 7.1.1 and clearly addresses the associated Design principles of the Residential Design Codes. This site is flanked by a 6.2m boundary wall to the North as part of the light industrial activity and Fig 2 of 7.1.1 provides an allowance for six (6) floors to the immediate rear of the property. The DAC agreed with the merits of the proposal with minimal changes or suggestions and minor changes have been made to provide for greater amount of landscaping and privacy protections. This

proposal meets the intent of the R Codes and the City's policies and we respectfully request a recommendation of approval.

Design Advisory Committee (DAC) Comments dated 5 July 2017 & e-mail 30 November 2017

4.3 **Address:** No. 137 (Lot 141) West Parade, Mount Lawley

Proposal: 2 Storey Multiple Dwelling Development

Applicant: Aaron Sice

Reason for Referral: The proposal will likely benefit from the referral to the DAC in terms of the City's Built Form Local Planning Policy 7.1.1(LPP7.1.1).

Recommendations & Comments by DAC, Applicant's Response – 5 July 2017:

<i>Principle 1 – Context and Character</i>	<ul style="list-style-type: none"> Consider angled/raking wall to second floor bedroom wall on boundary to create loft form tying into the existing top of wall to the neighboring building. As an alternative to this, possibly a diagonal in the façade via a change of material/colour to lock design into context acknowledging the neighboring boundary wall may suffice.
<i>Principle 2 – Landscape quality</i>	<ul style="list-style-type: none"> A landscape architect will need to sign off on the landscaping requirements to confirm they comply with the City's requirements. An arboriculturalist consultant report will need to be submitted for the existing tree at the entry
<i>Principle 3 – Built form and scale</i>	<ul style="list-style-type: none">
<i>Principle 4 – Functionality and build quality</i>	<ul style="list-style-type: none"> Consider removing the left wall around the existing tree and set the gate further back into the property thereby creating an entry niche for letterboxes etc. Whilst the entry sequence is generous consider trading ground space allowed to entry sequence for terrace space provided to units at first floor, northeast boundary.
<i>Principle 5 – Sustainability</i>	<ul style="list-style-type: none">
<i>Principle 6 – Amenity</i>	<ul style="list-style-type: none"> Amenity from the upper floor is impacted from the entry being too generous – as per Principle 4 above.
<i>Principle 7 – Legibility</i>	<ul style="list-style-type: none">
<i>Principle 8 – Safety</i>	<ul style="list-style-type: none">
<i>Principle 9 – Community</i>	<ul style="list-style-type: none">
<i>Principle 10 – Aesthetics</i>	<ul style="list-style-type: none"> Technical services to advise on the turf drive way deep soil zone and turf hardstand deep soil zones.
<i>Comments</i>	

Conclusion:

To be returned to DAC.

Applicant Response

DAC comments that we are reducing private open space to favour the communal open space is back-to-front. The design can only fit a minimum balcony and comply with fire separation requirements in the same breath by providing a minimum 3.0x3.6 balcony; and because of this reason, it was chosen to provide extra open space for the occupants' benefit.

The applicant has slid the second floor over to the South in an attempt to address the request, but it not only created setback issues, but fire issues as well (3.0m for a Type A Class 2). The cost to do this was also astronomical for little amenity gain.

Design Advisory Committee (DAC) Comments dated 5 July 2017 & e-mail 30 November 2017

These concerns can be better addressed with flush sills to stacker-style sliding doors and timber-look tiles to the living room and balcony for a near-seamless transition between indoors and outdoors. With the void over, the designer considers the open feeling will be enhanced considerably.

For these reasons, the request has not been followed through.

DAC comments about sculpting the upper floor to reference the adjacent parapet has merit and was something that was considered. However, doing this has made a 2.7m wide bedroom feel even smaller. The external requirements meant creating a roof instead of a wall and from the very view it was designed to address, looked ill-referenced because the materials required didn't reference the development anymore. The need to reference a parapet wall is also debatable given that is unlikely to remain in perpetuity once TPS2 is gazetted and the heights to Lord St are realised. Once the neighbouring lot is developed, the site will be left with a wall that references nothing.

The materials provided to this section of wall, however, wrap the entire upper section to provide a level of 'placement' in the space, rather than something that looks like it's simply been built up to another wall, ignoring its presence above the height of the immediate area. For these reasons, DAC recommendations have not been implemented.

DAC comments regarding the gatehouse entry are very valid and changes have been made to simplify the construction and promote the tree to the entry way. Revision 2 reflects these changes.

Changes have also been made to the ROW balcony, providing the portal frame as discussed to provide a scaled 'step away' from the ROW and better address the human scale.

The living room windows, facing south, have been flipped vertically to provide for an obscured lower panel to meet the R Codes. Note the 'OBSC' window notation to the Elevation.

There are also a few minor changes here and there but inconsequential to the overall assessment.

By moving the gatehouse structure away from the tree, the root zones are not being disturbed, therefore an arborist ort isn't needed.

E-mail from DAC – 30 November 2017

It appears that the applicant has explored options to address the DAC comments and returned, for the most part, to the original design proposal. It has not changed much since we reviewed it.

I am satisfied with the applicant's justification as to why they don't wish to amend the design (costs very high and benefits small)

It appears that the visitor parking bays have gotten longer / protrude further into the site from the laneway. This puts more pressure on the communal space, and has shifted the seating / pergola space such that it no longer lines up with the building entry. This alignment increases the legibility of the project and is a nice way to integrate the landscape and building, and could still be achieved with a minor redesign of this element.

I also note that the paving treatment on the visitor bays appears to have changed. Perhaps this was under direction of Technical Services?

In sum, I think this is a creative solution to a tricky site and should be commended. It has my support in the current form

Determination 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 4, the City encourages landscaping methods and species selection which do not rely on reticulation.
3. With reference to Condition 6, 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 calculation for the proposed stormwater disposal shall be lodged together with the building permit application working drawings.
4. **Main Roads**

The applicant is to undertake a screening assessment in accordance with Appendix A of The Implementation Guidelines for State Planning Policy 5.4 Road and Rail Transport Noise and Freight Considerations in Land Use Planning and is to implement all mitigation measures identified in the assessment to the satisfaction of the local government.
5. **Public Transport Authority (PTA)**

The development requires compliance with PTA's Working in and Around Rail document as the development is in close proximity to the rail reserve.
6. All pedestrian access and vehicle driveway/crossover levels shall match into existing verge, right of way, footpath and Road levels to the satisfaction of the City.
7. The right of way widening required to be constructed in accordance with the City's specifications and internal access points.
8. 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.
9. Standard 'Visual Truncations', in accordance with the City's Policy No. 2.2.6 and/or to the satisfaction of the City are to be provided at the intersection of the road reserve boundary or Right of Way, and all internal vehicle access points to ensure that the safety of pedestrians and other road users is not compromised. Details of all required visual truncations shall be included on the building permit application working drawings.
10. An Infrastructure Protection Bond for the sum of \$3000 together with a non-refundable inspection fee of \$100 shall be lodged with the City by the applicant, prior to commencement of works, 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 bond shall be made in writing. The bond is non-transferable.
11. All new crossovers to lots are subject to a separate application to be approved by the City. All new crossovers shall be constructed in accordance with the City's Standard Crossover Specifications.

Determination Advice Notes:

12. The applicant and owner are advised that sufficient parking can be provided on the subject site and as such the City of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the residential dwellings under Policy No. 3.9.3 – Parking Permits. This information should be provided to all prospective purchasers and it is recommended that a notice be placed on Sales Contracts to advise purchasers of this restriction.
13. If the development the subject of this approval is not substantially commenced within a period of 2 years, or another period specified in the approval after the date of determination, the approval will lapse and be of no further effect.
14. Where an approval has so lapsed, no development must be carried out without the further approval of the local government having first been sought and obtained.
15. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

5.10 LATE REPORT: NO. 7/565-567 (LOT: 7; STR: 21608) BEAUFORT STREET MOUNT LAWLEY - PROPOSED AMENDMENT TO CONDITIONS OF APPROVAL - CHANGE OF USE FROM OFFICE TO RECREATIONAL FACILITY AND OFFICE

TRIM Ref: D17/173157






Authors: Remajee Narroo, Senior Urban Planner
Paola Di Perna, Manager Approval Services

Authoriser: John Corbellini, Director Development Services

Ward: South

Precinct: 11 – Mount Lawley Centre

Attachments:

1. Attachment 1 - Consultation and Location Map [↓](#) 
2. Attachment 2 - Previous Planning Approval and Plans [↓](#) 
3. Attachment 3 - Applicant's Letter [↓](#) 
4. Attachment 4 - Summary of Submissions [↓](#) 
5. Attachment 5 - Applicant's Response to Submissions [↓](#) 

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 to amend planning approval 5.2014.4.1 for Proposed Change of Use from Office to Recreational Facility and Office at No. 7/565-567 (Lot: 7; STR: 21608) Beaufort Street, Mount Lawley, granted on 7 October 2014, subject to the following condition:

1. All conditions and advice notes detailed on planning approval 5.2014.4.1 granted on 7 October 2014 and included in Attachment 2 continue to apply to this approval, except as follows:
 - 1.1. Condition 4.1 is amended to read as follows:

“The use of the Recreational Facility is allowed to operate twenty four (24) hours, seven days a week;”; and
 - 1.2. Condition 4.2 is deleted.

PURPOSE OF REPORT:

To consider an application to amend conditions of the current planning approval for a change of use from Office to Recreational Facility and Office at No. 7/565-567 Beaufort Street, Mount Lawley granted by Council at its meeting of 5 November 2013.

BACKGROUND:

Landowner:	Silverleaf Investments Pty Ltd & RGO Enterprises Pty Ltd
Applicant:	Veris
Date of Application:	19 May 2017
Zoning:	MRS: Urban TPS1: Zone: Commercial TPS2: Zone: Commercial
Built Form Area:	Activity Corridor
Existing Land Use:	Recreational Facility – “AA”
Proposed Use Class:	Recreational Facility – “AA”
Lot Area:	961m ²
Right of Way (ROW):	3.6 metres in width, sealed, privately owned
Heritage List:	No

The subject site is located at No. 7/565-567 Beaufort Street, Mount Lawley, on the corner Vincent Street, as shown in **Attachment 1**. The site is occupied by a two storey commercial development, which includes shops, office, eating house and recreational facility (gym). The existing recreational facility is located on the first floor of the building. There is existing residential development on the western side of the site and on the northern side along Vincent Street there is a drive through commercial development (Hungry Jacks). On the eastern side along Beaufort Street and on the southern side, the area comprises of commercial developments.

On 5 November 2013 Council approved an application for a change of use from office to recreational facility (health studio-gym) with two ancillary medical consulting rooms (physiotherapy) and office in the subject tenancy. Condition 5 of that approval stated the following:

"5. This approval for Recreational Facility with Ancillary Two (2) Medical Consulting Rooms (Physiotherapy) is for a period of thirty six (36) months only and should the applicant wish to continue the use after that period, it shall be necessary to re-apply to and obtain approval from the City prior to the continuation of the use;"

On 12 March 2014 a development approval was issued under Delegated Authority for a change of use to recreational facility and office at the above premises. Condition 4 of the approval stated the following:

"4. This approval for Recreational Facility is for a period of thirty six (36) months only and should the applicant wish to continue the use after that period, it shall necessary to re-apply to and obtain approval from the City prior to the continuation of the use;"

The applicant lodged an appeal to the State Administrative Tribunal (SAT) against the approval being restricted to thirty six (36) months only.

On 7 October 2014, at the invitation of SAT, under Section 31 of the *State Administrative Tribunal Act 2004*, the Council reconsidered the condition and approved a new condition as follows:

"4. Operating Time

4.1 The proposed use of the Recreational Facility is allowed to operate twenty four 24 hours, seven (7) days a week for a period of thirty-six (36) months

4.2 After thirty-six (36) months subject to the facility only being permitted to operate from 9pm to 6am from the date of the issue of the approval revert to 6am - 9pm."

The above planning approval, including the approved plans, is included as **Attachment 2** which was issued on 4 November 2014.

A 24 hour gym has operated from the subject site, under the definition of Recreational Facility, for the past year and a half. The most recent decision by the Council granted a 36 month approval for the operation of the Recreational Facility 24 hours per day seven days per week after which time the operating hours of the Recreational Facility were restricted to between 6:00am and 9:00pm. This current application seeks a permanent approval for the 24 hour operations of the Recreational Facility by amending condition 4.1 and deleting condition 4.2 of the most recent approval, which limited the approval period for the 24 hour operating hours to 36 months.

The 36 month period expired on 4 November 2017 and therefore the Recreational Facility is not currently permitted to operate 24 hours per day.

The applicant has provided the following statement for the request to reconsider conditions 4.1 and 4.2 of the existing planning approval:

"Our understanding for the inclusion of this condition, on the original planning approval, was to allow a 'test period' whereby the operation of a 24 gym could be assessed against its impact on amenity in the local area. The Landowner has advised there were no significant negative impacts needing rectification over this period.

As such, we request as part of this reconsideration, that part 4.2 of condition 4 be removed from the use over the subject site and that the business be permitted to continue a twenty-four (24) hour, seven (7) day operation. The business owners indicate that the business is operating profitably with these operating times and to alter this would jeopardise the businesses viability."

The applicant's full justification for the proposal is included as **Attachment 3**.

The recreational facility has operated from the subject site 24 hours, seven days a week for the past year and a half. During this time the City has received 15 complaints with regard to noise from the owners/operators of businesses on the ground floor. All of these complaints related to noise being emitted during the day within the currently and ongoing approved operating hours of the Recreation Facility, which are 6:00am to 9:00pm. The City has investigated each of these complaints and has not established any breaches of the State Government's *Environmental Protection (Noise) Regulations 1997*.

It should be noted that prior to the Recreational Facility commencing operation, and in accordance with condition 8.2 of the most recent approval, an acoustic report was submitted to and approved by the City to address the potential for noise issues to be created by the development. All of the measures required by the approved acoustic report were implemented by the applicant to the satisfaction of the City. The applicant also undertook additional attenuation measures following the initial noise complaints, which have further reduced the impact of noise on the tenancy below.

DETAILS:

The application seeks to amend the previous development approval issued by Council by removing the conditions that restrict the approval of the 24 hour gym to 36 months. The current conditions require that the operating hours of the gym convert to 6:00am to 9:00pm following the expiry of the condition on 4 November 2017. The proposal has been assessed against the City's Town Planning Scheme No. 1 (TPS1), draft Local Planning Scheme No. 2 (LPS2). The land use Recreational Facility is an "AA" in the 'Commercial' zone under TPS1 and Council is required to exercise discretion when considering whether to approve such a land use in the 'Commercial' zone. This element of the proposal requires the discretion of Council and is discussed in the comments section below.

The proposal has also been assessed against the City's policy framework and is considered to comply with all of the City's local planning policies.

CONSULTATION/ADVERTISING:

Following receipt of this application to amend the development approval, consultation on the proposal was undertaken for a period of 14 days in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015*, from 27 July 2017 until 9 August 2017. The method of advertising included 116 letters mailed to all owners and occupiers, as shown on **Attachment 1**, in accordance with the City's Policy No. 4.1.5 – Community Consultation. It is noted that letters were sent to the same addresses when the recreational facility was initially advertised in July 2013.

A total of six submissions were received in relation to the proposal comprising of five objections, and one support. The concerns raised in the submissions were as follows:

- Use is inappropriate;
- Noise impact on the existing tenancies within the building and adjoining properties;
- Car parking; and
- Anti-social behaviour.

The main issues raised in the submissions are discussed in the Comment section below. A summary of the submissions received and Administration's response to each is contained in **Attachment 4**. The applicant has provided a response to the submissions in **Attachment 5**.

Design Advisory Committee (DAC):

Referred to DAC: No

LEGAL/POLICY:

- *Planning and Development Act 2005*;
- *Planning and Development (Local Planning Schemes) Regulations 2015*;
- City of Vincent Town Planning Scheme No. 1; and
- Policy No. 4.1.5 – Community Consultation.

The application to amend a development approval can be considered in accordance with Clause 77 of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Clause 77(4) provides that an application to amend a development approval can be approved with or without conditions or refused.

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*.

Town Planning Scheme No. 1

The general objectives of the Town Planning Scheme No. 1 (TPS1) as outlined in Clause 6 are applicable, specifically subclauses 3(b) and 3(c) which are outlined as follows:

“...3(b) to protect and enhance the health, safety and general welfare of the Town's inhabitants and the social, physical and cultural environment;

3(c) to ensure that the use and development of land is managed in an effective and efficient manner within a flexible framework which –

- (i) recognises the individual character and needs of localities within the Scheme zone area; and*
- (ii) can respond readily to change. ...”.*

Draft Local Planning Scheme No 2

On 8 December 2017, the Acting Minister for Planning announced that the City's draft Local Planning Scheme No 2 (LPS2) is to be modified before final approval was to be granted. The Schedule of modifications was confirmed in writing by officers at the Department of Planning, Land and Heritage (the Department). The Department also advised that the modifications to the LPS2 would be required before the Acting Minister would finally grant approval to the Scheme. In this regard the LPS2 should be given due regard as part of the determination of this application.

Draft LPS 2 sets out objectives for the Commercial zones, which are outlined as follows:

- “(i) to facilitate a wide range of compatible commercial uses that support sustainable economic development within the City; and*
- (ii) to ensure development design incorporates sustainability principles, with particular regard to waste management and recycling and including but not limited to solar passive design, energy efficiency and water conservation.”*

Delegation to Determine Applications:

This matter is being referred to Council as the development approval that is proposed to be amended was determined by Council.

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:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:Land Use

The subject site is located within the Commercial zone of the Mount Lawley – Highgate Town Centre. The proposed use is considered to be appropriate and consistent with both existing land uses within the Town Centre and the objectives of the City's TPS1. The recreational facility also contributes to the activation of the Beaufort Street commercial precinct and is considered to align with the objectives of the 'Commercial' zone under draft LPS2.

Noise

The condition limiting the 24 operations of the Recreational Facility to 36 months was originally imposed by the City to verify the suitability of the 24 hour operations of the use for the subject property. The recreational facility has operated from the subject site 24 hours a day, seven days a week for the past year and a half. During this time the City has received 15 complaints with regard to noise from four businesses located on the ground floor below the gym. These 15 complaints include 11 complaints in 2016 and 4 complaints in 2017. This proposal seeks permanent approval for 24 hour operation of the Recreational Facility and was advertised for public comment to surrounding owners, residents and business and attracted six submissions including five objections. The main concerns related to the impact of noise from the gym on the commercial tenancies on the ground floor of the premise.

As part of the original approval the applicant submitted an Acoustic Report on 25 July 2016. The Acoustic Report was based on the readings taken from two businesses located on the ground floor. The report stated that the recreational facility complied with the prescribed (noise) standards contained in the *Environmental Protection (Noise) Regulations 1997*, for all periods of the day or night. The City assessed the Acoustic Report in accordance with condition 8.2 of the most recent approval.

Following complaints about noise from the recreational facility, the City's Health Services undertook noise readings in August/September 2016 and again in September 2017. The City carried out a detailed assessment of those noise readings, which were all found to be compliant with the *Environmental Protection (Noise) Regulations 1997*.

Following community consultation on this application, the applicant submitted a new Acoustic Report to the City, which addressed the noise readings taken by the City. The report states that the recreational facility does comply with the prescribed (noise) standards contained in the *Environmental Protection (Noise) Regulations 1997*, for all periods of the day or night. The Acoustic Consultant verbally advised the City that since the noise readings were taken there was one activity involving dropping metal on metal that had created noise concerns not considered or assessed by the City. The operators of the recreational facility have addressed this activity by implementing additional attenuation measures with respect to the use of this equipment since September 2017. The attenuation measures involved substituting a metal plate with a thick rubber mat on the floor.

As set out above, the assessments demonstrate that all of the readings taken by the businesses below the recreational facility are within the limits permitted for such use. It is also noted that the City did not receive any noise complaints between 9:00pm to 6:00am. Most of the complaints related to instances of noise made during day with two complaints relating to concerns during the evening up to 7:50pm. Moreover most of the existing uses on the ground floor are closed by the evening, with the latest use closing at 10:00pm. As a result there is not likely to be any noise impacts caused by the gym operating overnight between 9:00pm and 6:00am, as is proposed by this application.

Given the 'Commercial' zoning of the area, the fact that there are no residential developments in immediate proximity of the development and that the noise being emitted from the tenancy is, at the closest nearby tenancy, within the limits prescribed by the State Government's *Environmental Protection (Noise) Regulations 1997*, it is considered that there is no basis to refuse the application to extend the operating hours of the Recreational Facility from 6:00am to 9:00pm to 24 hours per day.

Parking

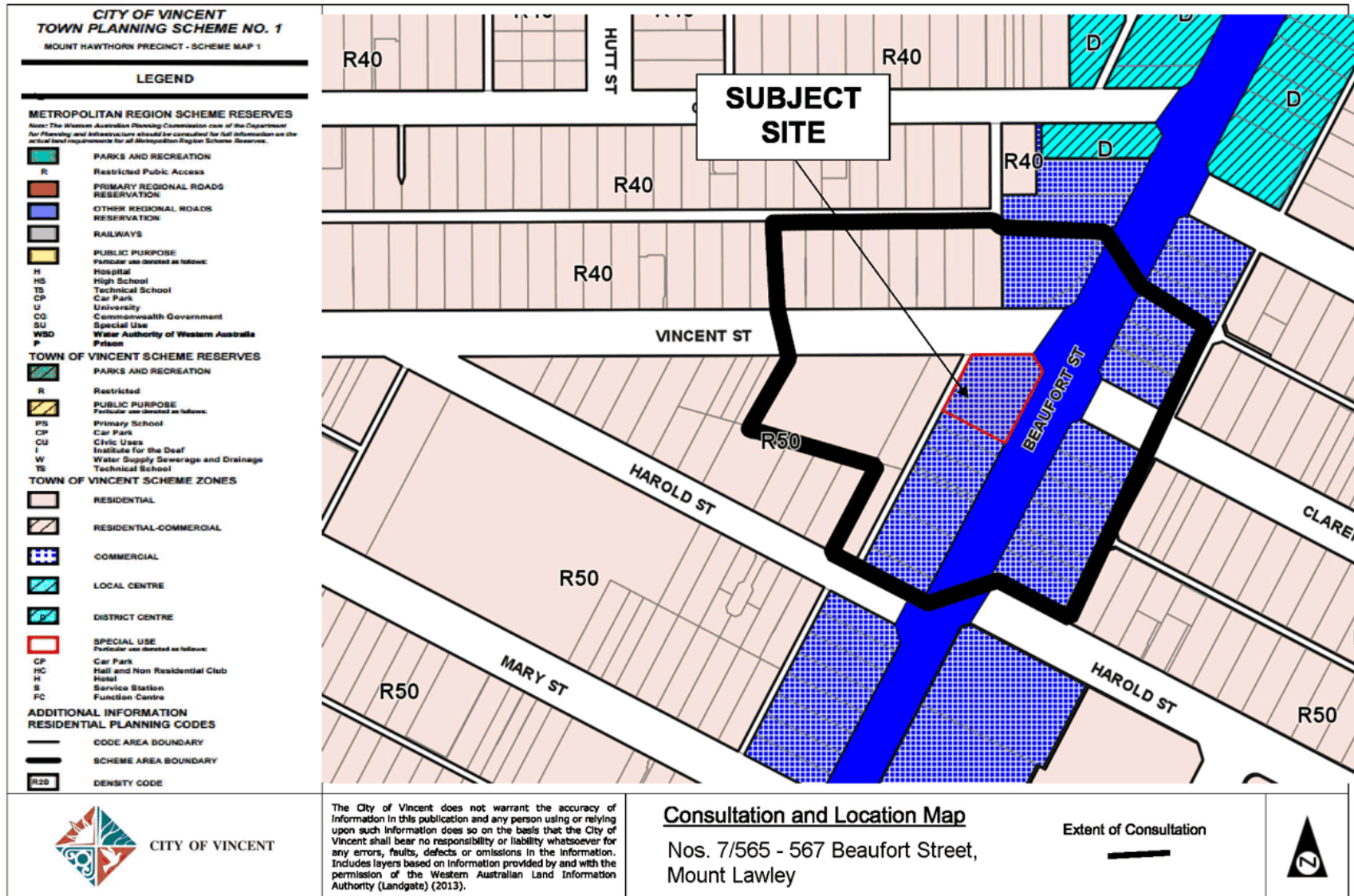
Concern was raised through the submissions regarding there not being enough parking for the 24 hour gym and the impact the development is having on parking in the area. The existing recreational facility complies with the car parking requirements of the City's Parking and Access Policy and the Barlee Street public car park, located 40 metres from the subject site, also provides sufficient parking for patrons attending the recreational facility after hours.

Anti-social Behaviour



Concern regarding the potential for a 24 hour recreational facility to create anti-social behaviour, especially within the laneway at the rear of the subject property, was also raised through the submissions. The City has not received any complaints of anti-social behaviour linked to the Recreational Facility and there is no evidence to suggest that the 24 nature of the Recreational Facility will lead to anti-social behaviour. The operator has advised that they educate their patrons regarding safe egress from the premises and it is considered that the 24 operation will actually reduce the likelihood of anti-social behaviour in the laneway to the rear and the area generally, given it will increase surveillance and activity in the area after hours.

Conclusion

The use is considered to be compatible with the Commercial zoning of the site and contributes to activate Beaufort Street. With regard to noise, the two Acoustic Reports submitted demonstrate that the recreational facility does comply with the prescribed (noise) standards contained in the *Environmental Protection (Noise) Regulations 1997*, for all periods of the day or night. The recreational facility complies with the parking requirements and is considered that the 24 hour operation will actually reduce the likelihood of anti-social behaviour in the area. In view of the above, it is recommended that the use of the Recreational Facility be permitted to continue operating 24 hours a day, seven days a week.





 <p>CITY OF VINCENT</p>	<p>The City of Vincent does not warrant the accuracy of information in this publication and any person using or relying upon such information does so on the basis that the City of Vincent shall bear no responsibility or liability whatsoever for any errors, faults, defects or omissions in the information. Includes layers based on information provided by and with the permission of the Western Australian Land Information Authority (Landgate) (2013).</p>	<p>Nos. 7/565 - 567 Beaufort Street, Mount Lawley</p>	
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ENQUIRIES TO: Remajee Narroo (08 9273 6025)
Planning Services
YOUR REF:
OUR REF: PRO3753 5.2014.4.1

**CITY OF VINCENT**

Administration & Civic Centre
244 Vincent Street (Cnr Loftus)
Leederville, Western Australia 6007
PO Box 82, Leederville WA 6902
Telephone (08) 9273 6000
Facsimile (08) 9273 6099
Email: mail@vincent.wa.gov.au
Web: www.vincent.wa.gov.au

4 November 2014

Project Development (WA) Pty Ltd
201 Sevenoaks Street
CANNINGTON WA 6107

Dear Sir/Madam

**NOS. 7/565-567 (LOT: 7 STR: 21608) BEAUFORT STREET, MOUNT LAWLEY –
PROPOSED CHANGE OF USE FROM OFFICE TO RECREATIONAL FACILITY
AND OFFICE - RECONSIDERATION UNDER S31 OF THE STATE
ADMINISTRATIVE TRIBUNAL (SAT) ACT 2004 FOR THE REVIEW OF
CONDITION 4 (DR 251 OF 2014)**

I wish to advise that the above matter was considered by Council on a confidential basis behind closed doors at its Ordinary Meeting held on 7 October 2014 and it was resolved to **grant conditional approval** subject to the terms and conditions shown on the attached form. The proposal was assessed and found to be in accordance with the provisions of the City of Vincent Town Planning Scheme No.1 and associated policies.

I trust that the information is to your satisfaction, however if you have any enquiries regarding the above matter, please do not hesitate to contact Remajee Narroo on 9273 6025.

Yours sincerely

**PETAR MRDJA
MANAGER
PLANNING AND BUILDING SERVICES**

cc *State Administrative Tribunal
GPO Box U1991
PERTH WA 6845*

(Att.)

"ENHANCING AND CELEBRATING OUR DIVERSE COMMUNITY"

- 2 -

THIS IS NOT A BUILDING PERMIT

Fifth Schedule Clause 42
For Office Use Only
Serial No. 5.2014.4.1**CITY OF VINCENT TOWN PLANNING SCHEME**
APPROVAL TO COMMENCE DEVELOPMENT

LOT: 7 STR: 21608

STRATA LOT: 7

PROPERTY ADDRESS: No. 7/565-567 Beaufort Street, MOUNT LAWLEY

OWNER: Project Development (WA) Pty Ltd
201 Sevenoaks Street
CANNINGTON WA 6107

Approval to commence development in accordance with the application for City Planning Approval dated 12 March 2014 for Change of Use from Office to Recreational Facility with Ancillary Two (2) Medical Consulting Rooms and Office (Reconsideration of Conditions) and the attached plans dated 7 January 2014 was GRANTED in accordance with the provisions of the City of Vincent Town Planning Scheme and the Metropolitan Region Scheme subject to the following conditions:

1. Interactive Front

Doors, windows and adjacent floor areas facing Vincent Street shall maintain active and interactive relationship with this street;

2. Use

This approval is for a Recreational Facility and Office only;

3. Number of Patrons

The maximum number of patrons for the recreational facility at any one time shall be limited to 73 persons;

4. Operating Time

- 4.1 The proposed use of the Recreation Facility is allowed to operate twenty four (24) hours, seven (7) days a week for a period of thirty-six (36) months
- 4.2 after thirty-six (36) months subject to the facility only being permitted to operate from 9pm to 6am from the date of the issue of the approval revert to 6am – 9pm;

- 3 -

5. Right of Way

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's Technical Services Directorate;

6. Building Appearance

All external fixtures, such as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like, shall not be visible from the street(s), are designed integrally with the building, and be located so as not to be visually obtrusive from Vincent Street, Beaufort Street and the adjoining properties;

7. Verge Treatment

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

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

8.1 The owner or the applicant on behalf of the owner shall provide the City with amended plans to address the following:

8.1.1 Bin Store

A bin store is to be provided to the satisfaction of the City; and

8.1.2 Bicycle Parking Facilities

Ten (10) class two bicycle facilities shall be provided on the first floor within the bike store. Details of the design and layout of the bicycle parking facilities shall be submitted to and approved by the City prior to installation of such facility;

8.2 Acoustic Report

An Acoustic Report in accordance with the City's Policy No. 3.5.21 relating to Sound Attenuation shall be prepared and submitted to the City for approval. The recommended measures of the approved Acoustic Report shall be implemented; and

9. PRIOR TO THE SUBMISSION OF AN OCCUPANCY PERMIT, the following shall be submitted to and approved by the City:

9.1 With regard to condition 8.2, certification from an Acoustic Consultant that the measures have been undertaken shall be submitted to the City.

- 4 -

ADVICE NOTES:

1. With regard to condition 2, any change of use for the subject land shall require Planning Approval to be applied to and obtained from the City;
2. With regard to condition 4, should the applicant wish to continue the operating hours after the expiry of 36 months from the date of the issue of the approval, it shall be necessary to re-apply to and obtain approval from the City prior to the continuation of the above hours;
3. All signage that does not comply with the City's Policy relating to Signs and Advertising shall be subject to a separate Planning Application and all signage shall be subject to a separate Sign Licence application, being submitted to and approved by the City prior to the erection of the signage; and
4. A Road and Verge security bond for the sum of \$1800 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's Technical Services Directorate. An application for the refund of the security bond shall be made in writing. The bond is non-transferable.

NOTES:

PLEASE NOTE THAT ANY AMENDMENTS PROPOSED IN THE BUILDING PERMIT APPLICATION PLANS, WHICH DIFFER FROM THE PLANNING APPROVAL PLANS, MAY RESULT IN THE REQUIREMENT FOR A NEW PLANNING APPLICATION TO BE SUBMITTED FOR ASSESSMENT AND DETERMINATION. SHOULD THIS BE THE CASE, THE OWNER/BUILDER/DEVELOPER IS ADVISED TO FACTOR IN AN ADDITIONAL TIME PERIOD INTO THE DEVELOPMENT/BUILDING PROCESS.

PLEASE NOTE THAT ANY ADDITIONAL PROPERTY NUMBERING TO THE ABOVEMENTIONED ADDRESS, WHICH IS RESULTANT FROM THIS APPLICATION, IS TO BE ALLOCATED BY THE CITY OF VINCENT AND NO OTHER PARTIES. IT IS RECOMMENDED THAT YOU LIAISE WITH THE CITY'S PLANNING SECTION ON THE ABOVE MATTER, DURING THE BUILDING PERMIT ISSUE STAGE.

OWNER(S), BUILDER(S) AND DEVELOPER(S) UNDERTAKING DEVELOPMENT/CONSTRUCTION OF ANY KIND ARE HEREBY ADVISED OF A RESPONSIBILITY TO COMPLY WITH THE REQUIREMENTS OF THE DISABILITY DISCRIMINATION ACT 1992. FOR FURTHER INFORMATION ON THIS ACT, ENQUIRIES SHOULD BE DIRECTED TO THE DISABILITY SERVICES COMMISSION ON TELEPHONE NUMBER (08) 9426 9200 OR TTY ON (08) 9426 2325.

SHOULD THE APPLICANT BE AGGRIEVED BY THE DECISION A RIGHT OF APPEAL MAY EXIST UNDER THE PROVISIONS OF THE TOWN PLANNING SCHEME OR THE METROPOLITAN REGION SCHEME.

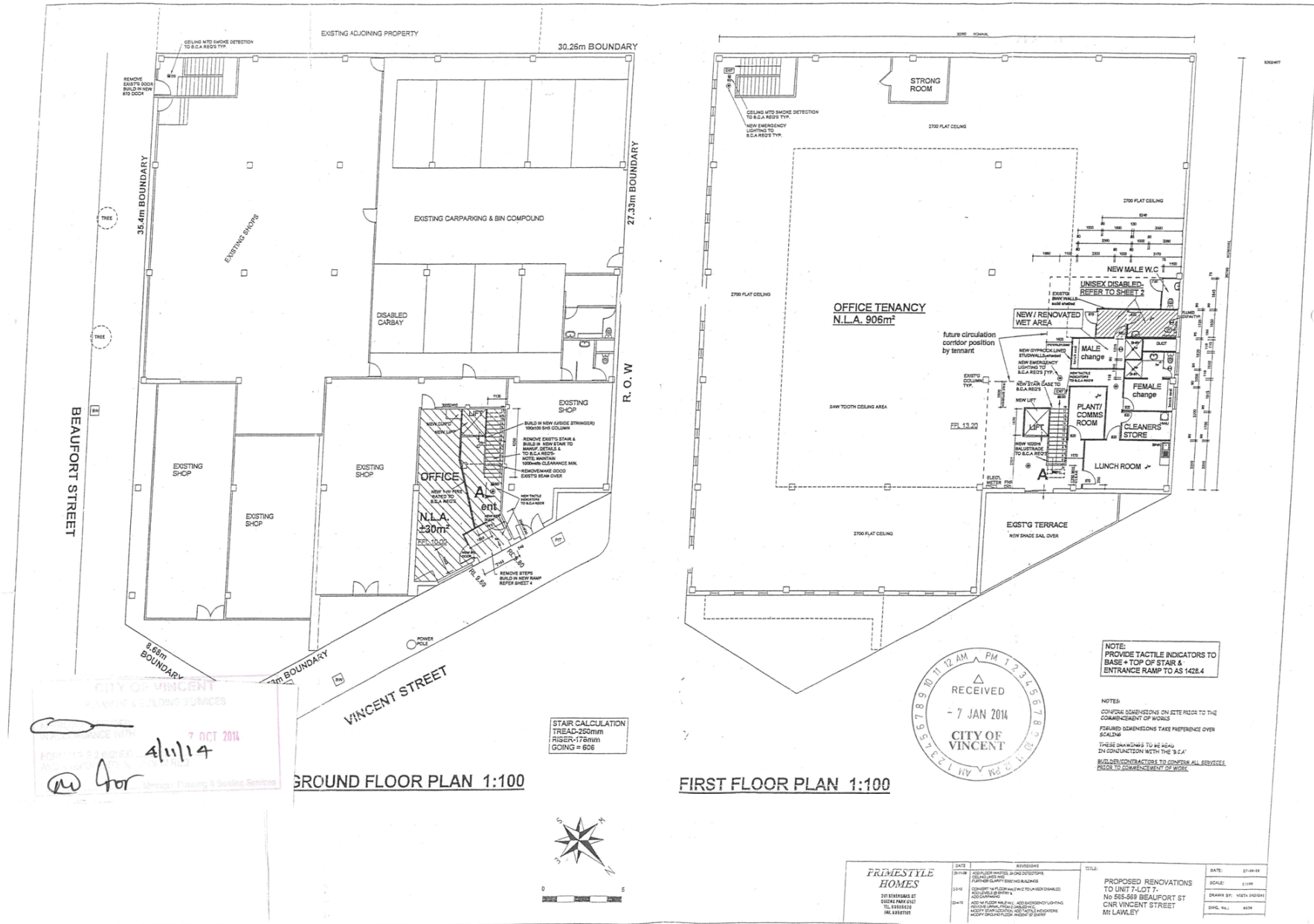
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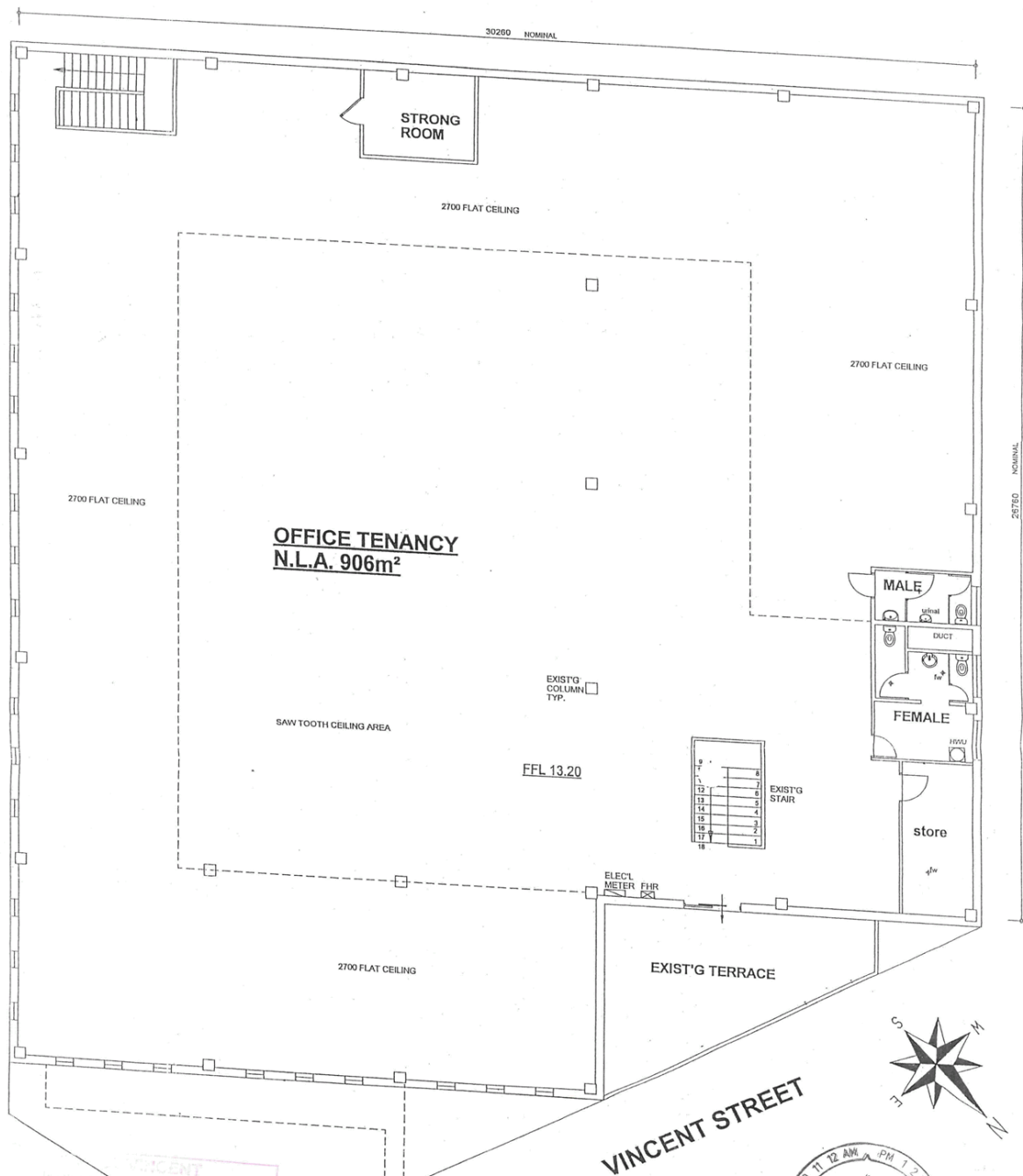
This approval is valid for a period of TWO years only. If the development is not substantially commenced within this period, a fresh approval must be obtained before commencing or continuing the development.

DATE OF DECISION: 7 October 2014
DATE OF ISSUE: 04 November 2014



**MANAGER
PLANNING AND BUILDING SERVICES**





VINCENT
 7 OCT 2014
 4/1/14
 for

**EXISTING
 FIRST FLOOR PI**



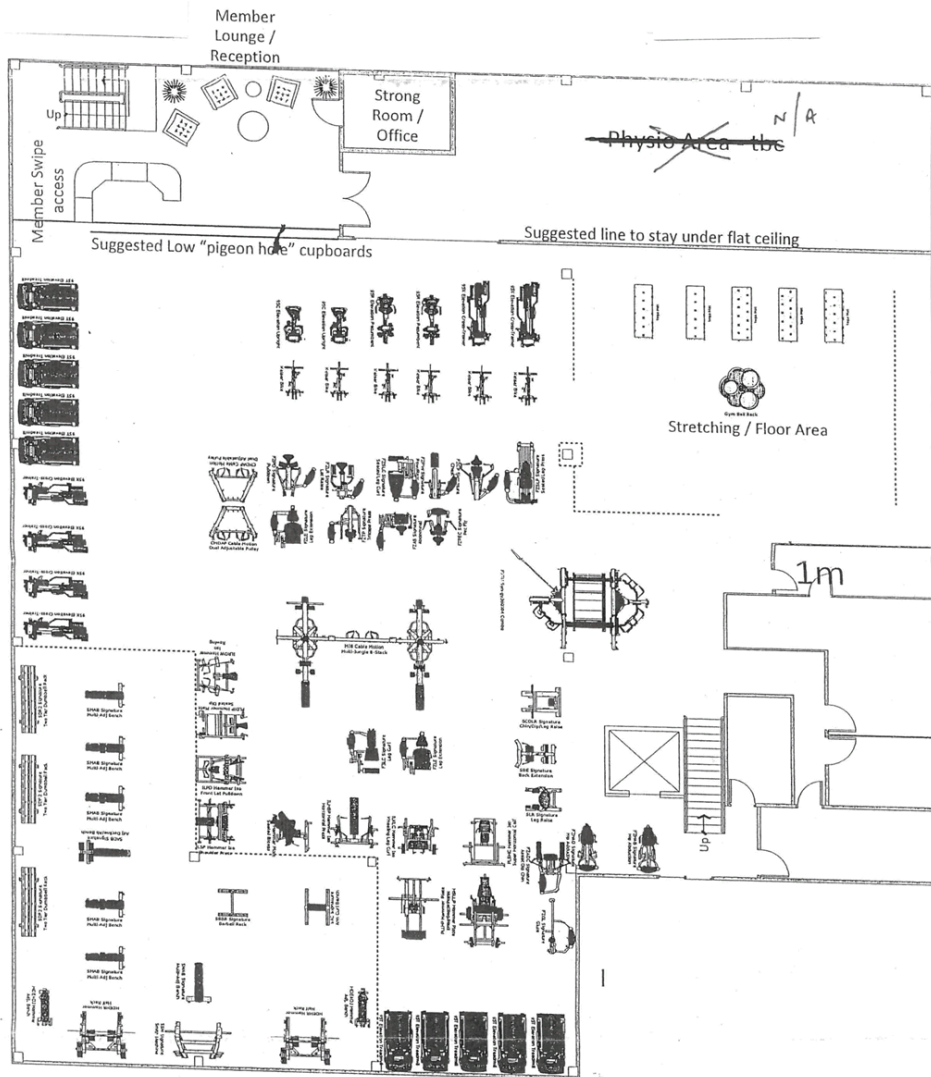
BUILDER/CONTRACTORS TO CONFIRM ALL S...
 PRIOR TO COMMENCEMENT OF WORK.

VISTA DESIGNS
 Architectural Drafting
 Design Service
 SUITE 4 201 SEVENOKS ST
 QUEENS PARK 6107
 TEL. 045804995
 FAX. 045804093
 © COPYRIGHT

DATE	No.	REVISIONS	TITLE:

DATE: 20-4-1
SCALE: 1:12
DRAWN BY:
DWG. No.: 1
SHEET No.: 2

Fitness Gym



CITY OF VINCENT
PLANNING, BUILDING & SERVICES
FOR INFORMATION WITH
4/11/14
7 OCT 2014
FOR INFO & ISSUED
MAY 2014
[Signature]
[Signature]
Project: Planning & Building Services



17/05/2017

Our Ref: 15508-12A
Your Ref: 5.2014.4.1



Manager Statutory Planning Services
City of Vincent
PO Box 82
LEEDERVILLE WA 6902

Dear Sir/Madam,

AMENDMENT OF PLANNING APPROVAL 5.2014.4.1 – FOR APPROVED RECREATION FACILITY AT LOT 7 STRATA PLAN 21608, 565-567 BEAUFORT STREET, MOUNT LAWLEY

This application is to seek amendment of the City of Vincent conditional planning approval number 5.2014.4.1 dated the 12th March 2014 by deletion of condition number 4. Veris act on behalf of the Landowner being Silverleaf Investments Pty Ltd and RGO Enterprises Pty Ltd of lot 7 Strata Plan 21608, at 565-567 Beaufort Street, Mount Lawley.

The approved use of Lot 7 is for a 'Recreation Facility' with ancillary uses of 'Medical Consulting Rooms' and 'Office'. The business operating from the premises since March 2016 is a 24 hour gym known as 'Snap Fitness'. A copy of the original conditional planning approval and approved plans have been attached to this application.

The condition in question is number 4 which states:

'4. This approval for Recreational Facility is for a period of thirty six (36) months only and should the applicant wish to continue the use after this period, it shall be necessary to re-apply to obtain approval from the City prior to the continuation of the use;'

Our understanding for the inclusion of this condition, on the original planning approval, was to allow a 'test period' where by the operation of a 24 gym could be assessed against its impact on amenity in the local area. The Landowner advised that there were no significant negative impacts on the amenity of the local area caused by the 24 hour operation of the facility.

As such, we request as part of this reconsideration, that condition 4 be removed from the use over the subject site and that the business be permitted to operate unencumbered by any further timeframes that will affect the ongoing use on site. We make this application in accordance with the *Deemed Provisions for Local Planning Schemes*, in particular clause 77 (1) which states:

'77. Amending or cancelling development approval

(1) An owner of land in respect of which development approval has been granted by the local government may make an application to the local government requesting the local government to do any or all of the following-

b) To amend or delete any condition to which the approval is subject;'

We advise that in all other areas of use of the site the Landowners have, and will continue to, comply with all other conditions imposed by the previous planning approval. No other alterations to previous conditions are requested with this application.

Perth
Suite 4, First Floor
40 Hasler Rd
Osborne Park WA 6017
PO Box 99, Mount Hawthorn
WA 6915 Australia

T 08 6241 3333
F 08 6241 3300
veris.com.au

Office Locations
Over 15 offices across
Australia
veris.com.au/contactus

Whelans Australia Pty Ltd
A Veris Company
ABN 68 074 363 741



**DEVELOP
WITH
CONFIDENCE™**



We look forward to the City's favourable response to this application. Please find attached the relevant plans and application fee as required. If you have any queries or require any further information, please do not hesitate to contact me on 6241 3306.

Yours faithfully

A handwritten signature in blue ink, appearing to read "Steven Fernandez".

Steven Fernandez | Town Planner
Veris

Summary of Submissions:

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

Comments Received in Support:	Officer Technical Comment:
Nil.	Noted.
Comments Received in Objection:	Officer Technical Comment:
<p><u>Use</u></p> <p>The recreational facility is an inappropriate use for this building.</p>	<p>The subject site is located within the Commercial zone of the Mount Lawley – Highgate Town Centre. The proposed use is considered to be appropriate and consistent with both existing land uses within the Town Centre and the objectives of the City's TPS1. The recreational facility also contributes to the activation of the Beaufort Street commercial precinct and is considered to align with the objectives of the 'Commercial' zone under draft LPS2.</p>
<p><u>Noise</u></p> <p>The noise from the 24 hour recreational facility impacts on the existing tenancies located on the ground floor of the building and the adjoining residential properties.</p>	<p>This application proposes to extend the approved operating hours of the Recreational Facility from 6:00am to 9:00pm to 24 hours per day and allow the 24 gym to continue operating. All of the noise compliant received regarding the subject premises relate to instances of noise made during the day or evening. These periods of time are not the subject of this application. Moreover most of the existing uses on the ground floor are closed by the evening, with the latest use closing at 10:00pm. As a result there is not likely to be any noise impacts caused by the gym operating overnight between 9:00pm and 6:00am, as is proposed by this application.</p> <p>As part of the application the applicant has submitted a new Acoustic Report for the development, which states that the recreational facility complies with the prescribed (noise) standards contained in the <i>Environmental Protection (Noise) Regulations 1997</i>, for all periods of the day or night. The operator has also implemented additional attenuation measures following this report to address individual activities that have created noise concerns.</p> <p>Given the 'Commercial' zoning of the area, the fact that there are no residential developments in immediate proximity of the development and that the noise being emitted from the tenancy is, at the closest nearby tenancy, within the limits prescribed by the State Government's <i>Environmental Protection (Noise) Regulations 1997</i>, it is considered that there is no basis to refuse the application to extend the operating hours of the Recreational Facility from 6:00am to 9:00pm to 24 hours per day.</p>

Summary of Submissions:

Comments Received in Objection:	Officer Technical Comment:
<p><u>Anti-Social Behaviour</u></p> <p>The 24 hour recreational facility creates anti-social behaviour, especially within the laneway at the rear of the subject property.</p>	<p>Concern regarding the potential for a 24 hour recreational facility to create anti-social behaviour, especially within the laneway at the rear of the subject property, was also raised through the submissions. The City has not received any complaints of anti-social behaviour linked to the Recreational Facility and there is no evidence to suggest that the 24 nature of the Recreational Facility will lead to anti-social behaviour. The operator has advised that they educate their patrons regarding safe egress from the premises and it is considered that the 24 operation will actually reduce the likelihood of anti-social behaviour in the laneway to the rear and the area generally, given it will increase surveillance and activity in the area after hours.</p>
<p><u>Parking</u></p> <p>There is not enough parking for the 24 hour recreational facility which has an impact on the surrounding area.</p>	<p>Concern was raised through the submissions regarding there not being enough parking for the 24 hour gym and the impact the development is having on parking in the area. The existing recreational facility complies with the car parking requirements of the City's Parking and Access Policy and the Barlee Street public car park, located 40 metres from the subject site, also provides sufficient parking for patrons attending the recreational facility after hours.</p>

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

18/08/2017

20147-001

Mr. Remajee Narroo
Senior Planning Officer
Approval Services

City of Vincent
PO Box 82
LEEDERVILLE WA 6902



Dear Remajee,

RE: LOT 7 STRATA PLAN 21608, 565-567 BEAUFORT STREET, MOUNT LAWLEY – RECONSIDERATION OF PLANNING CONDITION REF: 5.2017.176.1

Please find below a response to all submissions associated with the above planning application. The submissions were provided by yourself via an email dated the 14th August 2017. Below is the advice summary provided by the email:

A summary of the objections are as follows:

1. *The building is inappropriate for a use as a gym*
2. *The impact of the noise and vibration from upstairs gym on the ground floor tenancies is unbearable*
3. *Insufficient noise and vibration attenuation to mitigate the constant noise and vibration*
4. *There is no opportunity for peaceful enjoyment of other units within the building and the effect of the change is that all these units will be deprived of such expectation at all times.*
5. *The 24 hour gym creates noise and antisocial behaviour in the abutting ROW particular in the evening and early hours of the morning. Apart from loud conversations which disrupts the tenants in the adjoining residential properties, there is drug dealing and drunk and lewd behaviour in the laneway.*
6. *The 24- hour operation has an impact on the adjacent residential properties in terms of noise (loud music and noise from gym users) and car parking whereby gym users park their car in front of residential properties.*

Below is a breakdown of the list of concerns and our response.

Objections	Response
1. <i>The building is inappropriate for a use as a gym</i>	The subject building is located in the 'District Centre' zone along Beaufort Street. The use of this building as a 'Recreational Facility' in this zone is an 'AA' use meaning that the use is not permitted unless the Council exercised its discretion by granting planning approval. The use was assessed and planning approval was granted on the 12 th March 2014, subject to conditions. All conditions have been adhered to

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	<p>and as such the use of the building as a 'Recreational Facility' (gym) is deemed appropriate by the City of Vincent</p>
<p>2. <i>The impact of the noise and vibration from upstairs gym on the ground floor tenancies is unbearable.</i></p> <p>3. <i>Insufficient noise and vibration attenuation to mitigate the constant noise and vibration</i></p>	<p>It is important to note that this application is for operation of the business outside normal business operating hours (ie 9pm to 6am). Key consideration in this instance therefore include:</p> <ul style="list-style-type: none"> • no other tenancies operating within this period • existing noise attenuation measures are adequate to ensure that noise is maintained at acceptable levels at all times of operation <p>As part of the conditional approval an Acoustic report in accordance with the City's Policy No. 3.5.21 relating to sound attenuation was prepared and submitted to the City for approval. All recommended measures within the report were implemented and have consistently been adhered to. A second Noise Impact Assessment was prepared and lodged once the gym commenced operations in July 2016 and the use was found to comply with the assigned noise levels associated with the Environmental Protection (Noise) Regulations (1997). See attached.</p> <p>The development also adheres to all relevant conditions relating to Building, Health, Engineering and Parks Services of the City as noted within Condition 9 of the conditional planning approval.</p> <p>Furthermore, the applicant advises that the tenants have taken significant steps to educate all employees in the need to minimise disruption to other tenants and local residence. Music and training noise of any</p>



	<p>kind is monitored and kept within acceptable thresholds and additional flooring has been applied to eliminate foot and exercise noise.</p> <p>The City has investigated previous noise complaints and found that all issues raised were of a minor nature, where noise did not exceed permitted thresholds.</p>
<p>4. <i>There is no opportunity for peaceful enjoyment of other units within the building and the effect of the change is that all these units will be deprived of such expectation at all times.</i></p>	<p>Please refer to the response to item 2 above. In addition, all efforts have been made to avoid all disruption to all other tenants in terms of noise and client traffic while still being able to lawfully conduct business.</p>
<p>5. <i>The 24 hour gym creates noise and antisocial behaviour in the abutting ROW particular in the evening and early hours of the morning. Apart from loud conversations which disrupts the tenants in the adjoining residential properties, there is drug dealing and drunk and lewd behaviour in the laneway.</i></p>	<p>In terms of noise please refer to point 2. There is no evidence that any noise or antisocial behaviour is directly related to the operation of the gym. The business owner takes all steps to educate clients on appropriate access and egress when using the facility. The client, to date, is unaware of any official complaints lodged against the gym with the City that directly relate to antisocial behaviour in the adjacent laneway. It should be noted that antisocial behaviour can gravitate to laneways and that the location of a 24 hour gym may be a catalyst to generate ongoing passive surveillance outside of normal business hours thus reducing the likelihood of antisocial behaviour.</p> <p>This use is located in the District Centre with other late night uses in close proximity including small bars, restaurants and the 24 hour Hungry Jacks directly across Vincent Street.</p>



<p>6. <i>The 24- hour operation has an impact on the adjacent residential properties in terms of noise (loud music and noise from gym users) and car parking whereby gym users park their car in front of residential properties</i></p>	<p>In terms of noise please refer to point 2. As part of the conditional approval parking for the facility was assessed and deemed to be sufficient. It should be noted there are no currently identified parking issues relating to the operation of the gym. It is more likely that parking issues in the locality are generated by other uses in proximity to the District Centre.</p> <p>It should be noted that there is ample car parking bays for the patrons of the gym, especially for the late night/early morning users who would easily find parking spaces at these hours and have no need to park over neighbour's property.</p>
--	--



EcoAcoustics

Snap Fitness

565 Beaufort Street, Mount Lawley

Noise Impact Assessment

25 July 2016

Report Number: 16050302 - 01

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Report: 16050302 - 01

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EcoAcoustics has exercised due and customary care in conducting this assessment but has not, save as specifically stated, independently verified any information provided by others. Therefore, EcoAcoustics assumes no liability or loss resulting from errors, omissions or misrepresentations made by others. This report has been prepared at the request of the Client. The use of this report by unauthorised third parties without the written permission of EcoAcoustics shall be at their own risk and EcoAcoustics accept no duty of care to any such third party.

Any recommendations, opinions or findings stated in this report are based on facts as they existed at the time Eco Acoustics performed the work. Any changes in such circumstances and facts upon which this report is based may adversely affect any recommendations, opinions or findings contained within this report.

Document Information			
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Position:	Company Director	Position:	Consultant
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Date of Issue:	25 July 2016		

Revision History				
Revision	Description	Date	Author	Checked



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Ref: 16050302 - 01



Executive Summary

EcoAcoustics Pty Ltd was commissioned by Snap Fitness to conduct an assessment of a proposed gym located at 565 Beaufort Street, Mount Lawley.

The purpose of this report is to assess the noise emissions from the site in accordance with the prescribed standards contained in the *Environmental Protection (Noise) Regulations 1997*.

The results of the noise measurements and predictions show that the proposed gym can comply with the assigned noise levels contained with the *Environmental Protection (Noise) Regulations 1997*.



1 Introduction

EcoAcoustics Pty Ltd was commissioned by Snap Fitness to conduct an assessment of a proposed gym located at 565 Beaufort Street, Mount Lawley.

The purpose of this report is to review the installation associated with the gym, including the flooring and locality of equipment etc and determine compliance or otherwise with the earlier acoustic assessment completed for this site (our ref: 14060100-01, dated 12/08/2014). In addition this report will assess the noise emissions from the site in accordance with the prescribed standards contained in the *Environmental Protection (Noise) Regulations 1997*.

Appendix A contains a description of some of the terminology used throughout this report.

1.1 Site Locality & Surroundings

The site is located in Mount Lawley, on the corner of Vincent and Beaufort Streets. The gym is located on the first floor of an existing commercial building. Retail and commercial premises are located on the ground floor, and adjoin the site to the southwest. The nearest residential premises are located to the northwest of the site, further along Vincent Street, and also to the north east, across Vincent Street. The site and surroundings are shown in an aerial photo in *Figure 1.1*.



Figure 1.1: Site and Surroundings (Source: Google Earth)

1.2 Site Description

The site is located on the first floor of an existing commercial building, with access via the ground floor off Vincent Street. As can be seen on *Figure 1.2*, the gym is separated into the following main zones:



- Free weights zone
- Strength zone
- Cardio zone
- Stretch and flexibility zone
- Movement zone
- Group fitness zone

There is also an external balcony, which cannot be seen in the schematic.

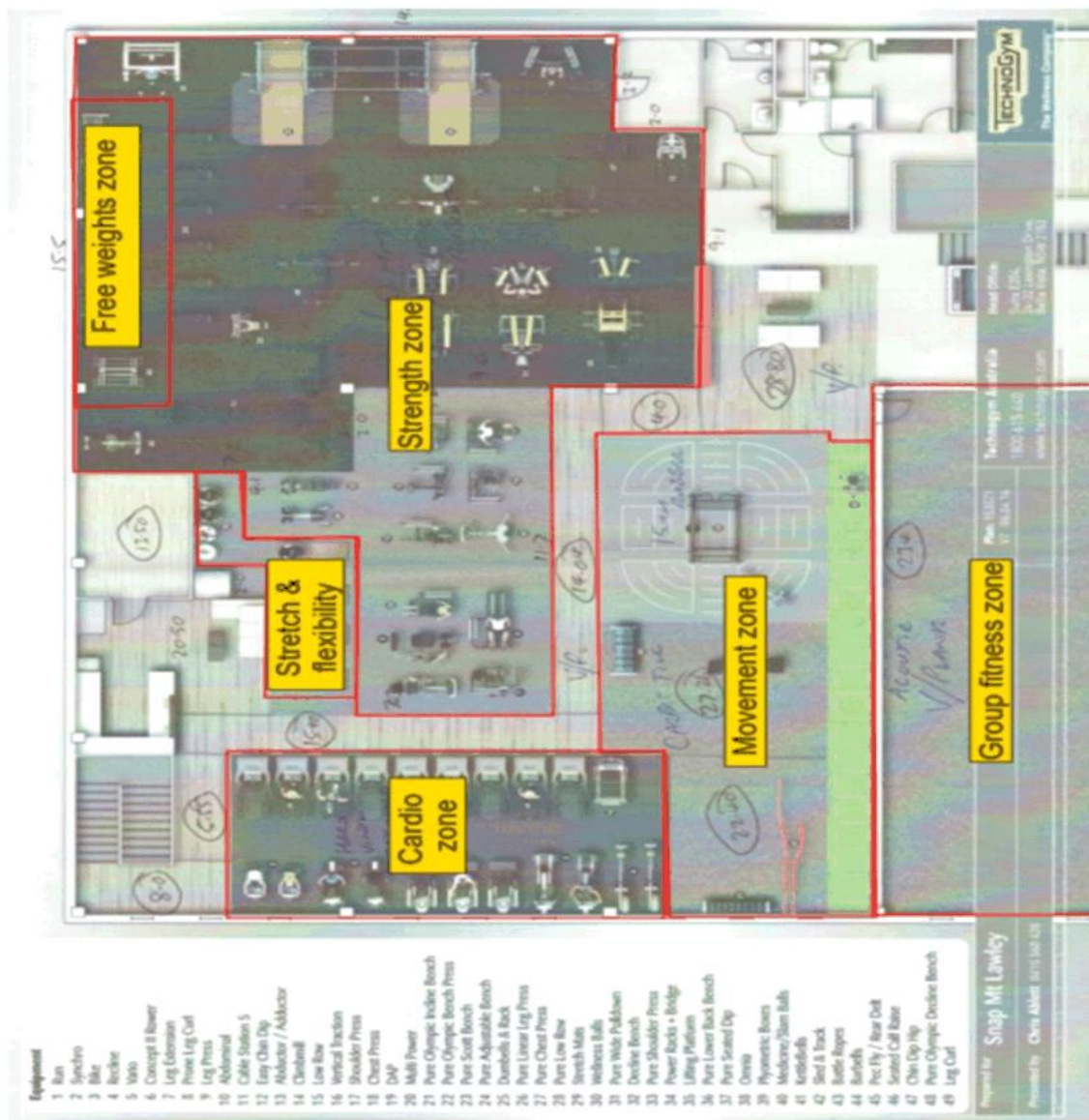


Figure 1.2: Proposed Internal Layout



The types of flooring that are currently installed in the gym, for each zone, are listed in *Table 1.1*. Acoustic vinyl planks are installed for walkways.

Table 1.1 Flooring types currently installed for gym zones

Gym zone	Flooring type installed
Free weights	60 mm acoustic rubber (Impactomat) – complies with minimum requirements from earlier acoustic report
Cardio	2mm vinyl over 2 layers of 5mm acoustic rubber (Impactomat)
Stretch and flexibility	Carpet tile
Movement	Carpet tile
Group fitness	5mm acoustic vinyl plank over 2 layers of 5mm acoustic rubber (Impactomat)
Strength	Carpet tile and 60 mm acoustic rubber (Impactomat) – complies with minimum requirements from earlier acoustic report

It is understood that the gym operates 24 hours per day, seven days per week. It is understood that the peak usage times are Monday to Thursday:

- 7:30am to 9:00am
- 4:30pm to 7:30pm



2 Criteria

In Western Australia all Environmental noise is regulated by the *Environmental Protection Act 1986* and the *Environmental Protection (Noise) Regulations 1997*. Noise emissions from the gym are required to satisfy the assigned noise levels specified in Regulations 7, 8 and 9.

The standard stipulated in Regulation 7 of the states:

- 7. (1) Noise emitted from any premises or public place when received at other premises –
 - a) Must not cause or significantly contribute to, a level of noise which exceeds the assigned level in respect of noise received at premises of that kind; and
 - b) Must be free of –
 - o Tonality;
 - o Impulsiveness; and
 - o Modulation.

A... noise emission is taken to significantly contribute to a level of noise if the noise emission exceeds a value which is 5dB below the assigned level...

Regulation 9 defines tonality, impulsiveness and modulation. It is regarded that noise is free of these characteristics if:

- a) Tonality, impulsiveness and modulation cannot be equitably removed by means other than decreasing the overall level of noise emission; and
- b) Subsequent to any adjustments as displayed in *Table 2.1*, noise emissions remain compliant with the required standards when measured at the point of reception.

Table 2.1 Adjustments for Intrusive Characteristics

Adjustment Where Noise Emission is not Music (cumulative to maximum of 15 dB)			Adjustment Where Noise Emission is Music	
Tonality	Modulation	Impulsiveness	Where impulsiveness is not present	Where impulsiveness is present
+ 5dB	+ 5dB	+ 10dB	+10dB	+15dB

The baseline assigned levels (prescribed standards) are specified in Regulation 8 and are shown below in *Table 2.2*.



Table 2.2 Baseline Assigned Noise Levels

Premises Receiving Noise	Time Of Day	Assigned Level (dB)		
		L _{A10}	L _{A1}	L _{Amax}
Noise sensitive at locations within 15m of a building directly associated with a noise sensitive use	0700 to 1900 hours Monday to Saturday (Day)	45 + influencing factor	55 + influencing factor	65 + influencing factor
	0900 to 1900 hours Sunday and public holidays (Sunday)	40 + influencing factor	50 + influencing factor	65 + influencing factor
	1900 to 2200 hours all days (Evening)	40 + influencing factor	50 + influencing factor	55 + influencing factor
	2200 hours on any day to 0700 hours Monday to Saturday and 0900 hours Sunday and public holidays (Night)	35 + influencing factor	45 + influencing factor	55 + influencing factor
Commercial	All hours	60	75	80
Industrial	All hours	65	80	90

Table 2.3 shows the calculations used in determining the influencing factor at the nearest residential premises.

Table 2.3: Calculation of Influencing Factor

Premises Receiving Noise (ref Figure 1.1)	Description	Within 100 metre Radius	Within 450 metre Radius	Total
Rec 1 to 2	Industrial Land	0	0	0
	Commercial Land	60% 3 dB	20% 1 dB	4 dB
	Major Road	6 dB	0	6 dB
	Minor Road	0	0	0
	Total Influencing Factor			10 dB

Based on the influencing factors contained in Table 2.3, the assigned noise levels are shown in Table 2.4.



Table 2.4: Assigned Noise Levels

Premises Receiving Noise	Time Of Day	Assigned Level (dB)		
		L _{A10}	L _{A1}	L _{Amax}
Noise sensitive at locations within 15m of a building directly associated with a noise sensitive use	0700 to 1900 hours Monday to Saturday (Day)	55	65	75
	0900 to 1900 hours Sunday and public holidays (Sunday)	50	60	75
	1900 to 2200 hours all days (Evening)	50	60	65
	2200 hours on any day to 0700 hours Monday to Saturday and 0900 hours Sunday and public holidays (Night)	45	55	65
Commercial (located below the gym)	All hours	60	75	80



3 Measurements

To determine the impact of the gym on the commercial premises below, a number of Impact Isolation Tests were conducted prior to the occupancy. The Impact Isolation Tests were used to determine the performance of the proposed flooring on the existing floor slab. The testing was conducted using:

- A Norsonic Nor 140 Sound Level Meter (calibration certificate available on request);
- A Bruel & Kjaer 2250 Sound Level Meter (calibration certificate available on request);
- A tapping machine;
- Balloons used for room mode excitation.

In addition to the Impact Isolation Testing, measurements were also completed of the gym post-occupancy to determine the noise during normal daytime sessions. This testing involved measuring noise levels with the Norsonic Nor 140 Sound Level Meter from the following sources within the gym space:

- Treadmills operating at maximum noise levels with based on running;
- Battle ropes within the Movement Zone.



4 Impact Isolation Assessment

To determine the impact separation between the gym and the commercial tenancies below, in situ impact tests were conducted on a number of sample floors to be used in the gym. The in situ impact testing comprised:

- Bare concrete testing of slab:
- 1m² sample of product being tested, including:
 - 1 layer 5mm Impactomat;
 - 2 layers 5mm Impactomat;
 - 1 layer 5mm Impactomat with 5mm acoustic vinyl planks loose laid on top;
- Tapping machine was placed in the centre of each sample;
- Testing included source and receiver rooms, including background levels and reverberation times.

Table 4.1 presents a summary of the floor sample test results.

Table 4.1: Summary of Floor Test Sample Results

Description	Measured Level
Sample 1: Bare Concrete	$L_{nT,W} + C_1 = 50$
Sample 2: 1 layer 5mm Impactomat	$L_{nT,W} + C_1 = 43$
Sample 3: 2 layer 5mm Impactomat	$L_{nT,W} + C_1 = 42$
Sample 4: 1 layer 5mm Impactomat with 5mm acoustic vinyl planks laid on top	$L_{nT,W} + C_1 = 41$

Of these three samples, the best performing sample was Sample 4. This floor configuration has been included in the group fitness area.



5 Airborne Noise Assessment

Tables 5.1 and 5.2 present the measured noise levels associated with the treadmills and the battle ropes within the gym respectively. These tables also include the calculated noise levels at the nearest commercial premises below the gym. It is important to note that attempts were made to gain access to the commercial premises below the gym, without success. A number of the premises were not operating during the airborne measurement period, and the remainder would not allow measurements to be taken within their spaces.

Table 5.1: Noise Calculations from Treadmills

Description	Octave band Centre Frequency, dB Hz						Overall dB
	125	250	500	1K	2K	4K	
Measured Noise Level from Treadmills (with 4 operating simultaneously) in Gym, dB	69	74	78	76	70	63	82 dB
Transmission loss & attenuation (based on floor ceiling tests & distance) dB	-16	-16	-34	-37	-43	-42	
L _p at commercial premises (dB)	53	58	44	39	26	21	60 dB
Resultant Noise Level (converted to A-weighting) dB(A)	37	49	41	39	27	22	50 dB(A)
Addition of impulsiveness correction	+10	+10	+10	+10	+10	+10	
Adjusted A-weighted Noise Level from Treadmills	47	59	51	49	37	32	60 dB(A)



Table 5.2: Noise Calculations from Battle Ropes

Description	Octave band Centre Frequency, dB Hz						Overall Noise Level
	125	250	500	1K	2K	4K	
Measured Level from Battle Ropes in Gym, dB	65	69	74	75	69	62	79 dB
Transmission loss & attenuation (based on floor ceiling tests & distance) dB	-16	-16	-34	-37	-43	-42	
L _p at commercial premises (dB)	48	49	53	40	37	25	56 dB
Resultant Noise Level (converted to A-weighting) dB(A)	33	45	37	37	27	21	46 dB(A)
Addition of impulsiveness correction	+10	+10	+10	+10	+10	+10	
Adjusted A-weighted Noise Level from Treadmills	43	55	47	47	37	31	56 dB(A)

The predicted noise levels comply with the assigned noise levels for commercial premises; however, it is important to note that these noise levels would be audible and discernible. These noise levels were based on an average of 4 treadmills operating simultaneously at maximum noise levels.

To provide a clearer understanding of the noise environment within close proximity to this site, background and ambient noise levels were measured in the absence of any noise from the gym above. These measurements were taken within the commercial premises below, as part of the IIC floor testing. The resultant noise levels measured **inside** the commercial premises were L_{A10} 55 dB(A) and L_{A90} 46 dB(A). The L_{A10} represents the road traffic noise within the space, while the L_{A90} represents the noises that are always present, including mechanical plant from the nearby fast food restaurant.



6 Conclusions & Recommendations

The results of the noise measurements show that the noise from the gym can comply with the assigned noise levels associated with the *Environmental Protection (Noise) Regulations 1997*.



Appendix A

Terminology





Terminology

Ambient Noise

Ambient noise refers to the level of noise from all sources, including background noise as well as the source of interest.

A-Weighting

An A-weighted noise level is a noise level that has been filtered as to represent the way in which the human ear distinguishes sound. This weighting indicates the human ear is more sensitive to higher frequencies than lower frequencies. The A-weighted sound level is described as dB L_A.

Background Noise

Background noise is the noise level from sources other than the source of interest. Background may originate from such things as traffic noise, wind induced noise, industrial noise etc.

Decibel (dB)

The decibel is the unit that characterises the sound power levels and sound pressure of a noise source. It is a logarithmic scale with regard to the threshold of hearing.

Impulsive Noise

An impulsive noise source is a short-term impact noise which may originate from such things as banging, clunking or explosive sound.

Influencing factor

$$= 1/10 (\% \text{ Type } A_{100} + \% \text{ Type } A_{450}) + 1/20 (\% \text{ Type } B_{100} + \% \text{ Type } B_{450})$$

Where:

% Type A₁₀₀ = The percentage of industrial land within a 100m radius of the premises receiving noise

% Type A₄₅₀ = The percentage of industrial land within a 450m radius of the premises receiving noise

% Type B₁₀₀ = The percentage of commercial land within a 100m radius of the premises receiving noise

% Type B₄₅₀ = The percentage of commercial land within a 450m radius of the premises receiving noise

+ Traffic factor (maximum 6dB)

= 2 for each secondary road within 100m

= 2 for each major road within 450m

= 6 for each major road within 450m



L_{A1}

An L_{A1} level is the A-weighted noise level which is overreached for one percent of a measurement period. It represents the average of the maximum noise levels measured.

L_{A1} assigned level

An assigned L_{A1} level which is not to be exceeded for more than 1% of a delegated assessment period.

L_{A10} assigned level

An assigned L_{A10} level which is not to be exceeded for more than 10% of a delegated assessment period.

L_{A10}

An L_{A10} level is the A-weighted noise level which is exceeded for 10 percent of the measurement period and is considered to represent the “intrusive” noise level.

L_{A90}

An L_{A90} level is the A-weighted noise level which is overreached for 90 percent of the measurement period. It represents the “background” noise level.

L_{Aeq}

L_{Aeq} refers to the comparable steady state of an A-weighted sound which, over a specified time period, contains the same acoustic energy as the time-varying level during the specified time period. It represents the “average” noise level.

L_{AFast}

The noise level in decibels, obtained using the A frequency weighting and the F time weighting as specified in AS1259.1-1990. L_{AFast} is used when examining the presence of modulation.

L_{Amax}

The L_{Amax} level is the maximum A-weighted noise level throughout a specified measurement.

L_{Amax} assigned level

The L_{Amax} assigned level describes a level which is not to be exceeded at any time.

L_{APeak}

The L_{APeak} level is the maximum reading (measured in decibels) during a measurement period, using the A frequency weighting and P time weighting AS1259.1-1990.



L_{ASlow}

A L_{ASlow} level is the noise level (measured in decibels) obtained using the A frequency weighting and S time weighting as specified in AS1259.1-1990

Major Road

A Major road has an estimated average daily traffic count of more than 15,000 vehicles.

Maximum Design Sound Level

Maximum Design Sound Level is the level of noise beyond hearing range of most people occupying the space start, become dissatisfied with the level of noise.

Modulating Noise

A modulating source is an audible, cyclic and regular source. It is present for at least 10% of a measurement period. The quantitative definition of tonality is:

a fluctuation in the discharge of noise which;

- a) is more than 3 dB $L_{A Fast}$ or is more than 3 dB $L_{A Fast}$ in any one-third octave band;
- b) is present for at least 10% of the representative

One-Third-Octave Band

One-Third-Octave-Band are frequencies that span one-third of an octave which have a centre frequency between 25 Hz and 20 000 Hz inclusive.

Representative Assessment Period

Representative Assessment Period describes a period of time not less than 15 minutes, and not surpassing four hours. It is determined by an inspector or authorised person to be suitable for the assessment of noise emissions.

Reverberation Time

Reverberation time refers to an enclosure for a sound of a specified frequency or frequency band as well as the time that would be necessary for the reverberantly decaying sound pressure level in the enclosure to decrease by 60 decibels.

RMS

The root mean square level is used to represent the average level of a wave form such as vibration.

Satisfactory Design Sound Level

Satisfactory Design Sound Level refers to the level of noise that has been found to be acceptable for the environment in question, which is also to be non-intrusive.



Secondary / Minor Road

A Secondary / Minor road has an estimated average daily traffic count of between 6,000 and 15,000 vehicles.

Sound Pressure Level (L_p)

Sound Pressure Level refers to a noise source which is dependent upon surroundings, and is influenced by meteorological conditions, topography, ground absorption; distance etc. Sound Pressure Level is what the human ear actually hears. Noise modelling predicts the sound pressure level from the sound power levels whilst taking into account the effect of relevant factors (meteorological conditions, topography, ground absorption; distance etc).

Sound Power Level (L_w)

A sound power level of a noise source cannot be directly measured using a sound level meter. It is calculated based on measured sound pressure levels at recognised distances. Noise modelling includes source sound power levels as part of the input data.

Specific Noise

Specific Noise relates to the component of the ambient noise of interest. It can be specified as the noise of interest or the noise of concern.

Tonal Noise

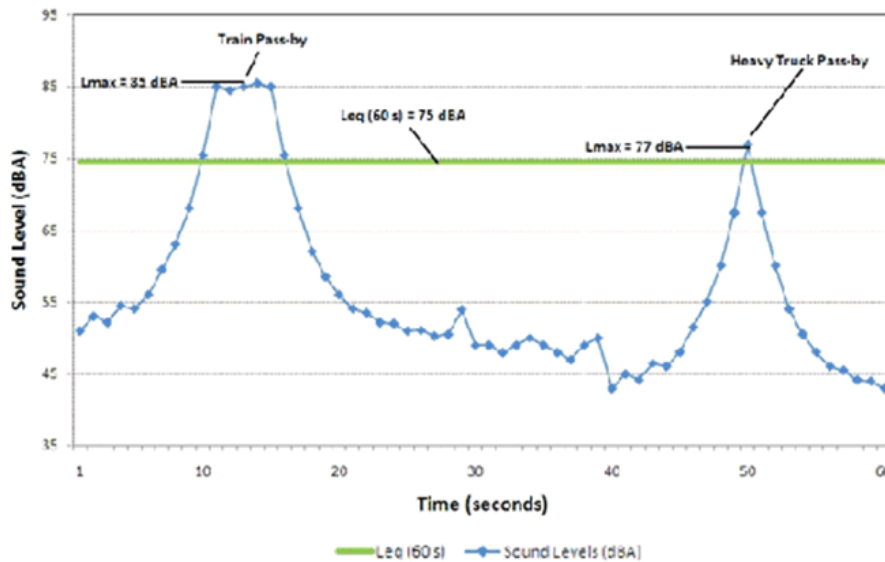
A tonal noise source can be designated as a source that has a specific noise emission over one or several frequencies, such as droning. The quantitative definition of tonality is:

the presence in the noise emission of tonal characteristics where the difference between —

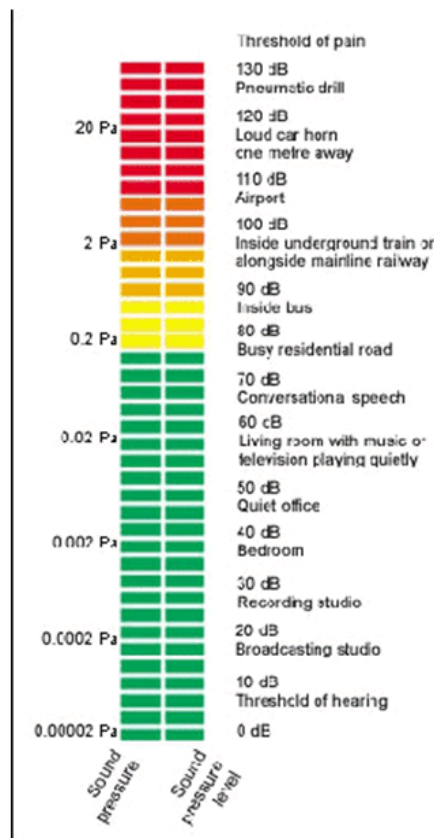
- a) the A-weighted sound pressure level in any one-third octave band; and
- b) the arithmetic average of the A-weighted sound pressure levels in the 2 adjacent one-third octave bands, is greater than 3 dB when the sound pressure levels are determined as $L_{Aeq,T}$ levels where the time period T is greater than 10% of the representative assessment period, or greater than 8 dB at any time when the sound pressure levels are determined as $L_{A_{slow}}$ levels.



Chart of Noise Level Descriptors



Typical Noise Levels



8 COMMUNITY ENGAGEMENT

8.1 PROPOSED LICENCE AGREEMENT - BANKS RESERVE PAVILION

TRIM Ref: D18/10282

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Attachments: 1. Kiddies Learning Hub Pty Ltd Business Plan - Confidential
2. Certificate of Registration of a Company - Kiddies Learning Hub Pty Ltd [↓](#)

RECOMMENDATION:

1. That Council APPROVES a licence to Kiddies Learning Hub Pty Ltd to use of Banks Reserve Pavilion, located at Lot 500 (No.60) Joel Terrace, Mt Lawley, on the following key terms:
 - 1.1 Term: 5 March 2018 to 14 December 2018 (41 weeks);
 - 1.2 Hours of Use: Monday 7am to 3pm; and
Tuesday to Friday 7:30am to 4:30pm;
 - 1.3 Permitted Use: Early learning and child care service;
 - 1.4 Fees: \$45,100 annual paid monthly in advance (inclusive of GST);
 - 1.5 Adherence to:
 - 1.5.1 Council Policy No. 2.1.7 – Parks, Reserves and Hall Facilities – Conditions of Hire and Use; and
 - 1.5.2 Provider/service approval from the Department of Communities.
 - 1.6 Storeroom Use: Exclusive use of the storeroom (office) adjacent to the kitchen within the pavilion for storage, throughout the term of the licence;
2. Subject to final satisfactory negotiations being carried out by the Chief Executive Officer, AUTHORIZES the Mayor and Director Corporate Services to affix the common seal and execute the licence conditions above.

PURPOSE OF REPORT:

To consider Kiddies Learning Hub Pty Ltd's request to operate an early learning and child care service at Banks Reserve Pavilion, 60 Joel Terrace, Mt Lawley.

BACKGROUND:

Smart Start Educational Services Pty Ltd has operated a Montessori based early learning program for children aged 2½ years to 5 years at Banks Reserve Pavilion, Mount Lawley since July 2015. During this time they attracted approximately 45 children to the Pavilion five days per week, and as such were the main user group at the facility. In late 2017, the City was advised that they would be relocating to different premises (outside of the City of Vincent) from 2018 so would no longer be utilising the Pavilion.

Administration has since been presented with a Business Plan from two former Smart Start Educational Services Pty Ltd employees who have established a new business, Kiddies Learning Pty Ltd, and who wish to continue to provide the same service for the local community from the Pavilion. Through this Business Plan and subsequent negotiations with Administration they have requested a hire fee similar to that charged to Smart Start Educational Services Pty Ltd to ensure their ongoing financial viability.

Upon reviewing the previous arrangements with Smart Start Educational Services Pty Ltd it is evident that despite being a private business they were charged a rate comparable with community organisations given their financial capacity and in recognition of their regular use of the Pavilion. There does not appear to be

any specific Council resolution or documented rationale for this decision making albeit these arrangements did generate substantial revenue and activated an otherwise underutilised facility.

The following fees were paid over the last three calendar years:

Year	Period	Total Hire Fees Paid
2015	July - December	\$23,331.25
2016	January - December	\$49,595.00
2017	January - December	\$42,619.50

Council established a new charging methodology for halls and community centres through the Adopted Fees and Charges Schedule 2017/18. This includes differing rates for community and commercial usage as well as scaled rates based on a facility hierarchy (i.e. higher rates for Main Halls and lower rates for Pavilions). Given that the hire fee request from Kiddies Learning Hub Pty Ltd is not consistent with these fees and charges it is necessary to either propose an amendment to the Adopted Fees and Charges Schedule or to establish a licence agreement for use of the Pavilion.

Given that the Business Case presented by Kiddies Learning Hub Pty Ltd is specific to their services and proposed facility utilisation it is not considered appropriate to amend the Adopted Fees and Charges Schedule. The establishment of a licence agreement will enable specific terms to be negotiated and subsequently allow continuation of early learning and child care services at the Pavilion.

DETAILS:

Kiddies Learning Hub Pty Ltd are a new business although the Directors, one of whom resides within Vincent, have been working for Montessori based education providers for many years. A detailed Business Plan (**Attachment 1**) and Certificate of Business Registration (**Attachment 2**) have been submitted to Administration.

The business proposes to deliver a child care services for children aged between approximately 2½ and 5 years with the aim of getting them prepared for kindergarten/pre-primary. The services will follow the Early Years learning Framework and Montessori curriculum. It is anticipated that the business will attract up to 55 places per week with approximately 30 places already confirmed at a cost of \$90.00 per day per child. The Education and Care Regulatory Unit within the Department of Communities has granted Kiddies Learning Hub Pty Ltd conditional approval to base their service at the Pavilion.

The proposed use of the Pavilion by Kiddies Learning Hub Pty Ltd remains consistent with the activities undertaken by Smart Start Educational Services Pty Ltd over recent years and will activate the facility during a non-peak period where there is limited demand from other community groups, businesses or individuals. Upon reviewing their Business Plan and the previous arrangements for Smart Start Educational Services Pty Ltd it is recommended that a licence agreement be established based upon a hire charge of \$25.00 per hour. This charge is consistent with the current community rate of \$25.00 per hour although it is lower than the current commercial rate of \$40.00 per hour. Such an agreement enables the continuation of facility hire revenue comparable to that paid by Smart Start Educational Services Pty Ltd while also allowing some flexibility for this new business venture based upon how many places within their program are filled.

Kiddies Learning Hub Pty Ltd proposes to utilise the Pavilion each Monday between 7.00am and 3.00pm, and Tuesday to Friday between 7.30am to 4.30pm, from 5 March to 14 December 2018. Based upon the total number of hours and weeks requested this will equate to \$45,100 during the licence agreement period which represents a \$2,480.50 increase when compared to the amount paid by Smart Start Educational Services Pty Ltd in 2017. Aside from this specific licence term, hours of use and fees the Kiddies Learning Hub Pty Ltd will simply be required to adhere to the terms included within Council Policy No. 2.1.7 – Parks, Reserves and Hall Facilities – Conditions of Hire and Use. They will also be required to maintain provider/service approval from the Department of Communities.

Given that the availability of an early learning program and child care service at this location will benefit the local community as well as activating an underutilised building the request from Kiddies Learning Hub Pty Ltd to operate from the Pavilion is supported by Administration. However, given the current progression of Banks Reserve Master Plan (including the Banks Reserve Pavilion) it is not considered prudent to provide a licence agreement beyond the 2018 calendar year. This has been clearly communicated to Kiddies Learning Hub Pty Ltd.

CONSULTATION/ADVERTISING:

Administration met with the directors of Kiddies Learning Hub Pty Ltd in October 2017 and November 2017 on site to discuss the proposal. Further discussions and negotiations on terms of use have been ongoing to present by both telephone and email.

Kiddies Learning Hub Pty Ltd is a registered company (ACN 622 006 624) and estimates to make a profit from the operation of the child care serve at the Pavilion pursuant to a licence with the City. As the licence is for a term of 41 weeks, the proposed disposition falls within the scope of an exempt disposition in accordance with regulation 30(2)(e) of the Local Government (Functions and General) Regulation 1996. Therefore there would be no requirement for the City to advertise an intention to enter into the licence with Kiddies Learning Hub Pty Ltd.

LEGAL/POLICY:

A licence provides the licensee with a contractual right to use property at the times and on the terms specified in the licence. It is different to a lease as it does not create any estate or interest in the property (it is not a proprietary right). However, given the formalities of a licence and the extensive right to use the property it can provide, it appears that a licence would fall within the scope of 'dispose' as defined in the *Local Government Act 1995*.

Local Government Act 1995 section 3.58(a) defines dispose as "...to sell, lease, or otherwise dispose of, whether absolutely or not"

Local Government Act 1995 section 3.58 - Disposing of Property, provides that a local government can only dispose of property in accordance with section 3.58(3) unless the disposition falls within the scope of section 3.58(5), which includes:

"(d) Any other disposition that is excluded by regulations from the application of this section."

In accordance with Section 3.58(5), 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 the following disposition:

"(2)(b): A disposition 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;

(2)(e): the leasing of land for a period of less than two years during all or any of which time the lease does not give the lessee the exclusive right to use the land."

RISK MANAGEMENT IMPLICATIONS:

Low: The directors of Kiddies Learning Hub have extensive experience as employees within the Montessori early learning system. Kiddies Learning Hub Pty Ltd have already secured 30 placements per week with a desired patronage of 55 placements. Should the placement numbers not be achieved there is no financial or strategic loss to the City.

STRATEGIC IMPLICATIONS:

This agreement remains consistent with key objectives within the City's *Strategic Community Plan 2013-2023*, as follows:

- 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.*
- 3.1.6 *Build capacity within the community for individuals and groups to meet their needs and the needs of the broader community:*

- (a) *Build the capacity of individuals and groups within the community to initiate and manage programs and activities that benefit the broader community, such as the establishment of men's sheds, community gardens, toy libraries and the like."*

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Council's Adopted Schedule of Fees and Charges 2017/18 includes the following rates:

Community Facilities – Category Four (Banks Reserve Pavilion)	Community Rate	Commercial Rate
Off Peak (7am to 6pm)	\$20.00 per hour	\$40.00 per hour
Peak (6pm to 12am)	\$25.00 per hour	\$50.00 per hour

Based upon the proposed term, hours of use and fees it is expected that approximately \$45,100 revenue will be generated through a licence agreement between the City of Vincent and Kiddies Learning Hub Pty Ltd. Given the previous assumption that Smart Start Educational Services Pty Ltd would continue their use of the Pavilion an amount of \$43,000 revenue was included within Council's 2017/18 operating budget.

COMMENTS:

Administration recommends that a licence agreement be granted to Kiddies Learning Hub Pty Ltd for Banks Reserve Pavilion to enable the delivery of early learning and child care services on specified days and times at a rate of \$25.00 per hour. This agreement will enable continuation of a service to the community from this location, maintain regular utilisation of a City asset during off peak periods, and maintain budgeted community buildings revenue.

Certificate of Registration of a Company

This is to certify that

KIDDIES LEARNING HUB PTY LTD

Australian Company Number 622 006 624

is a registered company under the Corporations Act 2001 and
is taken to be registered in Western Australia.

The company **is limited by shares.**

The company is a **proprietary** company.

The day of commencement of registration is
the first day of October 2017.



Issued by the
Australian Securities and Investments Commission
on this first day of October, 2017.

A handwritten signature in black ink, appearing to read 'G. Medcraft', written in a cursive style.

Greg Medcraft
Chairman