








**9.6 NO. 559 (LOT: 4; D/P: 1477) BEAUFORT STREET, MOUNT LAWLEY - CHANGE OF USE FROM SHOP TO SMALL BAR****TRIM Ref:** D18/93286**Author:** Joslin Colli, Coordinator Planning Services**Authoriser:** Luke Gibson, A/Director Development Services**Ward:** South

- Attachments:**
1. Attachment 1 - Consultation and Location Map 
  2. Attachment 2 - Development Application Plans 
  3. Attachment 3 - Summary of Submissions and Administration Response 
  4. Attachment 4 - Summary of Submissions and Applicants Response 
  5. Attachment 5 - Parking Management Plan & Supporting Justification 
  6. Attachment 6 - Management Plan (Revised) 
  7. Attachment 7 - Applicant's Submission and Technical Documents 

**RECOMMENDATION:**

That the Council in accordance with the provisions of the City of Vincent's Local Planning Scheme No. 2 and the Metropolitan Region Scheme, REFUSES the application for a change of use from Shop to Small Bar at No. 559 (Lot: 4; D/P: 1477) Beaufort Street, Mount Lawley, for the following reason:

1. The proposal does not comply with the car parking requirements of the City's Policy No. 7.7.1 – Non-Residential Development Parking Requirements, and the proposed variation is not considered to meet the objectives of the Policy as appropriate parking will not be provided to meet the needs of users.

**Moved: Cr Gontaszewski, Seconded: Cr Hallett**

**That the recommendation be adopted.**

At 6:31 pm, Cr Joshua Topelberg left the meeting

**LOST (0-8)**

**For:** Nil

**Against:** Presiding Member Mayor Cole, Cr Gontaszewski, Cr Castle, Cr Fotakis, Cr Hallett, Cr Harley, Cr Loden, Cr Murphy and Cr Topelberg

**(Cr Topelberg was absent from the Council Chamber and did not vote.)**

**COUNCIL DECISION ITEM 9.6****ALTERNATIVE MOTION**

**Moved: Cr Gontaszewski, Seconded: Cr Harley**

That Council in accordance with the provisions of the City of Vincent's Local Planning Scheme No. 2, the Metropolitan Region Scheme and Clause 1.2 of Policy 7.7.1 – Non-Residential Development Parking Requirements, APPROVES the application for a change of use from Shop to Small Bar at No. 559 (Lot: 4; D/P: 1477) Beaufort Street, Mount Lawley, subject to the following conditions:

**1. Use of Premises**

- 1.1 This approval is for 'Small Bar' as defined by the City's Local Planning Scheme No.2 as shown on the approved plans dated 15 August 2018;
- 1.2 The Small Bar shall accommodate a maximum of 100 people at any given time;
- 1.3 The hours of operation for the proposed bar are limited to:
  - Tuesday to Saturday and Sundays prior to public holidays: 10:00am to midnight; and
  - Ordinary Sundays and Public Holidays: 10:00am to 10:00pm;

**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 be screened from view from the street, and surrounding properties to the satisfaction of the City;

**3. Acoustic report**

All of the recommended measures included in the approved Acoustic Report (Herring Storer Acoustics, March 2018) shall be implemented as part of the development, to the satisfaction of the City prior to the use or occupation of the development and maintained thereafter to the satisfaction of the City at the expense of the owners/occupiers;

**4. Management Plan**

- 4.1. An updated Management Plan in accordance with the City's Policy No. 7.5.7 - Licenced Premises shall be submitted to, and approved by the City prior to the development commencing. The updated Management Plan shall address the following matters and shall be in accordance with all conditions of this approval:
  - Any recommendations detailed in the Acoustic Report (as per Condition 5 above);
  - Floor plans of the premises;
  - The maximum number of patrons;
  - Hours of operation;
  - Noise Management Plan;
  - Patron and anti-social behaviour;
  - Entertainment and Music; and
  - Time and frequency of waste collection and deliveries at the premises;
- 4.2 Use of the premises shall be carried out in accordance with the approved Management Plan or any Plan approved by the City thereafter and all requirements of the Management Plan shall be implemented to the satisfaction of the City; and

- 4.3 The Management Plan shall be reviewed every 12 months, with any changes identified during this review or by the City, being incorporated into an updated Management Plan approved by the City as part of the review;

5. Cash-in-Lieu

A cash-in-lieu contribution shall be paid to the City for the shortfall of 8 car bays, based on the cost of \$5,400 per bay as set out in the City's 2017/2018 Schedule of Fees and Charges being a contribution of \$43,200 prior to the commencement of development or by entering into a written agreement to the City to pay the cash-in-lieu over an agreed period up to five years.

6. Parking

6.1 An updated Parking Management Plan in accordance with the City's Policy No. 7.7.1 – Non-Residential Development Parking Requirements shall be submitted to, and approved by the City prior to the development commencing. The updated Parking Management Plan shall address the provision of on-site and off-site bicycle parking, as provided for by the approved plans.

6.2 Prior to occupancy or use of the development a minimum of two additional Class 3 bicycle parking facilities shall be provided in the Beaufort Street verge, in a location to the City's satisfaction. The bicycle facilities shall be designed in accordance with AS2890.3 and all works shall be undertaken to the City's specification and satisfaction.

ADVICE NOTES:

1. The development approval is for a Change of Use to 'Small Bar ', which is defined under the City's Local Planning Scheme No. 2 as:  
*"Small Bar means premises the subject of a small bar license granted under the Liquor Control Act 1988"*
2. With reference to Conditions 1.2 any increase in the maximum occupancy will require further development approval;
3. With reference to Condition 1.3, trading hours for New Year's Eve on a Sunday, New Year's Day, Good Friday, Christmas Day and ANZAC Day shall be in accordance with the provisions of the *Liquor Control Act 1988*;
4. With reference to Condition 5:
  - 4.1 The cash-in-lieu amount may be reduced if additional car bays are provided onsite or in conjunction with any other arrangement acceptable to the City;
  - 4.2 Alternatively the lodgement of an appropriate assurance bond/bank guarantee of the above value to the satisfaction of the City can be undertaken. This assurance bond/bank guarantee will only be released in the following circumstances:
    - 4.2.1 To the City at the date of issue of the Building Permit for the development, or first occupation of the development, whichever occurs first; or
    - 4.2.2 To the owner/applicant following receipt by the City of a Statutory Declaration of the prescribed form endorsed by the owner/applicant and stating that they will not proceed with the subject 'Approval to Commence Development'; or
    - 4.2.3 To the owner/applicant where the subject 'Approval to Commence Development' did not commence and subsequently expired; and
  - 4.3 The applicant may request the City to approve a payment plan up to five years;

5. Any new signage that does not comply with the City's Policy No. 7.5.2 - Signs and Advertising shall be subject to a separate Development Application and all signage shall be subject to a Building Permit application, being submitted and approved prior to the erection of the signage;
6. 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;'
7. 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; and
8. 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.

**ALTERNATIVE MOTION CARRIED UNANIMOUSLY (8-0)**

**For:** Presiding Member Mayor Cole, Cr Gontaszewski, Cr Castle, Cr Fotakis, Cr Hallett, Cr Harley, Cr Loden, Cr Murphy and Cr Topelberg

**Against:** Nil

**(Cr Topelberg was absent from the Council Chamber and did not vote.)**

**REASON:**

Council was satisfied with the parking variation on the basis of the nature and location of the proposed use, subject to the payment of cash-in-lieu of parking for the 8 bay shortfall.

At 6:46 pm, Cr Joshua Topelberg returned to the meeting.