

**9.1.5 No. 1/162 Oxford Street, Leederville – Proposed Change of Use from Shop and Office Building to Shop, Office Building and Small Bar (Reconsideration of Hours of Operation Condition)**

<b>Ward:</b>	South	<b>Date:</b>	2 July 2013
<b>Precinct:</b>	Oxford Centre; P4 Leederville Town Centre Masterplan	<b>File Ref:</b>	PRO0784; 5.2013.152.1
<b>Attachments:</b>	<a href="#">001</a> – Property Information Report and Development Application Plans <a href="#">002</a> – Applicant Justification		
<b>Tabled Items:</b>	Nil		
<b>Reporting Officer:</b>	A Dyson, Planning Officer (Statutory)		
<b>Responsible Officer:</b>	P Mrdja, A/Director Planning Services		

**CORRECTED OFFICER RECOMMENDATION:**

That the Council;

in accordance with the provisions of the City of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES the application submitted by Canford Hospitality Consultants Pty Ltd on behalf of the owner, Tricast Development Pty Ltd and Bayking Holdings Pty Ltd for Proposed Change of Use from Shop and Office Building to Shop, Office Building and Small Bar (Unlisted Use) (Reconsideration of Hours of Operation Condition) at No. 1/162 (Lot 4; D/P: 62324) Oxford Street, Leederville, as shown on plans stamp-dated 23 April 2013, subject to the following conditions:

1. The hours of operation of the small bar shall be limited to:

DAY	HOURS OF OPERATION
Monday to Thursday	7:00am to 12:00 midnight
Friday and Saturday	7:00am to 12:00 midnight
Sunday	7:00am to 10:00pm

2. The hours of operation of the small bar where alcohol can be sold and/or served shall be limited to:

DAY	HOURS OF OPERATION
Monday to Thursday	11:00am to 12:00 midnight
Friday and Saturday	11:00am to 12:00 midnight
Sunday	11:00am to 10:00pm

3. The maximum number of patrons to occupy the small bar at any one time shall be ninety four (94) persons;
4. Packaged liquor shall not be sold at the premises;
5. The windows, doors and adjacent floor area facing Oxford Street shall maintain an active and interactive frontage to Oxford Street;
6. A detailed Management Plan that addresses the control of noise, patron and anti-social behaviour, traffic, car parking, the collection and disposal of rubbish and litter associated with the development and any other appropriate matters shall be submitted to and approved by the City prior to the first occupation of the development, and thereafter implemented and maintained;

7. 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 Oxford Street;
8. All signage that does not comply with the City's Policy No. 3.5.2 relating to Signs and Advertising shall be subject to a separate Planning Application, and all signage shall be subject to a separate Sign Licence application, being submitted and approved prior to the erection of the signage;
9. Bin numbers and collection shall comply with the City's minimum service provision; and

~~"10. PRIOR TO THE ISSUE OF A BUILDING LICENCE, the following shall be submitted to and approved by the City:~~

~~10.1 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 certification from an Acoustic Consultant that the measures have been undertaken, prior to the first occupation of the development."~~

*Note: The above Officer Recommendation was corrected and distributed prior to the meeting. Changes are indicated by strike through and underline.*

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**COUNCIL DECISION ITEM 9.1.5**

**Moved Cr Harley, Seconded Cr Topelberg**

That the recommendation be adopted.

Debate ensued.

Cr Carey departed the Chamber at 6.37pm.

Debate ensued.

Cr Carey returned to the Chamber at 6.38pm.

Debate ensued.

**CORRECTED MOTION PUT AND CARRIED UNANIMOUSLY (8-0)**

(Cr Buckels was on approved leave of absence.)

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**PURPOSE OF REPORT:**

The application was previously referred to a meeting of the Council and given the proposed application is for a reconsideration of the condition it is once again referred.

**BACKGROUND:**

**History:**

Date	Comment
10 April 2001	The Council at its Ordinary Meeting approved an application for change of use from vacant building to shop and office building and associated alterations and additions.
23 December 2011	Application submitted.
26 March 2012	Amended Plans submitted.
10 April 2012	The Council at its Ordinary Meeting conditionally approved a change of use from shop and office building to shop, office building and small bar (unlisted use).
8 May 2012	The Council at its Ordinary Meeting approved a reconsideration of a condition previously imposed relating to car parking for the Small Bar Use

**DETAILS:**

<b>Landowner:</b>	Tricast Developments Pty Ltd and Bayking Holdings Pty Ltd
<b>Applicant:</b>	Canford Hospitality Consultants Pty Ltd
<b>Zoning:</b>	Metropolitan Region Scheme: Urban Town Planning Scheme No. 1 (TPS 1): Commercial
<b>Existing Land Use:</b>	Shop
<b>Use Class:</b>	Small Bar (Unlisted Use)
<b>Use Classification:</b>	"SA"
<b>Lot Area:</b>	778 square metres
<b>Right of Way:</b>	N/A

The application is for a reconsideration of operating hours of the premises/serving of alcohol times with the following hours of operation/serving of alcohol times proposed.

Acceptable Development Standard	Proposed
<p>Previous Approval – 10 April 2012 (Ordinary Meeting of Council)</p> <p><u>Hours of Operation</u> Monday to Thursday – 7am – 11pm Friday and Saturday – 7am to 12am Sunday – 7am to 10pm</p> <p><u>Hours where Alcohol can be sold and/or served</u> Monday to Thursday – 11am – 10.30pm Friday and Saturday – 11am – 12am Sunday – 11am – 10pm</p>	<p><u>Hours of Operation</u> Monday to Thursday – 7am- 12am Friday – No Change Saturday – 12.00am – 1am Sunday – 7am- 10pm</p> <p><u>Hours where Alcohol can be sold and/or served</u> Monday to Thursday – 11am – 12am Friday – No Change Saturday – 12.00am to 1.00am Sunday – 11am -10pm</p>

**ASSESSMENT:**

**Town Planning Scheme/R Codes/Residential Design Element's Initial Assessment**

Design Element	Complies 'Acceptable Development' or TPS Clause	OR	'Performance Criteria' Assessment or TPS Discretionary Clause
Density/Plot Ratio	N/A		N/A
Streetscape	N/A		N/A
Front Fence	N/A		N/A
Front Setback	N/A		N/A
Building Setbacks	N/A		N/A
Building Height	N/A		N/A
Building Storeys	N/A		N/A
Open Space	N/A		N/A
Bicycle Parking	N/A		N/A
Car Parking	N/A		N/A
Privacy	N/A		N/A
Solar Access	N/A		N/A

**CONSULTATION/ADVERTISING:**

Required by Legislation:	Yes	Required by City of Vincent Policy:	Yes
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<b>Comments Period:</b>	13 June 2013 – 27 June 2013
<b>Comments Received:</b>	One (1) comment was received, with one (1) objecting to the proposal.

Summary of Comments Received:	Officers Technical Comment:
Issue: <u>Small Bar Use</u>  Concern in relation to the use of the premises as a Small Bar abutting student accommodation.	Noted. The Small Bar use was approved at the Meeting of Council of 10 April 2012.

**LEGAL/POLICY:**

Town Planning Scheme No. 1 and associated Policies.

City of Vincent Local Law Relating to Standing Orders - Clause 2.11.

**RISK MANAGEMENT IMPLICATIONS:**

In the event the application is refused the applicant has a right of appeal to the State Administrative Tribunal.

~~The Chief Executive Officer is of the opinion that this Item should be considered as Urgent Business, as it may have legal and/or financial implications for the City.~~

**Note: *The above was corrected and distributed prior to the meeting. Changes are indicated by strike through and underline.***

**STRATEGIC IMPLICATIONS:**

The City's *Strategic Plan 2011-2016* states:

"Natural and Built Environment

1.1 *Improve and maintain the natural and built environment and infrastructure*

1.1.2 *Enhance and maintain the character and heritage of the City."*

**SUSTAINABILITY IMPLICATIONS:**

The City's *Sustainable Environment Strategy 2011-2016* states:

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

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

<b>ENVIRONMENTAL</b>
The proposal uses an existing building for the proposed small bar. The adaptive use of this existing space has a lower environmental impact than constructing a new building for this purpose.

<b>SOCIAL</b>
The small bar provides an additional entertainment option within the Leederville Town Centre. The small bar use is designed to cater for the local community in as a "local, community minded venue that aims to give the public more choice in their licensed premises selection and creating environments that are safe, friendly and designed with integrity."

<b>ECONOMIC</b>
The proposed small bar provide a venue for the local community and for tourists that will build upon the existing economic development for example cinemas and restaurants.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

**COMMENTS:**

**Planning**

In May 2007, an amendment was made to Section 41 of the Liquor Control Act 1988 to include a Small Bar Licence as a form of Hotel Licence. A Small Bar Licence differs from Hotel and Tavern Licences by the conditions imposed to restrict the scope of the licence. A Small Bar Licence is a form of Hotel Licence with:

- A condition prohibiting the sale of packaged liquor; and
- A condition limiting the number of persons who may be on the licensed to a maximum of one hundred and twenty (120).

**Hours of Operation**

As described in the Liquor Control Act 1988. The maximum permitted trading hours are as follows:

- (a) *on a day other than a Sunday – from 6 a.m. to midnight;*
- (b) *On a Sunday – from 10 a.m. to 10 p.m.;*
- (c) *On a Sunday that is New Year's Eve – from 10 p.m. to 12 midnight;*
- (d) *on New Year's Day – from immediately after 12 midnight on New Year's Eve to 2 a.m.;*
- (e) *On Good Friday or Christmas Day – from 12 noon to 10 p.m., but only for liquor sold ancillary to a meal supplied by the licensee;*
- (f) *On ANZAC Day – from 12 noon to 12 midnight."*

### **“Hours of Operation**

The premises are located within an existing Leederville Town Centre which is surrounded by compatible commercial and entertainment uses. Therefore it is supported for additional hours of operation for the Small Bar to close at 12 midnight ~~am~~ on Monday to Saturday. It is however noted in line with the Liquor Control Act, the latest time liquor can be served is 12 midnight ~~am~~. Therefore a condition is included in the recommendation to reflect this.”

***Note: The above was corrected and distributed prior to the meeting. Changes are indicated by strike through and underline.***

### **Conclusion**

It is therefore considered that the addition of operating hours of 11pm-12pm Monday to Thursday and to 12am on Saturday evenings for alcohol to be served during this time will not provide a significant detriment to the area.

In light of the above, it is recommended the proposal for additional operating hours and when alcohol can be served is supported.