AGENDA
Late Reports
Council Briefing
26 March 2019

Time: 6pm
Location: Administration and Civic Centre
244 Vincent Street, Leederville

David MacLennan
Chief Executive Officer
Order Of Business

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5 DEVELOPMENT SERVICES

5.7 LATE REPORT: NO. 131 (LOT: 131; S/P: 62106) HAROLD STREET, HIGHGATE - PROPOSED CHANGE OF USE FROM EDUCATIONAL ESTABLISHMENT TO MEDICAL CENTRE

TRIM Ref: D19/9725
Author: Fiona Atkins, Urban Planner
Authoriser: Joslin Colli, A/Manager Development & Design
Ward: South
Attachments: 1. Attachment 1 - Consultation and Location Plans
2. Attachment 2 - Development Plans
3. Attachment 3 - Summary of Submissions - Applicant's Response and Parking Management Justifications
4. Attachment 4 - Summary of Submissions - Officer's Comments
5. Attachment 5 - Heritage Report provided by Applicant
6. Attachment 6 - Car Parking Survey provided by Applicant
7. Attachment 7 - Determination Advice Notes

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, APPROVES the application for a change of use from Educational Establishment to Medical Centre at No. 131 (Lot: 131; S/P: 62106) Harold Street, Highgate, in accordance with plans provided in Attachment 2, subject to the following conditions, with the associated determination advice notes in Attachment 7:

1. Use of Premises

1.1 The area shown as ‘Medical Centre’ on the ground floor of the approved plans dated 20 August 2018 shall be used in accordance with the definition of ‘Medical Centre’ as defined by the City’s Local Planning Scheme No. 2;

1.2 The maximum number of consulting rooms operating at any time within the ‘Medical Centre’ shall be six, with a maximum of six associated treatment rooms; and

1.3 The proposed Medical Centre shall be limited to the following hours of operation:
- 8:00am – 5:00pm Monday to Friday;
- 8:00am – 10:30am Saturdays; and
- Closed Sundays and Public Holidays;

2. Educational Establishment

2.1 The first floor shall continue to be used as ‘Educational Establishment’ in accordance with the definition of ‘Educational Establishment’ as defined by the City’s Local Planning Scheme No. 2; and

2.2 The maximum number of people permitted in the ‘Educational Establishment’ at any time is 12 people;

3. Car Parking and Access

A minimum of 24 onsite parking bays shall be available for use at the premises at any time;

4. Cash-in-Lieu of Parking Contributions
4.1 A cash-in-lieu contribution shall be paid to the City for the shortfall of one (1) car parking bay, based on the cost of $5,400 per bay as set out in the City’s 2018/19 Schedule of Fees and Charges, being a contribution of $5,400 prior to the commencement of development or by entering into a written agreement with the City to pay the cash-in-lieu over an agreed period up to five years; and

4.2 Prior to the Occupation of the development the owner(s) or the applicant on behalf of the owner(s) shall comply with the following requirements:

4.2.1 pay a cash-in-lieu contribution of $5,400; OR

4.2.2 lodge an appropriate assurance bond/ bank guarantee of a value of $5,400 to the satisfaction of the City. This assurance bond/bank guarantee would only be released in the following circumstances:

4.2.2.1. to the owner(s)/applicant where the subject ‘Approval to Commence Development’ did not commence and subsequently expired; and

5. Signage

Any new signage that does not comply with the City’s Policy No. 7.5.2 – Signs and Advertising shall be subject to a separate Planning Application and all signage shall be subject to a Building Permit application, being submitted and approved prior to the erection of the signage.

PURPOSE OF REPORT:

To consider an application for development approval for a change of use from an Educational Establishment to a Medical Centre and incidental shop at No. 131 Harold Street, Highgate (subject site).

PROPOSAL:

The application proposes the use of both floors of the heritage building on site, for the use as a Medical Centre, including consulting rooms, radiology rooms and a pharmacy. The applicant proposes that the Medical Centre be developed over two stages and, at maximum capacity, accommodate approximately 28 staff members. The floor plan indicates that the ground floor and second floor accommodates approximately 102 customers in consulting rooms and waiting areas. A total capacity of 130 people is proposed.

The change of use is proposed to occur over two stages. Stage one would involve the ground floor being used as a Medical Centre and incidental Shop (pharmacy). During stage one, the upper floor would continue to be used as office space for the existing Educational Establishment, as it switches to an online learning format. It is expected that 10 educational staff would remain on site during this period, with a maximum of two students attending site sporadically to meet one on one with a staff member.

Stage two would involve the Educational Establishment on the upper floor being replaced with a Medical Centre. The Medical Centre and Shop (pharmacy) on the ground floor would continue to operate.

The application proposes some minor external works, being the addition of a lift to the rear of the property, and the realignment of the existing fence at the front of the property to make room for 21 embayed parking spaces along Stirling Street.

The proposed hours of operation for the Medical Centre, Shop (pharmacy) and Educational Establishment are 8:00am to 5:00pm Monday to Friday and 8:00am to 10:30am Saturdays.

BACKGROUND:

<table>
<thead>
<tr>
<th>Landowner:</th>
<th>Kingston Commercial Group Pty Ltd</th>
</tr>
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<tbody>
<tr>
<td>Applicant:</td>
<td>Erwin Biemel &amp; Associates</td>
</tr>
<tr>
<td>Date of Application:</td>
<td>20 August 2018</td>
</tr>
<tr>
<td>Zoning:</td>
<td>MRS: Urban</td>
</tr>
</tbody>
</table>
LPS2: Zone: Residential  R Code: R80

<table>
<thead>
<tr>
<th>Planning Element</th>
<th>Use Permissibility/ Deemed-to-Comply</th>
<th>Requires the Discretion of Council</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use</td>
<td></td>
<td>✅</td>
</tr>
<tr>
<td>Car Parking</td>
<td></td>
<td>✅</td>
</tr>
<tr>
<td>Bicycle Facilities</td>
<td></td>
<td>✅</td>
</tr>
</tbody>
</table>

**Details:**

**Summary Assessment**

The table below summarises the planning assessment of the proposal against the provisions of the City of Vincent Local Planning Scheme No. 2 (LPS2), the City’s Policy No. 7.1.1 – Built Form and Policy No. 7.7.1 - Non Residential Development Parking Requirements. 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.

**Detailed Assessment**

The deemed-to-comply assessment of the element that requires the discretion of Council is as follows:

<table>
<thead>
<tr>
<th>Planning Element</th>
<th>Deemed-to-Comply Standard</th>
<th>Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Use</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Local Planning Scheme No. 2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>“P” Use</td>
<td></td>
<td>Medical Centre “A” use</td>
</tr>
<tr>
<td>Car Parking</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Stage 1 – Medical Centre GF: Educational Establishment UF</td>
<td>Required</td>
<td></td>
</tr>
<tr>
<td>7 x Consulting Rooms (4 bays per consulting room)</td>
<td>28 bays</td>
<td></td>
</tr>
<tr>
<td>Educational Establishment (upper floor existing)</td>
<td>24 bays</td>
<td></td>
</tr>
<tr>
<td>Item</td>
<td>5.7</td>
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</tr>
<tr>
<td>Maximum two students on site</td>
<td>0.5 bays, rounded to 1 bay</td>
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</tr>
<tr>
<td>Maximum 10 staff on site</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total for stage 1</strong></td>
<td>29 bays required</td>
<td></td>
</tr>
<tr>
<td><strong>Stage 2 – Medical Centre GF and UF</strong></td>
<td>24 bays</td>
<td></td>
</tr>
<tr>
<td>12 x Consulting Rooms (4 bays per consulting room)</td>
<td>48 bays</td>
<td></td>
</tr>
<tr>
<td><strong>Total for stage 2 (upper floor and ground floor as Medical Centre)</strong></td>
<td>48 bays</td>
<td></td>
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<tr>
<td><strong>Bicycle Facilities</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Deemed-to-Comply Standard</strong></td>
<td><strong>Proposal</strong></td>
<td></td>
</tr>
<tr>
<td>Stage 1 – Medical Centre GF; Educational Establishment UF</td>
<td>Required</td>
<td></td>
</tr>
<tr>
<td>7 x Consulting Rooms</td>
<td>Short term bays – 4.9 bays</td>
<td></td>
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<tr>
<td></td>
<td>Long term bays – 2.1 bays</td>
<td></td>
</tr>
<tr>
<td>Educational Establishment</td>
<td>Short term bays – 1</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>7 bays</td>
<td></td>
</tr>
<tr>
<td>Stage 2 – Medical Centre GF and UF</td>
<td>Required</td>
<td></td>
</tr>
<tr>
<td>12 x Consulting Rooms</td>
<td>Short term bays – 8.4 bays</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Long term bays – 3.6 bays</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>12 bays total, including upper floor and ground floor requirements.</td>
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<tr>
<td></td>
<td>13 bays</td>
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</tbody>
</table>

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 in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015, for a period of 21 days from 23 November 2018 to 10 December 2018. The method of consultation being a sign on site, an advertisement in the local newspaper, and 313 letters mailed to all owners and occupiers surrounding the site (as shown in Attachment 1), in accordance with the City's Policy No. 4.1.5 – Community Consultation.

A total of 16 submission were received being one support, one expressing concerns and 14 objections. The submissions received during the community consultation are summarised as follows:

- Lack of parking available at the site, and its potential impact on the surrounding locality;
- The visitors to the Medical Centre dominating the visitor parking that is intended to be shared with the residential properties;
- Street parking already an issue at the site, and may lead to further traffic congestion in the area;
- The use is not appropriate in a residential area;
- The use would increase the number of visitors to the site every day, increasing traffic and pedestrian foot traffic in the area, and impacting the area in terms of noise and security;
- Security concerns with regards to a pharmacy being located in a residential area;
- The use may attract individuals with drug and alcohol addictions to the area.

The applicant provided a response to these submissions in a report, included as Attachment 3. The officer’s response to comments are included as Attachment 4.

**Design Review Panel (DRP):**

Referred to DRP: No
LEGAL/POLICY:

- Planning and Development Act 2005;
- Planning and Development (Local Planning Schemes) Regulations 2015;
- City of Vincent Local Planning Scheme No. 2;
- Policy No. 4.1.5 – Community Consultation; and
- Policy No. 7.7.1 – Non-Residential Parking Requirements.

Delegation to Determine Applications:

The application is required to be determined by Council as the development proposes a use which is not listed in Table 1 of the City’s Policy No. 7.7.1 – Non Residential Parking Requirements.

RISK MANAGEMENT IMPLICATIONS:

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:

Innovative and Accountable

We are open and accountable to an engaged community

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

Land Use

The application proposes a change of use from an existing Educational Establishment to a Medical Centre and an incidental Shop (pharmacy). A Medical Centre is an ‘A’ use within the City’s Residential Zone as per LPS2, meaning that the use is not permitted unless the local government exercises its discretion by granting approval after community consultation has been undertaken. The Shop (pharmacy) is considered to be an incidental use to the predominant use of the Medical Centre.

The application proposes the change in use of the site to be completed over two stages. The applicant has not provided a definitive timeline for the implementation of these stages, but the proposal for the staged approach is:

Stage 1
Stage 1 includes the establishment of the medical centre and shop (pharmacy) on the ground floor and the existing educational establishment to remain on the upper floor. It is noted that the educational establishment is moving to an online learning model, which involves approximately 10 staff remaining on site for the duration of Stage 1, with a maximum of two students on site at any time, attending one on one meetings with the staff. All other learning associated with the educational establishment is to be undertaken off site. Stage 1 consists of:

Ground Floor – Medical Centre
7 Consulting Rooms
8 Treatment rooms

Shop (pharmacy, intended as ancillary to the use)
Upper Floor – Educational Establishment

7 Class Rooms (to remain fitted out as classrooms, but not be utilised for classroom activities)

4 Offices

1 Administration Area

1 Reception Area

Stage 2

In Stage 2 the Educational Establishment is no longer proposed to be on site, with the Medical Centre and associated uses occupying the tenancy throughout the ground and upper floor. Stage 2 results in the additional development of the medical centre, including:

Ground Floor and Upper Floor – Medical Centre

An additional 3 Consulting Rooms on the upper floor, equating to a total of 10 Consulting Rooms.

An additional 5 Treatment Rooms on the upper floor, equating to a total of 13 Treatment Rooms.

The Shop (pharmacy, intended as ancillary to the use) established on the ground floor Stage 1 is to remain.

The use of a medical centre on the subject site is considered to be compatible with the surrounding residential and commercial areas. The proposed use is in keeping with the objectives of the Residential Zone of LPS2 as it provides a non-residential use which is compatible with, and complementary to, residential development. The shop (pharmacy) on site is intended to be used by customers of the medical centre and residents from the surrounding area, and providing further amenity to the area.

Although the proposal for a Medical Centre at the subject site is considered an acceptable use, the proposed scale and intensity of the use of the site when Stage 2 has completed is not considered to be acceptable, given its potential impact upon the surrounding residential area. The full scale proposal would have a negative impact on the amenity of the surrounding area, and is inconsistent with the objectives of the Residential zone under LPS2 as follows:

- The application proposes a medical centre across two levels comprising 12 consulting rooms and 13 treatments rooms. The subject site and land to the east and south is zoned Residential R80 and characterised by grouped and multiple dwellings, the land to the north located on Harold street is zoned Residential R50 and is characterised by single storey single dwellings. The zoning of this area is reflective of the City’s intent for these areas to provide medium to high density residential uses within a highly accessible location (adjacent to Beaufort Street). The scale of the development is not compatible or complementary to the surrounding residential development.

- The land adjoining the rear western boundary is zoned Commercial, it is acknowledged that the amenity of the residents of the subject lot and the immediately adjoining Residential zoned properties would be impacted by land uses within the commercial zone and the result of impacts including traffic, parking, deliveries and noise. Residents adjoining a commercial site could expect a diminished level of amenity. The intensity of the proposed medical centre post Stage 2 could result in unreasonable amenity impacts as a result of the scale of the development.

- Post Stage 2, the proposed use is more intensive than the existing Educational Establishment where classes are scheduled for longer periods of time throughout the day.

The use of the ground floor as a Medical Centre and the upper floor remaining a base for the currently operating Educational Establishment, or Stage 1 of the proposal, is considered a more acceptable use of the site. The scale and intensity of Stage 1 is of a more appropriate scale for the subject site, located at the interface between the Residential and Commercial zones. The intensity of Stage 1 is considered to have a more manageable impact on the amenity of the surrounding residential area as such it is recommended that the approval be limited to stage 1 only with approval for the ground floor as Medical Centre only and the upper floor to be retained as Educational Establishment at a smaller scale then the current approval permits.
Car and Bicycle Parking

Car parking requirements for a Medical Centre are determined by Policy No. 7.7.1 – Non Residential Parking Requirements. As the Shop (pharmacy) is considered an incidental use there are no parking requirements for this use.

At the completion of Stage Two, a shortfall of 24 bays is proposed. The applicant was required to submit a Parking Management Plan which is included as Attachment 3.

The following is relevant in determining the acceptability of the Parking Management Plan:

- The applicant has confirmed that medical appointments are to run for 15 minutes, skin cancer and specialist appointments to run for 30 minutes and radiology appointments to run for 30 to 60 minutes. This would result in a greater turnover of visitors to the site, and a greater number of vehicles visiting the site every hour.
- The applicant submitted a parking survey, which includes observations about the parking in the shared visitor parking bays on a two hourly basis for a week. This parking survey is included as Attachment 6, and seeks to provide recommendations to the City about how parking on site may be better managed, so that the proposed use would not have an undue impact on the adjoining sites.
- To address the car parking variation, the applicant has proposed the development of 21 embayed parking spaces within the verge at Stirling Street, adjoining the subject site. These 21 bays would replace the existing 13 street parking bays. Administration has determined that these proposed parking spaces are acceptable in terms of safety and design. The proposed parking bays would be installed at the full cost of the applicant, with the City to provide appropriate ticketing machines and determine the appropriate length of stay for the proposed parking spaces.
- Although the proposed embayed parking would not be provided on site, the applicant has proposed that this parking is an option to alleviate the 24 bay parking variation identified for the proposed change of use. The provision of 21 bays adjacent to the subject site in lieu of the existing 13 bays, would result in an additional eight parking bays being provided for the locality. The embayed parking would not be for the sole use of the Medical Centre, as it would be public parking managed by the City, and available for use by all visitors to the locality. The parking adjoining the site may not be available for customers to the site and they may be forced to park elsewhere along adjoining streets. This would in turn result in negative traffic impacts for the residents of Harold and Stirling streets and residents and customers compete for on-street car parking.
- The proposed Medical Centre would attract a higher number of visitors to the site in comparison to the existing Educational Establishment, with medical appointments generally being shorter and more frequent than a class schedule. The increase of visitors to the site would be exacerbated when stage two has been completed and 12 consulting rooms and 13 treatment rooms would be operating, with multiple appointments likely to be booked for each room every hour. The increased visits to the site would result in a higher number of vehicle movements and greater demand for parking in the surrounding area.

Administration is not satisfied that the location of a Medical Centre on this site and the convenience that may be provided for any local residents outweighs the amenity impacts on the immediate neighbours from the increase in traffic movements. The parking shortfall would have an adverse impact on the amenity of the residents on Harold and Stirling Streets and is not supported.

At the completion of Stage 1, a parking shortfall of five bays is proposed. This is not considered to be an appropriate parking variation given the Residential nature of the surrounding properties.

It is considered that stage 1 of the development being the ground floor Medical Centre and upper floor Educational Establishment if operated at a reduced scale outlined above would be capable of satisfying the car parking requirements available on site.

The parking outcomes for a reduced scale development would be:

<table>
<thead>
<tr>
<th>Car Parking</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deemed-to-Comply Standard</td>
<td>Required</td>
</tr>
<tr>
<td>Stage 1 – Medical Centre GF; Educational Establishment UF</td>
<td>Required</td>
</tr>
<tr>
<td>6 x Consulting Rooms</td>
<td>Required</td>
</tr>
</tbody>
</table>
It is recommended that, should Stage 1 of the development be approved, a condition of approval be applied limiting the number of consulting rooms to six. Six consulting rooms results in a one bay shortfall, which is considered a more manageable and acceptable parking variation given the residential nature of the area surrounding the subject site. The applicant has indicated if the full proposal was approved then they would accept a condition to construct 21 embayed parking bays within the Stirling Street road reserve. An approval for the Medical Centre at a reduced scale, where the parking requirements result in a one bay shortfall, is not considered to be a need for the construction of the embayment parking which would come at a substantial cost to the applicant for a significantly reduced development proposal.

If Council resolve to approve the application at the reduced scale, a cash-in-lieu contribution for the one bay shortfall equating to $5,400 is conditioned. The collection of these funds would contribute to a review and upgrade of the existing parking infrastructure which may mitigate potential on street parking issues as a result of this development.

Heritage

The subject site is a Management Category site on the City’s municipal register. The site is not listed on the State Heritage Register.

The City’s Policy No. 7.6.1 – Heritage Management – Development Guidelines for Heritage and Adjacent Properties requires a Heritage Impact Statement to be submitted with Development Applications. The development proposes external works in the form of a lift at the rear of property, and embayed parking on Stirling Street which would require the demolition and rebuilding of the front fence further in on the lot than its current location.

The Heritage Impact Statement and plans for the proposal were referred to the State Heritage Office for comment. The State Heritage Office provided comments on the 28 February 2018, stating that:

*Best heritage practice would suggest the lift be designed to read as new and not mimic the existing buildings. This could be done in brick, detailed to read as new.*

As the property is not listed on the State Heritage Register these comments are in an advisory capacity only.

If the City were to approve the development of Stage 1 of the application only, the lift and embayed parking would not be considered necessary changes to the development. The approval of Stage 1 only would result in no impact on the external built form of the existing development.
Item 5.7 - Attachment 1
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 at their own risk. The City of Vincent disclaims all liability for any errors, omissions or omissions in the information. Includes layers based on information provided by and with the permission of the Western Australian Land Information Authority (Landgate) (2018).

No. 131 Harold Street, Highgate
proposed highgate medical centre
131 harold street highgate

submission to city of vincent
further details in response to comments from neighbours during advertising period and traffic movement information.
introduction

This submission addresses the complaints & comments made during the advertising period by neighbours and its intention is to better inform the Shire of Vincent regarding the issues raised and other matters raised during correspondence with Shire Planning Staff.

kingston college

Kingston College has operated from the site since 2003.

The college runs a number of English & Vocational Diploma courses for enrolled students. Class sizes are typically small up to 15 students.

Each course offered has 20 hours per week of tuition with several including workplace vocational training.

Courses are staged throughout the week typically up to 4 hours a day per course.

Refer to appendix C for the current course structure.

Education is always evolving and Kingston College is transitioning to E Learning from home with onsite one on one support as required and periodic reviews.

In the near future only a small number of students meeting with lecturers will be onsite at any one time.

The building approved for 1200m2 of office space will become largely surplus to requirements unless a viable alternative use if approved.

Kingston College intends to relocate to a much smaller office environment as soon as stage 1 of the medical centre is completed and stage 2 approved to start.

The current trading hours are 8:00am to 5:00pm Monday to Friday except public holidays and school holidays. Staff are often on premises past these hours for administrative reasons.

historical buildings

An imperative exists to find viable commercial uses for historical buildings that are sympathetic to the built form if we wish to avoid these structures falling into disrepair.

During the advertising period a number of ill-informed submissions were made regarding drug addicts being attracted to medical & pharmacy businesses.

What is absolutely certain is an abandoned building in the inner city will attract all types of homeless persons amongst who will be the worst kind of violent drug addicts.

If too much credibility is given to these complains the outcome could be exactly what the complainants wish to avoid.
proposed medical centre

The proposed medical centre will provide a necessary service to the elderly, frail and sick in the locality.

The owners and prospective anchor tenant have done extensive research to ensure the proposal is viable.

In private enterprise you do not spend a few million dollars to build and fit-out a medical centre unless the proposal will provide the required financial returns.

The anchor tenant for the medical centre is Dr Rittisy Sovann who owns and operates the Riverton Medical Centre a family practice centre specializing in skin cancers and their removal. In our climate skin cancers are an ever increasing issue.

Please refer to Appendix B for an outline of the Skin Cancer Specialization of the practice.

Their trading hours at Highgate will be 8.00am to 5.00pm Monday to Friday and 8.00am to 10.30am Saturday.

They do not open on Sundays and public holidays.

Typically not all consult rooms are active at once with one room allocated to each doctor. About 50% to 75% of doctors are on duty at any one time or 2 to 3 doctors during stage one.

The car-parking review has been based upon all consultation rooms being active at the same time representing a worst case scenario not a typical scenario.

pharmacy

No tenant is known for the retail pharmacy currently but the proposed shop is of small to medium size and will provide prescription services to locals and medical centre patients and essentials like nappies to locals.

Given the location of the Pharmacy and its size it is not anticipated it will pull customers from a wider area. Customers will be from the medical centre and from locals typically walking to the pharmacy.

The trading hours are anticipated to be 8.00am to 6.00pm seven days a week.

radiology clinic

The tenant for the radiology centre is still being negotiated.

Expected trading hours are 8.30am to 5.00pm Monday to Friday excluding weekends and public holidays. Medical Specialist Rooms.

Specialists typically only have patient follow-up consultations on one to two days a week at their rooms. The remainder of the time they are conducting operations or visiting patients in hospital.

Hours of operation are typically 8.30am to 5.00pm.
safety

Pharmacies and Medical Centres operate under a strict legislative framework.

The current regulations are so tight that poor behaviour at medical centres & pharmacies has decreased significantly. Opioid based drugs and drugs to treat AHAD are highly addictive and are by law stored in a drug safe and monitored by security cameras in pharmacies. Pharmacies must keep an accurate register of these drugs and any discrepancies will lead to significant fines from the regulatory authority or lose of licence.

Drugs containing Pseudoephedrine & codeine (cold & flu) are now prescription only.

Typically before these regulations came into force pharmacies could order 600-1000 packets of cold & flu at a time and store them on the shelves. Home Bake artists would then break into pharmacies after hours to steal these drugs and convert them to addictive substances typically in home laboratories.

Commencing a few years ago pharmacies stopped storing these drugs to avoid breakings and the significant escalating cost of insurance.

Today with the subscription only legislative requirements the number of packets stored on shelves is around two.

The attraction to break into pharmacies for illicit drugs is gone and the risks due to full monitoring and security camera to great for the small reward. Please consider that to obtain 600 packets as was achievable a few years ago from one break-in today would require up to 300 break-ins. Clearly the move to restrict access to these drugs was intended to remove and control drug addiction both legal and illegal.

Medical centres must store any drugs onsite in a drug safe and typically medical centres have full security including alarm buttons and video cameras.

Any person addicted to painkillers must be able to present well, have a plausible argument to convince the doctor and not appear on any register of drug addicts to be able to secure a prescription. When seeking a pharmacy to fulfill the prescription they must also present well. Addicts of this kind do not seek to attract attention to themselves so as to avoid losing access to the doctor. They cause no issues and cannot easily be seen as different from the typical patient.

Doctors and pharmacists are trained to spot drug addicts.

The comments contained in safety and security comments section on drug addicts are inappropriate given today’s regulatory frame work for pharmacies and medical centres.

Today pharmacies and medical practices do not attract drug addicts indeed actively discourage them through active monitoring. Stiff regulatory penalties apply for issuing unwarranted prescriptions to any patient in particular the doctor shopping kind of drug addict.

Illicit drug use has largely moved to the black market and importation a matter for federal and state law enforcement agencies. I understand Highgate has a Drug issue amongst its residents but this issue is not related to the proximity of a pharmacy or medical centre but due to other social issues.
security

The medical uses proposed will be secured by high quality monitored security systems and high resolution recording video systems. Each business monitors its own premises and works with its selected security provider.

The video surveillance systems will cover external approaches to the building.

The visitor carpark can be monitored by security camera if required by the local authority as part of the medical practice.

Staff and tenant carpark is behind security gates currently. The visitor bays are open to all visitors. Having effective external video surveillance incorporated into the Medical Centre will discourage loitering in the locality and provide an enhanced security to those living in the immediate locality.

The video recordings are also a useful asset available to law enforcement to assist them solve crimes in the locality by identifying vehicles and persons passing the locality.

Medical Use are commercial uses. Please refer to current City of Vincent planning approval contained in the appendix A for the conditions applying to the current approved commercial use.

I refer you also to the section on historical buildings in this submission and the imperative to have viable uses for buildings to avoid them falling into disuse.

Medical centres are licenced and consultation rooms must meet privacy requirements. Noise emitting from a medical centre is effectively nil.

Security has been discussed in the security section of this submission.

My clients have through market research determined the need for the medical uses and pharmacy as proposed in this development application.

As stated earlier the proposed medical centre will provide a necessary service to the elderly, frail and sick in the locality.

traffic movements

Currently the international college runs several diploma courses at 20 hours a week or typically 4 hours a day. Student numbers vary up on each enrolment and are up to 15 per class. With an educational facility students arrive and depart in mass at the start and end of the course/lecture for the day. Typically two courses could finish at similar times discharging up to 30 students all of whom normally depart the premises in a short period of time. Each Course has a changing dynamic every time enrolments occur.

Students arrive by car, public transport etc and the number by car is about 50% or 15 cars departing at the same time.

Refer to appendix C for the current course structure.

A medical centre trades for similar hours to the educational facility.

Patient movements are even and spread out not grouped like the educational facility.
Consultation periods are typically
Medical – every 15 minutes
Medical Skin Cancers – minimum 30 minutes
Radiology – Min 30 minutes up to 60 minutes. If a consultation is required this timeframes will lengthen
Specialist Rooms – Typically 30 minutes per consultation. As stated earlier specialist only conduct
consultations in their rooms once or twice a week.

The number of patients onsite every hour for stage 1 is anticipated to be 12, 8 for the medical practise and
4 for radiology

The pharmacy will attract the same customers as the medical practice plus locals who are expected to walk
to the pharmacy

From this analysis 12 cars per hour will be arriving & departing from the visitors carpark at even regular
intervals for stage one of the development but when we take into consideration the appointment times for
medical uses the number of patients onsite at any one time reduces to 9.

The Educational facility has groups of about 15 cars at a time arriving and departing the visitor’s carpark.

The visitors carpark will be fuller with the educational facility than the medical centre and noise levels from
groups of people is higher than individuals

Overall the proposed medical centre represents a reduction is congestion due to regular intervals between
individual cars compared with the educational facility which has groups of students departing at the same
time.

Staging 2 of the development will only proceed when the medical practice is established and patient numbers
require it. Stage 2 represents in part an expansion of the medical centre.

Until stage 2 is viable the international college will operate its E learning educational models from the upper
floor office space.

With stage 2 completed the number of patients is expected to be 18 per hour (excluding the pharmacy) or a
maximum of 15 at any one time. The maximum number includes allowances for all 3 specialist rooms which
operate only 1 or 2 days a week only.

The fitout of the buildings to create a medical centre is largely lightweight construction was is able to be
constructed quickly limiting the time frame that contractors are onsite

The majority of walls and ceilings will be installed by one team

Contractors visiting the site is to be expected during the construction period but given that the college will
be operating its E Learning modules from that time student numbers onsite will reduce to only a few at any
one time.
parking

The current approved office space and home to Kinston International College is approved with 24 bays and 26 visitor bays.

The original development approval states

_3

**Car Parking and Access ways**

_the on-site car parking area for the non-residential component shall be available for the occupiers of the residential component outside normal business hours;*

_3

_3

*The car parking area shown for the non-residential component shall be shown as ‘common property’ on any strata or survey strata subdivision plan for the property; and*

_3

(d) the car park shall be used only by employees, tenants, and visitors directly associated with the development;

_3

The intent of the original approval was for the visitors bays to be available to the commercial approved use. The condition that commercial bays be made available to residents after business trading hours is consistent with the reality that residential visitors to the complex are typically after hours once the working residential occupants return home.

The required minimum number of car bays for stage 1 as advised from Fiona Atkins Urban Planner for City of Vincent in her email dated 21 December 2018 is 24. In addition allowances must be made for the educational establishment with a maximum of 10 staff.

_s advised in my email dated 8th November staff and patient numbers for stage 1 are seen as a maximum of._

_13 staff_

_15 customers/patients including 3 for pharmacy and 4 for radiology._

_Educational establishment = 10 staff_

_Total_

_23 staff_

_15 customers per hour._

_The 15 customers include 3 for the pharmacy which is overlapped with the medical centre as they are common customers and includes local customers who will walk to the business._

_Customer numbers are per hour with the assumption of 100 per cent of the consultation rooms being used at once which is unlikely. Excluding the pharmacy patients the number reduces to 12 (without overlap of 3 pharmacy customers) or about 9 onsite at any one time for stage 1._

_The number of visitor bays being used during business hours for stage one is a maximum of 9 at any one time._

_This leaves 17 visitor bays free and one commercial bay free for visitors to the residential units during business hours._

_The required minimum number of car bays as advised from Fiona Atkins Urban Planner for City of Vincent in her email dated 21 December 2018 for stage 2 is 36 bays._

_As advised in my email dated 8th November staff and patient numbers for stage 1 and 2 combined are seen as a maximum of._

_21 staff_
21 customers per hour.

This comprises:
- Medical Centre: 10 Staff, 10 patients
- Specialist Rooms: 5 Staff, 4 patients
- Radiology: 4 Staff, 4 patients
- Pharmacy: 2 Staff, 3 patients

The number of visitor bays being used during business hours for stage one & two is a maximum of 12 at any one time.

This leaves 14 visitor bays free and 5 commercial bay free for visitors to the residential units during business hours.

The complaints lodged during the advertising period make reference to inadequate visitor parking bays onsite.

As discussed in this submission more than 50% of visitor bays will be available during business hours for visitors to the complex. The majority of residents will be working during business hours and will not attract visitors during this time.

Comment on street parking has also been made in the lodged complaints. Street parking is a matter for the local authority to manage but an option to increase street parking by 10 bays in Stirling Street is shown on the attached plan. If the City of Vincent concludes that street parking is an issue then short term maximum 1 hour during business hours additional parking can be provided as shown on our plan.

**Conclusion**

The impact of the proposed medical centre compared to the current international college has been compared in this submission.

The impact on the existing car parking is similar during business hours for both business models, education facility and medical centre.

Additional street metered parking is possible in Stirling Street as shown on the attached plan to provide short term car parking.

The management of street car parking is a matter for the City of Vincent and the appropriateness of allowed length of parking may need review given the public comments.

Visitor bays for the development are available for the use of visitors to the commercial centre as determined by the original planning approval for the existing development.

Comments during the advertising period fall into three categories:
1. Parking
2. Use
3. Safety and Security

This submission has reviewed each area in detail and addressed all concerns that are relevant to the development proposal.
appendix a
"Enhancing and celebrating our diverse community"

MINUTES

10 May 2011

This document is available in the following alternative formats upon request for people with specific needs: large print, Braille and computer disk.
CONSULTANT RECOMMENDATION:

That the Council;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES the application submitted by SS Chang Architects on behalf of the owner Finbar Funds Management Ltd for proposed Partial Demolition of Existing Buildings, Additions and Alterations to Existing Building and the Construction of a Six Storey Mixed Use Development comprising Eighty-Three (83) Multiple Dwellings, Forty-Seven (47) Single Bedroom Multiple Dwellings, One (1) Office and Associated Basement Car Parking State Administrative Tribunal (SAT) Review Matter No. 26 of 2011

This has been prepared by Planning Solutions – Urban and Regional Planning – Consultants for the Council, in respect to reconsideration of this matter currently at the State Administrative Tribunal.

9.1.5 Nos. 369-375 (Lot 33; D/P: 15303, Lot 123; D/P: 2642, Lot 35; D/P: 65374/1) Stirling Street, corner of Harold Street, Highgate - Proposed Partial Demolition of Existing Buildings, Additions and Alterations to Existing Building and the Construction of a Six Storey Mixed Use Development comprising Eighty-Three (83) Multiple Dwellings, Forty-Seven (47) Single Bedroom Multiple Dwellings, One (1) Office and Associated Basement Car Parking State Administrative Tribunal (SAT) Review Matter No. 26 of 2011

(i) Building

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

(b) if entry to neighbouring land is required, first obtaining the consent of the owners of Nos. 512-522, No. 500 Beaufort Street, and No. 153 Harold Street for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 512-522, No. 500 Beaufort Street and No. 153 Harold Street in a good and clean condition;

(c) doors, windows and adjacent floor areas of the office fronting Stirling and Harold Streets shall maintain an active and interactive relationship with these streets;
(d) the maximum gross floor area of the office component shall be limited to 1200 square metres. Any increase in floor space or change of use of the offices shall require Planning Approval to be applied to and obtained from the Town. Any change of use shall be assessed in accordance with the relevant Planning Policy including the Town's Parking and Access Policy No. 3.7.1; and

(e) a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on the site;

(ii) Car Parking and Accessways

(a) the on-site car parking area for the non-residential component shall be available for the occupiers of the residential component outside normal business hours;

(b) the car parking area(s) on the subject land shall be sealed, drained, paved and line marked in accordance with the approved plans prior to the first occupation of the development and maintained thereafter by the owner(s)/occupier(s) to the satisfaction of the Town;

(c) the car parking area shown for the non-residential component shall be shown as 'common property' on any strata or survey strata subdivision plan for the property; and

(d) the car park shall be used only by employees, tenants, and visitors directly associated with the development;

(iii) Public Art

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

(a) within twenty – eight (28) days of the issue date of this ‘Approval to Commence Development’, elect to either obtain approval from the Town for an Artist to undertake a Public Art Project (Option 1) or pay the Cash in Lieu Percent for Public Art Contribution, of $250,000 (Option 2), for the equivalent value of one per cent (1%) of the estimated total cost of the development ($28,006,000); and

(b) in conjunction with the above chosen option;

(1) Option 1 –

prior to the approval and subsequent issue of a Building Licence for the development, obtain approval for the Public Art Project and associated Artist; and

prior to the first occupation of the development, install the approved public art project, and thereafter maintain the art work; OR

(2) Option 2 –

prior to the approval and subsequent issue of a Building Licence for the development or prior to the due date specified in the invoice issued by the Town for the payment (whichever occurs first), pay the above cash-in-lieu contribution amount;
(iv) **Signage**

All signage that does not comply with the Town’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 Town prior to the erection of the signage;

(v) **Fencing**

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

(vi) **Verge Tree**

No street verge tree(s) shall be removed. The street verge tree(s) shall be retained and protected from any damage, including unauthorised pruning;

(vii) **Retention of Trees**

The retention of and the protection at all times during construction and other works the existing trees identified on plan SK-02, with the exception of the Cape Lilac (Melia azederach) located alongside the northern elevation of the Inter-war Georgian building.

The applicant is to engage a qualified arboricultural consultant to assess the trees required to be retained, and provide a report to address their future care control and management;

(viii) **PRIOR TO THE ISSUE OF A BUILDING LICENCE**, the following shall be submitted to and approved by the Town:

(a) **Construction Management Plan**

A Construction Management Plan, detailing how the construction of the development will be managed to minimise the impact on the surrounding area, shall be submitted to and approved by the Town, addressing the following issues:

1. public safety, amenity and site security;
2. contact details of essential site personnel;
3. construction operating hours;
4. noise control and vibration management;
5. Dilapidation Reports of nearby properties;
6. air and dust management;
7. stormwater and sediment control;
8. soil excavation method (if applicable);
9. waste management and materials re-use;
10. traffic and access management;
11. parking arrangements for contractors and subcontractors;
12. Consultation Plan with nearby properties; and
13. any other matters deemed appropriate by the Town;

MINUTES OF MEETING HELD ON 10 MAY 2011 TO BE CONFIRMED ON 24 MAY 2011
(b) **Landscape and Reticulation Plan**

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

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

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

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

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

(d) **Schedule of External Finishes**

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

(e) **Acoustic Report**

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

(f) **Refuse and Recycling Management**

Separate Bin Compounds for the residential and commercial components of the development are required, and must include wash down facilities and floor waste.

The Bin store as proposed is to accommodate the full number of bins for the minimum Town of Vincent service.

As per the Waste Management Consultant's report, a caretaker is to be responsible for the management, storage and verge placement and collection of bins.

A detailed Waste Management Plan is to be submitted prior to the issue of a Building Licence;
(g) Privacy

Revised plans shall be submitted to and approved by the Town demonstrating the following the balconies to Units 22, 27, 32, 37 and 42 on the north-eastern elevation, being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the respective finished floor level. A permanent obscure material does not include a self-adhesive material that is easily removed; OR prior to the issue of a Building Licence revised plans shall be submitted demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject wall, so that they are not considered to be a major opening as defined in the Residential Design Codes 2010; OR prior to the issue of a Building Licence, revised plans shall be submitted demonstrating the above major openings being provided with permanent vertical screening or equivalent, preventing direct line of sight within the cone of vision to ground level of the adjoining properties in accordance with the Residential Design Codes. Alternatively, prior to the issue of a Building Licence, these revised plans are not required if the Town receives written consent from the owners of No. 153 Harold Street, stating no objection to the respective proposed privacy encroachment;

(h) Amalgamation

Prior to the issue of a Building Licence, the subject Lots 136, 137 and 138 shall be amalgamated into one lot on Certificate of Title; OR alternatively, prior to the issue of a Building Licence the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town’s solicitors or other solicitors agreed upon by the Town, undertaking to amalgamate and subdivide the subject land into one lot within 6 months of the issue of the subject Building Licence. All costs associated with this condition shall be borne by the applicant/owner(s);

(i) Footpath Upgrading

In keeping with the Town’s practice for multiple dwellings, commercial, retail and similar developments, the footpaths adjacent to the subject land shall be upgraded, by the applicant, to a brick paved standard, and drainage modified at crossover point, to the Town’s specification. A refundable footpath upgrading bond and/or bank guarantee of $40,000 shall be lodged and be held until all works have been completed and/or any damage to the existing facilities have been reinstated to the satisfaction of the Town’s Technical Services. An application to the Town for the refund of the upgrading bond must be made in writing;

(j) Vehicular Gate

Any proposed vehicular gate for the car park visible from Stirling Street and Harold Street shall be a minimum 50 percent visually permeable when viewed from Stirling Street and Harold Street;
(k) **Heritage**

(a) an interpretative plaque or another appropriate form of interpretation that provides an understanding of heritage development of the site and its cultural heritage value shall be installed prior to the first occupation of the approved addition on site. The design and wording of the interpretative plaque or other interpretative medium shall be undertaken in accordance with the Town’s Heritage Management Policy No. 3.6.4 relating to Interpretive Signage and be submitted to and approved by the Town prior to the issue of a Building Licence;

(b) the red brick and iron fence, which features a geometric pattern and surrounds the Interwar Georgian Revival building, shall be retained in situ and conserved to aid in the conservation of the setting of the place; and

(c) details of proposed works at the heritage listed Interwar Georgian Revival building including internal structural changes, interior fixtures and signage, etc. should be submitted prior to the issue of a Building Licence; and

(l) **Underground Power**

In keeping with the Town’s Policy 2.2.2, the power lines along both the Harold Street and Stirling Street frontages of the development shall be undergrounded at the Developer’s full cost. The Developer is required to liaise with both the Town and Western Power to comply with their respective requirements, prior to the issue of the Building Licence; and

(ix) **PRIOR TO THE FIRST OCCUPATION OF THE DEVELOPMENT,** the following shall be completed to the satisfaction of the Town:

(a) **Residential Car Bays**

The 163 car parking spaces provided for the residential component and visitors of the development shall be clearly marked and signposted for the exclusive use of the residents and visitors of the development;

(b) **Clothes Drying Facility**

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

(c) **Bicycle Parking**

Six (6) class one or two bicycle and one (1) class three parking facilities, shall be provided at a location convenient to the entrance of the development. Details of the design and layout of the bicycle facilities shall be submitted to and approved by the Town prior to the installation of such facilities; and

(d) **Management Plan-Vehicular Entry Gate**

In the event a vehicular entry gate is provided, a plan detailing management measures for the operation of the vehicular entry gate to Harold Street and Stirling Street, to ensure access is readily available for visitors to the residential and commercial units at all times, shall be submitted to and approved by the Town.
Cr Buckels and Cr Burns departed the Chamber at 9.09pm.

Moved Cr McGrath, Seconded Cr Topelberg

That the recommendation be adopted.

Debate ensued.

Cr Buckels returned to the Chamber at 9.10pm.

Debate ensued.

Cr Burns returned to the Chamber at 9.11pm.

Debate ensued.

Cr Farrell departed the Chamber at 9.21pm.

Debate ensued.

Cr Farrell returned to the Chamber at 9.23pm.

Debate ensued.

AMENDMENT

Moved Cr Maier, Seconded Cr McGrath

That new clause (viii)(m) be added as follows:

“(m) Section 70 A Notification under the Transfer of Land Act

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

(1) the use or enjoyment of the property may be affected by noise, traffic, car parking and other impacts associated with nearby commercial and non-residential activities; and

(2) the Town of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the residential units/or office. This is because at the time the planning application for the development was submitted to the Town, the developer claimed that the on-site parking provided would adequately meet the current and future parking demands of the development.

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

AMENDMENT PUT AND CARRIED UNANIMOUSLY (9-0)

Debate ensued.
Cr Burns asked if the Council’s Planning Consultant, Mr Ben Doyle would answer questions about the State Administrative Tribunal (SAT) process, which involved legal advice. She requested that the Council proceed “behind closed doors”, so that the advice could be confidential and not prejudice the Council’s position.

PROCEDURAL MOTION

At 9.38pm Moved Cr Burns, Seconded Cr McGrath

That Council proceed “behind closed doors” to enter into confidential discussions with the Consultant, Mr Ben Doyle on item 9.1.5.

PROCEDURAL MOTION PUT AND CARRIED UNANIMOUSLY (9.0)

There were 18 members of the public present. There were also two (2) journalists present, who departed the Chamber at 9.38pm.

Cr Lake departed the Chamber at 9.38pm.

PRESENT:

Mayor Nick Catania, JP Presiding Member
Cr Matt Buckels North Ward
Cr Anika Burns South Ward
Cr Steed Farrell North Ward
Cr Taryn Harvey North Ward
Cr Sally Lake (Deputy Mayor) South Ward
Cr Warren McGrath South Ward
Cr Dudley Maier North Ward
Cr Joshua Topelberg South Ward

John Giorgi, JP Chief Executive Officer
Rob Boardman Director Development Services
Rick Lotznicker Director Technical Services
Mike Rootsey Director Corporate Services
Anita Radici Executive Assistant (Minutes Secretary)
Ben Doyle Associate Director, Planning Solutions (for Item 9.1.5) (until approximately 10.30pm)

PROCEDURAL MOTION

Moved Cr Burns, Seconded Cr Farrell

That Standing Orders be suspended to enable the Town’s Consultant to address the meeting and answer questions.

PROCEDURAL MOTION PUT AND CARRIED UNANIMOUSLY (8.0)

(Cr Lake was absent from the Chamber and did not vote.

Debate ensued behind closed doors. Mr Ben Doyle responded to questions about the SAT process.

Cr Lake returned to the Chamber at 9.40pm.

Debate ensued.
PROCEDURAL MOTION

At 9.55pm Moved Cr Burns, Seconded Cr Buckels

That Standing Orders be resumed and that Council resume an “open meeting”.

PROCEDURAL MOTION PUT AND CARRIED UNANIMOUSLY (9:0)

PRESENT:

Mayor Nick Catania, JP  Presiding Member
Cr Matt Buckels       North Ward
Cr Anka Burns         South Ward
Cr Steed Farrell      North Ward
Cr Taryn Harvey       North Ward
Cr Sally Lake (Deputy Mayor)  South Ward
Cr Warren McGrath     South Ward
Cr Dudley Maier       North Ward
Cr Joshua Topelberg   South Ward
John Giorgi, JP  Chief Executive Officer
Rob Boardman         Director Development Services
Rick Lotznicker      Director Technical Services
Mike Rootsey         Director Corporate Services
Anita Radici         Executive Assistant (Minutes Secretary)
Ben Doyle            Associate Director, Planning Solutions (for Item 9.1.5)

There were 18 members of the public present. There was one (1) journalist present, who returned to the Chamber at 9.55pm.

Debate ensued.

MOTION AS AMENDED PUT AND CARRIED (8:1)

For: Mayor Catania, Cr Buckels, Cr Burns, Cr Farrell, Cr Lake, Cr McGrath, Cr Maier, Cr Topelberg

Against: Cr Harvey

COUNCIL DECISION ITEM 9.1.5

That the Council;

in accordance with the provisions of the Town of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES the application submitted by SS Chang Architects on behalf of the owner Finbar Funds Management Ltd for proposed Partial Demolition of Existing Buildings, Additions and Alterations to Existing Building and the Construction of a Five Storey Mixed Use Development comprising Eighty-Seven (87) Multiple Dwellings, Forty-Six (46) Single Bedroom Dwellings, One (1) Office and Associated Basement Car Parking, at Nos. 369-375 (Lot 33; D/P: 15303, Lot 123; D/P: 2642, Lot 35; D/P: 65374/1) Stirling Street, corner of Harold Street, Highgate and as shown on amended plans stamp-dated 28 April 2011, subject to the following conditions:

(i) Building

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

MINUTES OF MEETING HELD ON 10 MAY 2011 TO BE CONFIRMED ON 24 MAY 2011
(b) If entry to neighbouring land is required, first obtaining the consent of the owners of Nos. 512-522, No. 500 Beaufort Street, and No. 153 Harold Street for entry onto their land, the owners of the subject land shall finish and maintain the surface of the boundary (parapet) walls facing Nos. 512-522, No. 500 Beaufort Street and No. 153 Harold Street in a good and clean condition;

(c) doors, windows and adjacent floor areas of the office fronting Stirling and Harold Streets shall maintain an active and interactive relationship with these streets;

(d) the maximum gross floor area of the office component shall be limited to 1200 square metres. Any increase in floor space or change of use of the offices shall require Planning Approval to be applied to and obtained from the Town. Any change of use shall be assessed in accordance with the relevant Planning Policy including the Town’s Parking and Access Policy No. 3.7.1; and

(e) a Demolition Licence shall be obtained from the Town prior to commencement of any demolition works on the site;

(ii) Car Parking and Accessways

(a) the on-site car parking area for the non-residential component shall be available for the occupiers of the residential component outside normal business hours;

(b) the car parking area(s) on the subject land shall be sealed, drained, paved and line marked in accordance with the approved plans prior to the first occupation of the development and maintained thereafter by the owner(s)/occupier(s) to the satisfaction of the Town;

(c) the car parking area shown for the non-residential component shall be shown as 'common property' on any strata or survey strata subdivision plan for the property; and

(d) the car park shall be used only by employees, tenants, and visitors directly associated with the development;

(iii) Public Art

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

(a) within twenty - eight (28) days of the issue date of this ‘Approval to Commence Development’, elect to either obtain approval from the Town for an Artist to undertake a Public Art Project (Option 1) or pay the Cash in Lieu Percent for Public Art Contribution, of $280,000 (Option 2), for the equivalent value of one per cent (1%) of the estimated total cost of the development ($28,000,000); and

(b) in conjunction with the above chosen option;

(1) Option 1 –

prior to the approval and subsequent issue of a Building Licence for the development, obtain approval for the Public Art Project and associated Artist; and

prior to the first occupation of the development, install the approved public art project, and thereafter maintain the art work; OR
(2) Option 2 – prior to the approval and subsequent issue of a Building Licence for the development or prior to the due date specified in the invoice issued by the Town for the payment (whichever occurs first), pay the above cash-in-lieu contribution amount;

(iv) Signage

All signage that does not comply with the Town'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 Town prior to the erection of the signage;

(v) Fencing

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

(vi) Verge Tree

No street verge tree(s) shall be removed. The street verge tree(s) shall be retained and protected from any damage, including unauthorised pruning;

(vii) Retention of Trees

The retention of and the protection at all times during construction and other works the existing trees identified on plan SK-02, with the exception of the Cape Lime (Melia azederach) located alongside the northern elevation of the Inter-war Georgian building.

The applicant is to engage a qualified arboricultural consultant to assess the trees required to be retained, and provide a report to address their future care control and management;

(viii) PRIOR TO THE ISSUE OF A BUILDING LICENCE, the following shall be submitted to and approved by the Town:

(a) Construction Management Plan

A Construction Management Plan, detailing how the construction of the development will be managed to minimise the impact on the surrounding area, shall be submitted to and approved by the Town, addressing the following issues:

1. public safety, amenity and site security;
2. contact details of essential site personnel;
3. construction operating hours;
4. noise control and vibration management;
5. Dilapidation Reports of nearby properties;
6. air and dust management;
7. stormwater and sediment control;
8. soil excavation method (if applicable);
9. waste management and materials re-use;
10. traffic and access management;
11. parking arrangements for contractors and subcontractors;
12. Consultation Plan with nearby properties; and
13. any other matters deemed appropriate by the Town;
(b) **Landscape and Reticulation Plan**

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

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

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

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

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

(d) **Schedule of External Finishes**

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

(e) **Acoustic Report**

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

(f) **Refuse and Recycling Management**

Separate Bin Compounds for the residential and commercial components of the development are required, and must include wash down facilities and floor waste.

The bin store as proposed is to accommodate the full number of bins for the minimum Town of Vincent service.

As per the Waste Management Consultant’s report, a caretaker is to be responsible for the management, storage and verge placement and collection of bins.

A detailed Waste Management Plan is to be submitted prior to the issue of a Building Licence;
(g) **Privacy**

Revised plans shall be submitted to and approved by the Town demonstrating the following the balconies to Units 22, 27, 32, 37 and 42 on the north-eastern elevation, being screened with a permanent obscure material and be non-openable to a minimum of 1.6 metres above the respective finished floor level. A permanent obscure material does not include a self-adhesive material that is easily removed; OR prior to the issue of a Building Licence revised plans shall be submitted demonstrating the subject windows not exceeding one square metre in aggregate in the respective subject wall, so that they are not considered to be a major opening as defined in the Residential Design Codes 2010; OR prior to the issue of a Building Licence, revised plans shall be submitted demonstrating the above major openings being provided with permanent vertical screening or equivalent, preventing direct line of sight within the cone of vision to ground level of the adjoining properties in accordance with the Residential Design Codes. Alternatively, prior to the issue of a Building Licence, these revised plans are not required if the Town receives written consent from the owners of No. 153 Harold Street, stating no objection to the respective proposed privacy encroachment;

(h) **Amalgamation**

Prior to the issue of a Building Licence, the subject Lots 136, 137 and 138 shall be amalgamated into one lot on Certificate of Title; OR alternatively, prior to the issue of a Building Licence the owner(s) shall enter into a legal agreement with and lodge an appropriate assurance bond/bank guarantee to the satisfaction of the Town, which is secured by a caveat on the Certificate(s) of Title of the subject land, prepared by the Town’s solicitors or other solicitors agreed upon by the Town, undertaking to amalgamate and subdivide the subject land into one lot within 6 months of the issue of the subject Building Licence. All costs associated with this condition shall be borne by the applicant/owner(s);

(i) **Footpath Upgrading**

In keeping with the Town’s practice for multiple dwellings, commercial, retail and similar developments, the footpaths adjacent to the subject land shall be upgraded, by the applicant, to a brick paved standard, and drainage modified at crossover point, to the Town’s specification. A refundable footpath upgrading bond and/or bank guarantee of $40,000 shall be lodged and be held until all works have been completed and/or any damage to the existing facilities have been reinstated to the satisfaction of the Town’s Technical Services. An application to the Town for the refund of the upgrading bond must be made in writing;

(j) **Vehicular Gate**

Any proposed vehicular gate for the car park visible from Stirling Street and Harold Street shall be a minimum 50 percent visually permeable when viewed from Stirling Street and Harold Street;
(k) **Heritage**

(a) an interpretative plaque or another appropriate form of interpretation that provides an understanding of heritage development of the site and its cultural heritage value shall be installed prior to the first occupation of the approved addition on site. The design and wording of the interpretative plaque or other interpretative medium shall be undertaken in accordance with the Town’s Heritage Management Policy No. 3.6.4 relating to Interpretive Signage and be submitted to and approved by the Town prior to the issue of a Building Licence;

(b) the red brick and iron fence, which features a geometric pattern and surrounds the Interwar Georgian Revival building, shall be retained in situ and conserved to aid in the conservation of the setting of the place; and

(c) details of proposed works at the heritage listed Interwar Georgian Revival building including internal structural changes, interior fixtures and signage, etc. should be submitted prior to the issue of a Building Licence;

(l) **Underground Power**

In keeping with the Town’s Policy 2.2.2, the power lines along both the Harold Street and Stirling Street frontages of the development shall be undergrounded at the Developer’s full cost. The Developer is required to liaise with both the Town and Western Power to comply with their respective requirements, prior to the issue of the Building Licence; and

(m) **Section 70A Notification under the Transfer of Land Act**

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

1. the use or enjoyment of the property may be affected by noise, traffic, car parking and other impacts associated with nearby commercial and non-residential activities; and

2. the Town of Vincent will not issue a residential or visitor car parking permit to any owner or occupier of the residential units/or office. This is because at the time the planning application for the development was submitted to the Town, the developer claimed that the on-site parking provided would adequately meet the current and future parking demands of the development.

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

(ix) **PRIOR TO THE FIRST OCCUPATION OF THE DEVELOPMENT,** the following shall be completed to the satisfaction of the Town:

(a) **Residential Car Bays**

The 163 car parking spaces provided for the residential component and visitors of the development shall be clearly marked and signposted for the exclusive use of the residents and visitors of the development;
(b) **Clothes Drying Facility**

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

(c) **Bicycle Parking**

Six (6) class one or two bicycle and one (1) class three parking facilities, shall be provided at a location convenient to the entrance of the development. Details of the design and layout of the bicycle facilities shall be submitted to and approved by the Town prior to the installation of such facilities; and

(d) **Management Plan-Vehicular Entry Gate**

In the event a vehicular entry gate is provided, a plan detailing management measures for the operation of the vehicular entry gate to Harold Street and Stirling Street, to ensure access is readily available for visitors to the residential and commercial units at all times, shall be submitted to and approved by the Town.

<table>
<thead>
<tr>
<th>Landowner:</th>
<th>Finbar Funds Management Ltd</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant:</td>
<td>SS Chang Architects</td>
</tr>
<tr>
<td>Zoning:</td>
<td>Metropolitan Region Scheme: Urban</td>
</tr>
<tr>
<td></td>
<td>Town Planning Scheme No. 1: Residential R80</td>
</tr>
<tr>
<td>Existing Land Use:</td>
<td>Educational Establishment</td>
</tr>
<tr>
<td>Use Class:</td>
<td>Multiple Dwelling and Office</td>
</tr>
<tr>
<td>Use Classification:</td>
<td>“P” and “SA”</td>
</tr>
<tr>
<td>Lot Area:</td>
<td>8794 square metres</td>
</tr>
<tr>
<td>Access to Right of Way</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>

**PURPOSE OF REPORT:**

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

To allow the Council to reconsider an application for a revised development under Section 26 of the State Administrative Tribunal Act.

In re-considering the proposal the Council may:

(a) affirm its decision;

(b) vary its decision; or

(c) set aside the decision and substitute a new decision.

Note — in accordance with Section 26 of the State Administrative Tribunal Act, the amended plans are presented to Council for reconsideration by consent. Should Council resolve to affirm its decision to refuse the application, or vary its decision to approve the application subject to conditions not acceptable to the applicant, the applicant may opt proceed to a Final Hearing based on either the original plans previously refused by Council, or the amended plans the subject of this report.

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MINUTES OF MEETING HELD ON 10 MAY 2011 TO BE CONFIRMED ON 24 MAY 2011

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Item 5.7- Attachment 3  Page 41
BACKGROUND:

10 December 2010 The Council at its Ordinary Meeting refused the application for proposed Partial Demolition of Existing Buildings, Additions and Alterations to Existing Building and the Construction of a Five-Storey Mixed Use Development comprising Eighty-Seven (87) Multiple Dwellings, Forty-Six (46) Single Bedroom Dwellings, One (1) Office and Associated Basement Car Parking for the following reasons:

1. The development is not consistent with the orderly and proper planning and preservation of amenities of the locality;
2. The bulk, scale, height, density and plot ratio is considered too excessive;
3. Non-compliance with setbacks;
4. Non-compliance with the Town’s car parking requirements; and
5. Consideration of objections received."

4 February 2011 Directions hearing held at SAT.

15 February 2011 Proposed development discussed at Council Forum, attended by Ben Doyle of Planning Solutions (Council’s nominated consultant).

17 February 2011 On-site inspection and discussion attended by Ben Doyle, Scott Cameron (landowner), Peter Simpson (applicant) and representatives of St Mark’s College/CBC Redevelopment Pro-Action Group.

11 March 2011 Mediation Session No. 1 held at SAT.

5 April 2011 Mediation Session No. 2 held at SAT.

13 May 2011 Further mediation/directions scheduled to be held at SAT.

Appointed Consultant for the SAT Mediation Process

As prescribed by the Town’s SAT Policy, the Town appointed a consultant to mediate the matter on its behalf. Accordingly, Planning Solutions – Urban and Regional Planners were appointed. Mr Ben Doyle, an Associate Director of the practice (located within the Town of Vincent) is a highly qualified Town Planner, with extensive experience with the Town’s planning requirements, complex developments and SAT matters, has been responsible for the matter on behalf of the Town.

No Town of Vincent Planning Officers have been involved in the SAT Mediation or in the preparation of the consultant’s report.

The Town was represented at the two SAT Mediation Sessions by:

- Mr Ben Doyle – Associate Director – Appointed Consultant;
- Mayor Nick Catania and Cr Warren McGrath, and
- Chief Executive Officer, John Giorgi.

After each SAT Mediation session, the Town’s Chief Executive Officer sent an email to Ms A. Chin, convenor of the local Action Group to inform them of the outcome.
Confidential Report or Not?

The Town’s consultant has advised that it is his preference for the report to be submitted to the Council on a confidential basis. He advises that his capacity to act as an expert witness to the SAT may be compromised, if the matter proceeds to a Final Hearing. In addition, the discussions from the SAT Mediation Sessions are “without prejudice” and are not admissible in a Final Hearing.

Notwithstanding the above, given the considerable community interest in the development, the Chief Executive Officer has determined that the report not be confidential. Furthermore, the revised plans will be made available for reviewing to the public from 4 May 2011. This decision is in accordance of an undertaking given by the Chief Executive Officer to the SAT on 5 April 2011.

DETAILS:

Comparison of Plans

The changes to the new plans submitted (Attachment 001) as compared to the plans refused by the Council at its Ordinary Meeting held on 10 December 2010 are as follows:

- Reduction in building height of the south-western portion of the southern rear building from 8.73 - 14.29 metres to 6.33 – 10.83 metres, to reduce the overshadowing to the adjoining neighbour’s outdoor living area;
- Increasing the setback of the building fronting Harold Street from 2.449 metres to 7.0 metres, the retention of the mature trees and the reduction in the building height by a storey;
- Closure of the southern Stirling Street basement ramp (to be provided as an “at-grade” visitor car park) and the inclusion of an additional ramp along Stirling Street to access the basement;
- An increase in the number of visitor car parking bays from 14 to 33, which are located outside of the secure basement car parking areas;
- Amendment to the design of the buildings to add colour and texture;
- Additional (sixth) storey on the rear central building;
- The maximum overall height of the development has been increased from 17.2 metres to 20.06 metres;
- The plot ratio has been reduced from 1.19 to 1.10 (excluding Office); and

The applicant’s letter is shown as an Attachment.

COMPLIANCE:

The proposed development has been re-assessed under the provisions of the Residential Design Codes as amended 22 November 2010, which introduced new assessment criteria for multiple dwellings in areas with a coding of R30 or greater and within mixed use development and activity centres.
### NON COMPLIANT REQUIREMENTS

<table>
<thead>
<tr>
<th>REQUIREMENTS</th>
<th>REQUIRED</th>
<th>PROPOSED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plot Ratio</td>
<td>1.0</td>
<td>1.10</td>
</tr>
</tbody>
</table>

**Officer Comments:**

**Supported** - The plot ratio has been reduced from 1.19 to 1.10 which further reduces any undue impact on the amenity of the area. In the context of surrounding development close to and along Beaufort Street, and the anticipated redevelopment of the Pacific Motel site, the proposed plot ratio is recommended for approval. Moreover, it is considered that the amended design mitigates the bulk and scale as viewed from the street and surrounding properties, and provides for vertical and horizontal articulation elements.

<table>
<thead>
<tr>
<th>Front Setbacks: Front-South-East- Stirling Street</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Lower Ground Floor and Ground Floor</td>
<td>4.3</td>
<td>3.565 metres to 4 metres</td>
</tr>
<tr>
<td>First Floor</td>
<td>6.3</td>
<td>3.5625 metres</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Front Setbacks: Front-North-East- Harold Street</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Lower Ground Floor</td>
<td>6.65</td>
<td>6.0 metres (entry portico) to 9.6 metres (building)</td>
</tr>
<tr>
<td>Ground Floor</td>
<td>6.65</td>
<td>7.0 metres (balcony) to 9.6 metres (building)</td>
</tr>
<tr>
<td>First and Second Floors</td>
<td>8.65</td>
<td>7.0 metres (balcony) to 9.6 metres (building)</td>
</tr>
</tbody>
</table>

**Officer Comments:**

**Supported** - The existing adjoining houses (south-east) have setback to Stirling Street of 3 metres and the existing St Marks building is setback 5.2 metres from Stirling Street. Therefore, the proposed street setback of 3.565 metres to 4 metres, providing a staggered setback between the existing houses and the St Marks Building, is not considered to have a detrimental impact on the streetscape.

The existing adjoining multiple dwelling development on Harold Street has a front setback of approximately 6.0 metres, and the St Marks building is setback approximately 7.4 metres. The main building is setback a greater distance than the prevailing average setback, with only the balconies and entry portico being setback a lesser distance. It is considered the proposed setback maintains sightlines to the heritage building and facilitates the retention of mature trees within the setback area, and will make a positive contribution to the streetscape.

<table>
<thead>
<tr>
<th>Building Setbacks: North-West Elevation</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>First Building to Harold Street</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Lower Ground Floor</td>
<td>4 metres</td>
<td>Nil⁴ (staircase) to 2.2 metres</td>
</tr>
<tr>
<td>Ground Floor</td>
<td>4 metres</td>
<td>Nil⁴ (staircase) to 2.2 metres</td>
</tr>
<tr>
<td>First Floor</td>
<td>4 metres</td>
<td>2.2 metres</td>
</tr>
<tr>
<td>Second Floor</td>
<td>4 metres</td>
<td>2.2 metres</td>
</tr>
</tbody>
</table>

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MINUTES OF MEETING HELD ON 10 MAY 2011 TO BE CONFIRMED ON 24 MAY 2011
## NON COMPLIANT REQUIREMENTS

<table>
<thead>
<tr>
<th>REQUIREMENTS</th>
<th>REQUIRED</th>
<th>PROPOSED</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Second Building</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Middle</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ground Floor-Deck</td>
<td>4 metres</td>
<td>Nil</td>
</tr>
<tr>
<td>First Floor</td>
<td>4 metres</td>
<td>3.5 metres (northern balcony corner), 5.7 metres (building) to 6.5 metres (balcony)</td>
</tr>
<tr>
<td>Second Floor</td>
<td>4 metres</td>
<td>3.5 metres (northern balcony corner), 5.7 metres (building) to 6.5 metres (balcony)</td>
</tr>
<tr>
<td>Third Floor</td>
<td>4 metres</td>
<td>3.5 metres (northern balcony corner), 5.7 metres (building) to 6.5 metres (balcony)</td>
</tr>
<tr>
<td>Fourth Floor</td>
<td>4 metres</td>
<td>3.5 metres (northern balcony corner), 5.7 metres (building) to 6.5 metres (balcony)</td>
</tr>
<tr>
<td>Fifth Floor</td>
<td>4 metres</td>
<td>3.5 metres (northern balcony corner), 5.7 metres (building) to 6.5 metres (balcony)</td>
</tr>
<tr>
<td><strong>Third Building</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ground Floor</td>
<td>4 metres</td>
<td>6.9 metres</td>
</tr>
<tr>
<td>First Floor</td>
<td>4 metres</td>
<td>4.7 metres (balcony) to 6.9 metres (building)</td>
</tr>
<tr>
<td>Second Floor</td>
<td>4 metres</td>
<td>4.7 metres to 6.9 metres</td>
</tr>
<tr>
<td>Third Floor</td>
<td>4 metres</td>
<td>4.7 metres to 6.9 metres</td>
</tr>
<tr>
<td>Fourth Floor</td>
<td>4 metres</td>
<td>4.7 metres to 6.9 metres</td>
</tr>
<tr>
<td><strong>Building Setbacks:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>South-West Elevation</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ground Floor</td>
<td>4 metres</td>
<td>3.2 metres (carpark exhaust) to 4.0 metres (building)</td>
</tr>
<tr>
<td>First Floor</td>
<td>4 metres</td>
<td>4.0 metres (building)</td>
</tr>
<tr>
<td>Second Floor</td>
<td>4 metres</td>
<td>11.0 metres (building)</td>
</tr>
<tr>
<td>Third Floor</td>
<td>4 metres</td>
<td>11.0 metres (roof terrace)</td>
</tr>
</tbody>
</table>

### Officer Comments:

**Supported** - The adjoining existing residential buildings along the north-west boundary have setbacks of 0.5 metre to 3.2 metres to the subject property. The proposed setbacks will not have an undue impact on ventilation to the proposed buildings and the adjoining existing buildings along the north west boundary. Moreover, there will be no overshadowing of the adjoining buildings to the north-west.

The setback variation to the south-west boundary relates only to the carpark exhaust structure, which has a length of 1.8 metres and a height of approximately 2.5 metres above natural ground level. The building will overshadow approximately 25% of the outdoor living area of the lot abutting to the south-west, representing approximately 7% of the total lot area.
## Non Compliant Requirements

<table>
<thead>
<tr>
<th>REQUIREMENTS</th>
<th>REQUIRED</th>
<th>PROPOSED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of Storeys and Building Height</td>
<td>Height= 7 metres</td>
<td>Height= 20.06 metres</td>
</tr>
<tr>
<td></td>
<td>2 storeys</td>
<td>6 storeys</td>
</tr>
</tbody>
</table>

**Officer Comments:**

Supported - As per the Town’s Multiple Dwellings Policy, the adjoining commercial sites along Beaumont Street are permitted five storeys within the site. The Council at its Ordinary Meeting held on 8 September 2009 conditionally approved a four storey development at No. 103 Harold Street (Pacific Motel) which is located opposite the subject site.

Although the proposed ‘middle building’ height represents an increase on the building height previously refused by Council, it is considered the amended proposal, by incorporating a variety of building heights and a range of materials and colours, reduces the ‘monolithic’ bulk of the original proposal. In addition, the increased height of the middle building has provided for increased building setbacks to Harold Street, reduction of the total plot ratio, and a reduction in the height of the ‘third building’ adjacent to the south-western boundary, without significantly reducing the total number of dwellings proposed. The six storey building is located at the rear of the site, predominantly adjacent to the existing Queens Hotel carpark, and therefore is not considered to impact on the amenity of the area.

Accordingly, it is considered the development is consistent with the height and scale of development existing and approved in the surrounding area.

| Privacy Setbacks | Balcony/deck= 7.5 metres to boundary | Balcony- Units 22, 27, 32, 37 and 42 setback 3.5 metres to the north-western boundary; Bedroom= 4.5 metres to boundary |

**Officer Comments:**

Not supported - In the event the application is supported, the balconies and bedrooms will be required to be screened. A condition (viii)(g) has been applied.

The above Officer Comments are provided pursuant to Clause 38(5) of Town Planning Scheme No. 1

### Consultation Submissions

Not applicable.

### Car Parking - Residential

| Small dwelling (<75sqm or 1 bedroom) | 0.75 car bays per dwelling (proposed 47 dwellings) = 35 car bays | 35 car bays |
| Medium dwelling (75-110sqm) | 1 car bay per dwelling (proposed 83 dwellings) = 83 car bays | 83 car bays |
| Visitors | 0.25 car bays per dwelling (130 dwellings proposed) = 33 car bays | 33 car bays |
| Minus the car parking provided on-site | 163 car bays (including 33 visitor bays) | |
| Surplus | 12 car bays | |
## Bicycle Parking – Residential

<table>
<thead>
<tr>
<th>REQUIREMENTS</th>
<th>REQUIRED</th>
<th>PROPOSED</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 space per 3 dwellings for residents (proposed 130 dwellings)</td>
<td>43 bicycle spaces</td>
<td></td>
</tr>
<tr>
<td>1 space per 10 dwellings for visitors (proposed 130 dwellings)</td>
<td>15 bicycle spaces</td>
<td></td>
</tr>
<tr>
<td>15 scooter/motorcycle parking bays are also proposed.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

## Car Parking – Non-residential

<table>
<thead>
<tr>
<th>REQUIREMENTS</th>
<th>REQUIRED</th>
<th>PROPOSED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Car parking requirement (nearest whole number)</td>
<td>24 car bays</td>
<td></td>
</tr>
<tr>
<td>Office: 1 car bay per 50 square metres gross office floor area (proposed 1200 square metres)= 24 car bays</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Apply the parking adjustment factors.</td>
<td>(0.4913)</td>
<td></td>
</tr>
<tr>
<td>▪ 0.80 (mix of uses with greater than 45 percent of the gross floor area residential)</td>
<td>11.79 car bays</td>
<td></td>
</tr>
<tr>
<td>▪ 0.85 (within 400 metres of a bus stop)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>▪ 0.85 (within 800 metres of a rail station)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minus the car parking provided on-site</td>
<td>24 car bays</td>
<td></td>
</tr>
<tr>
<td>Minus the most recently approved on-site car parking shortfall</td>
<td>Nil</td>
<td></td>
</tr>
<tr>
<td>Surplus</td>
<td>12 car bays</td>
<td></td>
</tr>
</tbody>
</table>

## Bicycle Parking – Non-residential

<table>
<thead>
<tr>
<th>REQUIREMENTS</th>
<th>REQUIRED</th>
<th>PROPOSED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bicycle Parking</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Offices</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 space per 200 (proposed 1200) square metres (class 1 or 2)= 6 spaces</td>
<td></td>
<td>Non-residential bicycle spaces have not been designated. In the event the application is supported, additional non-residential bicycle facilities will be required to be provided.</td>
</tr>
<tr>
<td>1 space per 750 square metres over 1000 square metres (class 3)= 1 space</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Subject to the incorporation of additional bicycle parking facilities to service the non-residential component, the vehicle parking arrangements comply with the requirements of the Residential Design Codes and Council policy. It is considered additional bicycle parking spaces may readily be provided without substantially modifying the proposed development.
### Other Implications

<table>
<thead>
<tr>
<th>Legal/Policy</th>
<th>Planning and Development Act 2005 (WA), State Administrative Tribunal Act 2004 (WA) and Town’s Policy No. 4.1.23-State Administrative Tribunal Policies and Procedures.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 26 of the State Administrative Tribunal 2004 states as follows:</td>
<td>“26. Restriction on powers of decision-maker after review commenced”</td>
</tr>
<tr>
<td></td>
<td>After the commencement of a proceeding for the review of a decision the decision-maker cannot –</td>
</tr>
<tr>
<td></td>
<td>(a) vary the decision; or</td>
</tr>
<tr>
<td></td>
<td>(b) set aside the decision and substitute its new decision.</td>
</tr>
<tr>
<td></td>
<td>Unless –</td>
</tr>
<tr>
<td></td>
<td>(c) that is permitted by the enabling Act;</td>
</tr>
<tr>
<td></td>
<td>(d) the parties to the proceeding consent; or</td>
</tr>
<tr>
<td></td>
<td>(e) the decision-maker is invited under section 31 to reconsider the decision.</td>
</tr>
<tr>
<td>Under Section 26 of the SAT Act 2004, the Town has consented to consider the amended plans; that is, to (a) affirm the decision; (b) vary the decision; or (c) set aside the decision and substitute its new decision.</td>
<td></td>
</tr>
<tr>
<td>Absolute Majority Decision</td>
<td>Given the variation is no longer to density but to ‘plot ratio’, clause 40(3)(b) is no longer applicable, an absolute majority decision therefore is not required.</td>
</tr>
</tbody>
</table>

### Strategic

| Draft Local Planning Strategy. |

### Sustainability

| Nil. |

### Financial/Budget

| Potential cost of employing a private consultant to represent the Town in a Final Hearing. |

### Waste Management

With regard to waste collection, the applicant has indicated a waste management plan will be prepared which will provide for multiple pickups per week. This will be agreed with the Town and addressed at the Building Licence stage. A condition (viii)(f) has been included. The waste management plan will provide for bins to be stored within the complex until collection, at which time the caretaker will transfer any bins containing rubbish to the verge, and then return the bins to the internal bin storage areas once they are emptied. This is considered to be an appropriate arrangement, which satisfactorily addresses the concerns raised with regard to the kerbside waste collection arrangements. In the event the proposed development is approved, it is recommended appropriate conditions be imposed to address this issue. 

---

MINUTES OF MEETING HELD ON 10 MAY 2011 TO BE CONFIRMED ON 24 MAY 2011
COMMENTS:

The new plans are considered to be a significant improvement on the proposal refused by Council at its meeting held on 10 December 2010.

Although the maximum building height has been increased, the redesign of the development is considered to have reduced the perceived ‘monolithic bulk’ of the previous proposal, by introducing variation in building heights, and reducing the bulk to the north-east (Harold Street) and south-west elevations, as well as a reduction in the plot ratio over the site. The six storey building is located to the rear of the site, predominantly adjacent to The Queens hotel carpark, and is substantially screened by the existing and proposed buildings along the Stirling and Harold Street frontages. Further, the increased setback to Harold Street facilitates the retention of mature trees in that area, improving the streetscape impacts of the development.

In addition, the ‘monotonous’ appearance of the original proposal is considered to have been improved by the incorporation of a wider range of materials, finishes and colours in the amended proposal.

The setback variations proposed are minor, and are not considered likely to detrimentally impact on the amenity of surrounding residents or the locality.

Accordingly, the proposed development, as amended, is supported. Approval of the Consultant’s Recommendation is requested.
appendix b
SKIN CLINIC

Squamous Cell Cancer  Basal Cell Cancer  Malignant Melanoma

Did You Know?

- Australia has the highest skin cancer rate in the world.
- Western Australia has the second highest rate of skin cancer in Australia.

- Skin cancer will affect two in three Australians. It is recommended that all adult patients should have an annual skin check.
- Over 95% of skin cancer can be treated if found early.
- Skin cancers may not be painful and are commonly seen rather than felt.
- Skin check is simple and non-invasive.

Risk Factors Includes:

- Fair skin that burns easily and does not tan
- Blue or green eyes/fair skin/red hair
- Suffered sunburn as a child
- Spent your childhood in Australia
- A large number of freckles or moles
- A family history or personal history of skin cancer
- Used a solarium and/or
- Worked or spent a lot of leisure time in the sun

We Provide:

- Thorough Skin Checks
- Skin Cancer Treatment
- Skin Cancer Surgeries on
  - Squamous Cell Cancer
  - Basal Cell Cancer
  - Malignant Melanoma
  - Non-Malignant Skin Tumour including Subaceous cysts and Lipoma (size up to 5cm)

Address

Unit 1, 288 High Rd
Riverton WA 6148

Telephone

9457 1999

Fax

6150 8962

Clinic Hours

Monday, Wednesday & Friday
8.00am-5.00pm

Tuesday & Thursday
8.00am-9.00pm

appendix c
## Course Details 2019

<table>
<thead>
<tr>
<th>VET Courses</th>
<th>Kingston Entry Requirements</th>
<th>Duration</th>
<th>Tuition Fees</th>
<th>Resource Fees</th>
<th>Instalment Plan</th>
<th>Intake Dates 2019</th>
<th>Intake Dates 2020</th>
<th>Timing / Loading*</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CHC30113</strong></td>
<td>Australian Year 10 (or equivalent), IELTS 5.0 overall (or equivalent)</td>
<td>Total: 48 weeks (24 study weeks +6 weeks break) Two Semesters</td>
<td>$6,500</td>
<td>$450</td>
<td>4 Instalments Every 19 weeks</td>
<td>14/01/19-15/12/19</td>
<td>13/01/20 – 13/12/20</td>
<td></td>
</tr>
<tr>
<td><strong>CHC50113</strong></td>
<td>Completion of Certificate III in Early Childhood Education and Care (or equivalent) or obtain RPL or credit transfer for required units</td>
<td>Total: 54 weeks (46 study weeks + 8 weeks break) Two Semesters</td>
<td>$10,000</td>
<td>$500</td>
<td>4 Instalments Every 19 weeks</td>
<td>14/01/19-15/12/19</td>
<td>13/01/20 – 13/12/20</td>
<td></td>
</tr>
<tr>
<td><strong>SIT09186</strong></td>
<td>Australian Year 10 (or equivalent), IELTS 4.5 overall (or equivalent)</td>
<td>Total: 48 weeks (40 study weeks + 8 weeks break) Two Semesters</td>
<td>$10,300</td>
<td>$1,500</td>
<td>4 Instalments Every 19 weeks</td>
<td>14/01/19-15/12/19</td>
<td>13/01/20 – 13/12/20</td>
<td></td>
</tr>
<tr>
<td><strong>SIT09516</strong></td>
<td>Australian Year 11 (or equivalent), IELTS 5.0 overall (or equivalent)</td>
<td>Total: 26 weeks (22 study weeks + 4 weeks break) One Semester</td>
<td>$4,950</td>
<td>$400</td>
<td>2 Instalments Every 10 weeks</td>
<td>14/01/19-14/07/19</td>
<td>13/01/20 – 12/07/20</td>
<td></td>
</tr>
<tr>
<td><strong>SIT05016</strong></td>
<td>Completion of Cert III in Commercial Cookery or obtain RPL or credit transfer for required units</td>
<td>Total: 30 weeks (24 weeks study + 6 weeks break) One Semester</td>
<td>$5,600</td>
<td>$500</td>
<td>2 Instalments Every 10 weeks</td>
<td>14/01/19-11/08/19</td>
<td>13/01/20 – 09/08/20</td>
<td></td>
</tr>
</tbody>
</table>

*All practical lessons for Cert III in Commercial Cookery will be conducted at our Beaufort Street Campus. Students must have approved toolkit and wear approved uniform when working in the kitchen.

**Note:** Applicants to all courses: students who enrol in packaged courses such as Diploma and Advanced Diploma of Business, must successfully complete the lower level course (Diploma) before commencing the higher level (Adv Diploma)
## Course Details 2019

<table>
<thead>
<tr>
<th>VET Courses</th>
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<th>Intake Dates 2019</th>
<th>Intake Dates 2020</th>
<th>Timing / Loading*</th>
</tr>
</thead>
</table>
| 8542415 Certificate IV in Marketing and Communication | - Australian Year 11 (or equivalent)  
- IELTS 5.0 overall (or equivalent) | Total: 36 weeks  
(30 study week + 6 weeks break)  
One Semester | $5,500 | $400 | 5 Instalments  
Every 6 weeks | 14/02/19 – 22/02/19  
15/04/19 – 22/04/19  
01/06/19 – 08/06/20  
30/09/19 – 07/10/20 | 13/02/20 – 20/02/20  
06/04/20 – 13/04/20  
06/07/20 – 14/07/21  
05/10/20 – 13/10/21 | 20 hours/week  
Specific days will be advised during orientation |
| 8552415 Diploma of Marketing and Communication | - Australian Year 12 (or equivalent)  
- IELTS 5.5 overall (or equivalent)  
- Completion of Cert IV in Marketing and Communication or obtain RPL or credit transfer for required units | Total: 42 weeks  
(36 study week + 6 weeks break)  
One Semester  
Not inclusive of unstructured training activities | $6,000 | $400 | 5 Instalments  
Every 6 weeks | 14/01/19 – 02/11/19  
08/04/19 – 26/04/20  
08/07/19 – 26/07/20  
07/10/19 – 26/10/20 | 27/01/20 – 15/12/20  
26/04/20 – 02/05/21  
13/07/20 – 01/08/21  
12/10/20 – 01/10/21 | 20 hours/week  
Specific days will be advised during orientation  
Training volume varies between 400-800 hours depending on the training requirements of trainees |

Note: Applies to all courses: students who enrol in packaged courses such as Diploma and Advanced Diploma of Business, must successfully complete the lower level course (Diploma) before commencing the higher level (Adv Diploma)
### Course Details 2019

<table>
<thead>
<tr>
<th>VET Courses</th>
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<th>Intake Dates 2019</th>
<th>Intake Dates 2020</th>
<th>Timing / Loading*</th>
</tr>
</thead>
</table>
| BSB41115    | • Australian Year 11 (or equivalent)  
• IELTS 5.0 overall (or equivalent) | Total: 24 weeks (20 study week + 4 weeks break)  
One Semester | $4,000 | $400 | 2 Instalments  
Every 10 weeks | 14/01/19 - 30/06/19  
01/07/19-15/07/19  
01/08/19-15/08/19  
07/10/19-22/03/20 | 13/01/20 - 28/06/20  
06/07/20 - 19/07/20  
29/06/20 - 13/07/20  
05/10/20 - 19/03/21 | 20 hours/week  
Specific days will be advised during orientation |

Note: Applies to all courses: students who enrol in packaged courses such as Diploma and Advanced Diploma of Business, must successfully complete the lower level course (Diploma) before commencing the higher level (Adv Diploma)

Course Details 2019  
Version: 5.2  
Updated: 12.12.2018  
CRICOS Code: 02543G  
National Provider Code: 52259  
ABN 80103778089
# Course Details 2019

<table>
<thead>
<tr>
<th>VET Courses</th>
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<th>Intake Dates 2019</th>
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<th>Timing / Loading*</th>
</tr>
</thead>
<tbody>
<tr>
<td>BSB50815 Diploma of International Business</td>
<td>Australian Year 12 (or equivalents)</td>
<td>Total: 64 weeks (60 study week +4 weeks break) Two Semesters</td>
<td>$7,000</td>
<td>$500</td>
<td>4 Instalments Every 10 weeks</td>
<td>14/01/19-05/04/20 06/05/19-26/07/20 12/07/19-30/09/20 09/10/20-12/20</td>
<td>13/01/20 – 04/04/21 06/04/20 – 27/06/21 27/07/20 – 17/10/21 12/10/20 – 02/01/22</td>
<td>20 hours/week Specific days will be advised during orientation Required training may be up to 1200 hours</td>
</tr>
</tbody>
</table>

| BSB51918 Diploma of Leadership and Management | Australian Year 12 (or equivalents) | Total: 68 weeks (60 study week +8 weeks break) Two Semesters | $7,000 | $500 | 4 Instalments Every 10 weeks | 14/01/19-10/05/20 13/05/19-30/08/20 29/07/19-15/11/20 14/10/19-31/01/21 | 13/01/20 – 02/05/21 04/05/20 – 22/08/21 24/08/20 – 12/12/21 09/11/20 – 27/01/22 | 20 hours/week Specific days will be advised during orientation Required training may be up to 1200 hours |

**Note:** Applies to all courses: students who enrol in packaged courses such as Diploma and Advanced Diploma of Business, must successfully complete the lower level course (Diploma) before commencing the higher level (Adv Diploma)

---

Item 5.7 - Attachment 3
## Course Details 2019

<table>
<thead>
<tr>
<th>VET Courses</th>
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<th>Instalment Plan</th>
<th>Intake Dates 2019</th>
<th>Intake Dates 2020</th>
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</tr>
</thead>
</table>
| BSB61015  
Advanced Diploma of Leadership and Management  
CRICOS Code 088685G | • IELTS 6.0 overall (or equivalent)  
• Any Diploma (or higher) business qualification OR 3 years of experience in a commercial situation at a senior support or technical role  
• CV submission is required prior to commencement and issuance of CoE | Total: 98 weeks  
(90 study weeks  
+8 weeks break)  
Four Semesters  
Not inclusive of unstructured training activities | $10,300 | $550 | 8 Instalments  
Every 10 weeks   | 14/01/19 - 29/11/20  
06/05/19 - 14/03/21  
26/08/19 - 04/07/21  
21/10/19 - 05/09/21 | 13/01/20 - 21/11/21  
11/05/20 - 27/03/22  
16/08/20 - 19/06/22  
05/10/20 - 14/08/22 | 20 hours/week  
Specific days will be advised during orientation  
Required training may be up to 1200 hours |
| BSB50215  
Diploma of Business  
CRICOS Code 087812M | • Australian Year 12 (or equivalent)  
• IELTS 5.5 overall (or equivalent)  
• Any Cert IV (or higher) business qualification OR 2 years experience in a commercial situation at a senior support or technical role  
• CV submission is required prior to commencement and issuance of CoE | Total: 66 weeks  
(60 study weeks  
+6 weeks break)  
Two Semesters  
Not inclusive of unstructured training activities | $7,000 | $400 | 4 Instalments  
Every 10 weeks   | 14/01/19 - 19/04/20  
22/04/19 - 26/07/20  
29/07/19 - 01/11/20  
04/11/19 - 07/02/21 | 13/01/20 - 18/04/21  
13/04/20 - 18/07/21  
26/07/20 - 24/10/21  
28/03/20 - 02/01/22 | 20 hours/week  
Specific days will be advised during orientation  
Required training may be up to 1200 hours |

Note: Applies to all courses: students who enrol in packaged courses such as Diploma and Advanced Diploma of Business, must successfully complete the lower level course (Diploma) before commencing the higher level (Adv Diploma)
## Course Details 2019

<table>
<thead>
<tr>
<th>VET Courses</th>
<th>Kingston Entry Requirements</th>
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<th>Resource Fees</th>
<th>Instalment Plan</th>
<th>Intake Dates 2019</th>
<th>Intake Dates 2020</th>
<th>Timing / Loading*</th>
</tr>
</thead>
</table>
| 85860215    | *IELTS 6.0 overall (or equivalent)  
* Any Diploma (or higher) business qualification OR 3 years of experience in a commercial situation at a senior support or technical role  
* CV submission is required prior to commencement and issuance of Cot | Total: 96 weeks  
(50 study week  
+ 6 weeks break)  
* Four Semesters  
* Not inclusive of unstructured training activities | $10,300 | $400 | 8 Instalments  
Every 10 weeks | 14/01/19 – 15/11/20  
08/04/19 – 07/02/21  
01/07/19 – 02/05/21  
23/09/19 – 25/10/21 | 13/01/20 – 14/11/21  
06/04/20 – 06/02/22  
08/06/20 – 10/04/22  
23/09/20 – 24/10/22 | 20 hours/week  
* Specific days will be advised during orientation  
* Required training may be up to 1200 hours |
| 10433NAT    | * Australian Year 11 (or equivalent)  
* IELTS 5.0 overall (or equivalent) | Total: 52 weeks  
(41 study weeks  
+ 11 weeks break)  
* Two Semesters | $6,900 | $400 | 5 Instalments  
Every 10 weeks | To be advised later | To be advised later | 20 hours/week  
* Specific days will be advised during orientation  
* Inclusive of 150 hours of supervised fieldwork |

Note: Applies to all courses: students who enrol in packaged courses such as Diploma and Advanced Diploma of Business, must successfully complete the lower level course (Diploma) before commencing the higher level (Adv Diploma)
## Course Details 2019

<table>
<thead>
<tr>
<th>VET Courses</th>
<th>Kingston Entry Requirements</th>
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<th>Instalment Plan</th>
<th>Intake Dates 2019</th>
<th>Intake Dates 2020</th>
<th>Timing / Loading*</th>
</tr>
</thead>
<tbody>
<tr>
<td>10434NAT Diploma of Christian Ministry and Theology (English)</td>
<td>Australian Year 12 (or equivalent)</td>
<td>Total: 83 weeks (87 study weeks + 16 weeks break) Three Semesters</td>
<td>$11,850</td>
<td>$400</td>
<td>7 Instalments Every 10 weeks</td>
<td>To be advised later</td>
<td>To be advised later</td>
<td>20 hours/week inclusive of 410 hours of supervised fieldwork</td>
</tr>
</tbody>
</table>

Note: Applies to all courses: students who enrol in packaged courses such as Diploma and Advanced Diploma of Business, must successfully complete the lower level course (Diploma) before commencing the higher level (Adv Diploma)
## Course Details 2019

<table>
<thead>
<tr>
<th>ELICOS Courses</th>
<th>Kingston Entry Requirements</th>
<th>Duration</th>
<th>Tuition Fees</th>
<th>Other Fees</th>
<th>Installment Plan</th>
<th>Intakes</th>
<th>Timetable</th>
</tr>
</thead>
<tbody>
<tr>
<td>General English (Full Time)</td>
<td>N/A</td>
<td>2-60 weeks</td>
<td>Day Classes $240/week</td>
<td>Resource Fees: $10/week Capped at $300 within the same enrolment</td>
<td>13-19 weeks 2 instalments 20-35 weeks 3 instalments</td>
<td>Every Monday</td>
<td>Day Classes Monday-Thursday 08:30am-02:30pm Session 1: 08:30am-10:00am 15 minutes break Session 2: 10:15am-12:00pm 45 minutes break Session 3: 12:45pm-02:30pm</td>
</tr>
<tr>
<td>General English (Part Time)</td>
<td>N/A</td>
<td>2-60 weeks</td>
<td>$180/week</td>
<td>Resource Fees: $8/week Capped at $240 within the same enrolment</td>
<td>13-19 weeks 2 instalments 20-35 weeks 3 instalments</td>
<td>Every Monday</td>
<td>Day Classes Monday-Thursday 08:30am-12:00pm Session 1: 08:30am-10:00am 15 minutes break Session 2: 10:15am-12:00pm</td>
</tr>
</tbody>
</table>

**Note:** Applies to all courses: students who enrol in packaged courses such as Diploma and Advanced Diploma of Business, must successfully complete the lower level course (Diploma) before commencing the higher level (Adv Diploma).
# Course Details 2019

<table>
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<th>ELICOS Courses</th>
<th>Kingston Entry Requirements</th>
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<th>Other Fees</th>
<th>Instalment Plan</th>
<th>Intakes</th>
<th>Timetable</th>
</tr>
</thead>
<tbody>
<tr>
<td>IELTS Intensive Preparation (Full Time)</td>
<td>IELTS 4.0 overall (or equivalent)</td>
<td>2-12 weeks</td>
<td>Evening Classes $220/week</td>
<td>Resource Fees: $10/week Capped at $300 within the same enrolment</td>
<td>12 weeks 2 instalments</td>
<td>Every Monday</td>
<td>Evening Classes Monday-Thursday 04:15pm-09:30pm Session 1: 04:15pm-05:15pm Session 2: 05:15pm-06:15pm ...15 minutes break...... Session 3: 07:00pm-08:15pm Session 4: 08:15pm-09:30pm</td>
</tr>
<tr>
<td>IELTS Intensive Preparation (Part Time)</td>
<td>IELTS 4.0 overall (or equivalent)</td>
<td>2-12 weeks</td>
<td>$180/week</td>
<td>Resource Fees: $9/week Capped at $240 within the same enrolment</td>
<td>12 weeks 2 instalments</td>
<td>Every Monday</td>
<td>Evening class Monday - Thursday Option 1: 04:15pm-06:45pm Option 2: 07:00pm-09:00pm Swapping options may attract processing fees</td>
</tr>
</tbody>
</table>

Note: Applies to all courses: students who enrol in packaged courses such as Diploma and Advanced Diploma of Business, must successfully complete the lower level course (Diploma) before commencing the higher level (Adv Diploma)
### 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.

<table>
<thead>
<tr>
<th>Comments Received in Objection:</th>
<th>Officers Comments:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Parking</strong></td>
<td>The applicant has proposed to develop 21 embyed parking spaces along the Stirling Street verge abutting the subject site, in order to alleviate the parking shortfall. This is in place of the 13 street parking bays currently existing in this location. The proposed embyed parking will not impact upon the street trees along Stirling Street, and will provide more public parking for the locality. The City would manage this proposed street parking to ensure that it is appropriately time restricted and metered to avoid workers from the local area using it as all day parking. This parking will not be for the exclusive use of the subject site, and therefore does not cancel out the proposed parking variation.</td>
</tr>
<tr>
<td>Limited parking at the complex. While the educational establishment has 24 dedicated parking bays, there are only 26 visitor parking bays for 130 apartments and the commercial building.</td>
<td>If the application were approved the applicant will be required to submit an application for a Building Permit for external works and internal fit out, which would include a Construction Management Plan and plans for traffic management.</td>
</tr>
<tr>
<td>The proposed use will have a negative impact on the surrounding area through traffic, noise and security.</td>
<td></td>
</tr>
<tr>
<td>The proposed use does not have any bays for their exclusive use and will rely on strained visitor parking within the residential complex.</td>
<td></td>
</tr>
<tr>
<td>The street parking is largely occupied by people parking there from early in the morning during the week.</td>
<td></td>
</tr>
<tr>
<td>The proposed use does not have any bays for their exclusive use and will rely on strained visitor parking within the residential complex.</td>
<td></td>
</tr>
<tr>
<td>The street parking is largely occupied by people parking there from early in the morning during the week.</td>
<td></td>
</tr>
<tr>
<td>Street parking is already an issue for this site. Typically the international students who study at Kingston College do not drive to the site, but people visiting a medical centre are very likely to drive. This will have a massive impact on the parking and traffic related issues in the area.</td>
<td></td>
</tr>
<tr>
<td>Traffic management and congestion during construction.</td>
<td></td>
</tr>
<tr>
<td><strong>Use</strong></td>
<td>The subject locality is a high density residential area abutting a commercial precinct along Beaufort Street. The site is considered to be at the interface between the residential and commercial zones, however it is zoned Residential, and this is taken into account when considering the intensity and scale of the proposed commercial use. Market forces would determine the viability of a medical centre in the area – the proliferation of use within an area is not a relevant planning consideration.</td>
</tr>
<tr>
<td>There are already a number of medical centres and pharmacies on Beaufort Street.</td>
<td>If a development approval were issued, Stage 1 of the medical development is proposed to begin imminently. During Stage 1, 10 Educational Establishment staff will remain in the upper floor level, with the medical practice operating from the ground floor level. The implementation of Stage 2 does not have a designated start date and its implementation will be dependent upon customer demand. Stage 2 is essentially an expansion of the medical centre.</td>
</tr>
<tr>
<td>A leisure style use such as a library would be a much better use.</td>
<td></td>
</tr>
<tr>
<td>This is a residential area, not a business area, and this use is not appropriate.</td>
<td></td>
</tr>
<tr>
<td>The proposed use will have a negative impact on the surrounding area through traffic, noise and security.</td>
<td></td>
</tr>
<tr>
<td>How will the staging of this development occur?</td>
<td></td>
</tr>
<tr>
<td>Will it be 15 patients every day or 15 patients every hour?</td>
<td></td>
</tr>
</tbody>
</table>
**Summary of Submissions:**

<table>
<thead>
<tr>
<th>Comments Received in Objection:</th>
<th>Officers Comments:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Safety and Security</td>
<td></td>
</tr>
<tr>
<td>• Security concerns with regards to a pharmacy being embedded in a residential area.</td>
<td>The potential for a pharmacy to attract people with substance abuse issues is not a relevant planning consideration in determining this application. The intensity and scale of the proposed commercial use on a site zoned Residential, and the potential for this use to attract a high number of visitors, is taken into account in terms of the impact on the amenity of the site.</td>
</tr>
<tr>
<td>• There are no details provided on who will monitor the security of the parking, with the parking provided behind security gates.</td>
<td></td>
</tr>
<tr>
<td>• The use of the apartment visitor bays is to the detriment of all residents of the apartments in terms of safety and security.</td>
<td></td>
</tr>
<tr>
<td>• Don’t want to attract people with drug related health issues to the site.</td>
<td></td>
</tr>
<tr>
<td>• The medical centre and pharmacy are likely to attract individuals with substance abuse issues. I would no longer feel safe leaving my apartment alone. There are already significant problems in the area with drug affected individuals.</td>
<td></td>
</tr>
<tr>
<td>• The medical centre would attract people with drug addictions, which would in turn lead to a decrease in property values.</td>
<td></td>
</tr>
<tr>
<td>• The use will attract junkies and thieves, and having a pharmacy nearby will compound this problem.</td>
<td></td>
</tr>
</tbody>
</table>

Note: Submissions are considered and assessed by issue rather than by individual submitter.
**proposed highgate medical centre**
131 harold street highgate

**Heritage Assessment Report**
Reinstated Front Fence & New Lift Installation.
15 February 2019
Statement of Significance - extract from state heritage wa

St Marks International College (former Christian Brothers High School) is a fine example of a private school in the Interwar Georgian Revival style. The site has been used for church and educational purposes for over a century. It has associations with the Sacred Heart of Jesus, St Margaret Mary Alacoque, the Christian Brothers and Bishop Gibney.

Physical Description - extract from state heritage wa

A large two storey school building with many features of the Inter War Georgian Revival style. The red brick building has a strongly rectangular shape. The vertically proportioned sash windows are multi-paned and have a heavy stucco sill and lintel. The main roof is hipped, and there are two projecting gable roofed sections facing Stirling Street - one over the main entrance portico and the other at the southern, slightly set back end of the building. The porticos have Tuscan columns and rendered surrounds. A heavily stuccooed arched opening (with semi circular fanlight), leading to a small balcony with metal balustrade, sits above the main entrance portico. The portico facing Harold Street has a classical balustraded balcony above it. Minimal setbacks from both streets where the low perimeter fence is brick topped with decorative metal railings.

History - part extract from state heritage wa

The main building of the school was completed in 1935 in Stirling Street on the corner of Harold Street on a large block. In February 1936 the Christian Brother’s Intermediate School was opened to provide upper primary and secondary education for boys from Sacred Heart Primary School and surrounding areas. The building comprised classrooms and a residence for the Brothers.

In 1939, two classrooms and an Assembly Hall were added. By this time it was known as Christian Brother’s High School and Brother Kenyon was the headmaster and also the form master for the Junior year.

In 1988 the school was closed down and sold by the Christian Brothers.

St Marks International College operated an English language school on the Highgate site from 1989 until January 2010.

In 2011 the site was sold, and a new Residential Apartment development was built on the site.

Kingston International College commenced operation from the original buildings in 2012.

Proposed Medical Centre

The changing face of education from traditional learning in a classroom to online learning mandates that a new commercial purpose be found for the former Christian Brother’s Intermediate School.

The proposed medical centre does not require any changes to the external appearance of the historical buildings other than as required by AS 1468 Design for Access & Mobility.

No changes to the elevations to Harold or Stirling Street are required.
Original Stage One prior to 1939.
Photo from Brother Keenan Photo Album published by Highgate Old Boys Association (HOBA)

1942 after new south wing added showing timber post & rail fence
Photo from Brother Keenan Photo Album published by Highgate Old Boys Association (HOBA)
1936 Original Courtyard - Balustrade detailing has subsequently been altered. Date unknown.

Photo from Brother Keenan Photo Album published by Highgate Old Boys Association (HOBA)

Courtyard prior to 2011 - Current Balustrade detailing shown

Photo from Highgate Old Boys Association (HOBA)
Proposed External Lift

To comply with AS1468 it is proposed to install an external lift to the rear courtyard to the former Christian Brother’s Intermediate School.

The lift is separate from the existing structure and requires only changes to the first floor balustrade to provide access to the verandah to comply with AS1468.

This new structure will be built in matching red brick and cream mortar in a complementary architectural style.

The new lift structure is not visible from Stirling Street or Harold Street.

Details of the proposed structure are shown on the attached plans.

Proposed New Front Fence

The current brick and iron boundary fence was built around 1955 - 1965 in this firm’s opinion.

The original Christian Brother’s Intermediate School was built from 1936. The south wing was added in 1939 comprising two classrooms and a gymnasium.

Early photos dated from 1942 show that the front fence to Stirling & Harold Streets was a timber post & rail structure.

The current brick fence is constructed of red brick with grey cement mortar capped by a wrought iron railing typical of the 1955 – 1965 era.

The current brick & iron fence / part retaining wall is in poor condition. A full depth structural crack exists on the Harold Street elevation close to where the circular brickwork finishes. The wall west of the structural crack has rotated out towards Harold Street and will eventually topple.

The current brickwork is very heavily stained with bore water to a brown colour and no longer matches the red brick historical buildings.

The wrought iron is heavily rusted and only has minute evidence of a former paint coat in heritage green colour.

To restore the brick & wrought iron fence it is proposed to rebuild the brickwork & iron fence in its entirety in matching red brick & cream mortar and reuse the wrought iron component.

The wrought iron will be cleaned of rust and repainted in a heritage green colour. The RHS posts supporting the iron will likely require replacement due to rust damage.

The fence is to be relocated 850mm westwards from Stirling street to accommodate the new street parking layout. The 850mm is exactly one wrought iron panel to ensure the architectural outcomes match the original fence.

The new brickwork will be sealed to minimise future staining from bore water.
Details of the proposed new fence / retaining wall are shown on the attached plans.
Photos showing current condition of brickwork & wrought iron fence.
Heavy iron staining and rusting of iron is evident.
Conclusion

Rebuilding entirely the existing retaining wall & iron fence will restore the fence to its original installed condition with the exception of grey mortar being replaced with cream mortar.

A new fence will complement the existing structure as the original builders of the fence intended.

The outcome will enhance the heritage value of the existing buildings.

The new lift structure has only a very minimal impact on the existing balustrade and is clear of the existing structure.

It is to be built in a complementary architectural style.

The lift structure is not visible from Stirling or Harold Streets and will therefore have no visual impact on the historical nature of the existing buildings as seen from the street.

The lift structure will not typically be viewed from the west but only from under the verandah.

Typically given the approach path of visitors to the building the new lift structure cannot be seen in context with the entirety of the western elevation of the building.
Christian Brothers High School (fmr)

AUTHOR  City of Vincent

PLACE NUMBER  02179

LOCATION
131 Harold St Highgate

LOCATION DETAILS
St Mark’s International College

LOCAL GOVERNMENT
CONSTRUCTION DATE
Constructed from 1936 to 1949

REGION
Metropolitan

DEMOLITION YEAR
N/A

Statutory Heritage Listings

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<th>DATE</th>
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Other Heritage Listings and Surveys

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<td>RHIP - To be assessed</td>
<td>Current</td>
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Statement of Significance

St Marks International College (former Christian Brothers High School) is a fine example of a private school in the Interwar Georgian Revival style. The site has been used for church and educational purposes for over a century. It has associations with the Sacred Heart of Jesus, St Margaret Mary Alacoque, the Christian Brothers and Bishop Gibney.

Physical Description

A large two-storey school building with many features of the Inter War Georgian Revival style. The red brick building has a strongly rectangular shape. The vertically proportioned sash windows are multi-paned and have a heavy stucco sill and lintel. The main roof is hipped, and there are two projecting gable roofed sections facing Stirling Street - one over the main entrance portico and the other at the southern, slightly set back end of the building. The porticos have Tuscan columns and rendered surrounds. A heavily stuccoed arched opening (with semi circular fanlights), leading to a small balcony with metal balustrade, sits above the main entrance portico. The portico facing Harold Street has a classical balustraded balcony above it. Minimal setbacks from both streets where the low parapet fence is brick topped with decorative metal railings. None apparent

History

In 1892, land in Highgate Hill was acquired by Catholic Bishop Matthew Gibney for a very moderate sum, considering its market value and it has been suggested that he and developer Alexander Forrest had a prior arrangement. By 1896 the majority of the lots in this estate, known as the Mount Heart Estate, had been sold to prominent Perth families. A two acre site for church and school, known as Alacoque Square, after the Sacred Heart of Jesus, St Margaret May Alacoque, was set aside in the centre of the subdivision. The Sacred Heart Monastery, Primary School and Church were developed on the site by the Roman Catholic Diocese.
Christian Brothers was founded by Edmund Rice (1762-1844) in Waterford, Ireland in 1802. They are a Roman Catholic religious congregation of lay men which operate in 26 countries around the world, with their headquarters in Rome. In 2008 the brothers numbered circa 1,850. The PWD City & Suburbs plans circa 1897 show a narrow, rectangular building fronting Harold Street which may have been erected originally on this block. The main building of the school was completed in 1935 in Stirling Street on the corner of Harold Street on a large block. In February 1936 the Christian Brother’s Intermediate School was opened to provide upper primary and secondary education for boys from Sacred Heart Primary School and surrounding areas. The building comprised classrooms and a residence for the Brothers. The parish financed the construction of the school section and the Christian Brothers financed the residential section on the corner of Harold and Stirling streets. The first enrolment was 160 pupils, most of them from Highgate, Maylands, Leederville and West Perth areas. Within a year the numbers had increased to over 200. In 1939, two classrooms and an Assembly Hall were added, at a cost of $8356.3.630.13.9. By this time it was known as Christian Brother’s High School and Brother Kenyon was the headmaster and also the form master for the Junior year (Year 10). There was some gymnasium equipment (parallel bars, horse, etc.) and one tennis court in the school grounds. The rest of their sport was played across the road at Forrest Park, where the boys also spent most of their lunchtimes playing cricket or football. Theo Symons who was a foundation student said, “the brothers were a bit tough in those days. They were trying to create a name for the school and they were a bit severe on the students.” (Theo Symons, OH0173). His summer uniform included a pith helmet; this was replaced with a cap in winter. Further building work has been carried out in more recent times and a swimming pool was installed by Sunny West Pools in 2000. Other recent alterations have included a modern cafeteria for the staff and students. The former College has been occupied as a private tutorial college, known as St Mark’s International College for some years. This college provides courses for improving English speaking, reading, listening and writing skills for all levels of ability. It has a very strong reputation in this area and in 2004 the school won the West Australian Industry & Export Award for its work with overseas students.

Integrity/Authenticity

High

Creation Date 28 Apr 1989     Last Update 03 Jan 2018
Publish place record online (InHerit): Approved 2018

Disclaimer

This information is provided voluntarily as a public service. The information provided is made available in good faith and is derived from sources believed to be reliable and accurate. However, the information is provided solely on the basis that readers will be responsible for making their own assessment of the matters discussed herein and are advised to verify all relevant representations, statements and information.
proposed highgate medical centre
131 harold street highgate

submission to city of vincent
Report on Visitor Carparking Bay Utilization.
14 February 2019
introduction

This report on the availability of Visitor Car parking Bays to the Proposed Medical Centre is based upon a car parking survey of car bays occupied during business hours Monday to Friday inclusive.

methodology

To gather information on the current utilization of the existing visitor bays onsite a physical survey of every visitor car bay was conducted 5 times a day for a full week. Survey times were 8.30am, 10.30am, 12.00noon, 2.00pm and 4.00pm. The registration detail of every vehicle was recorded and is shown on the attached spreadsheet.

planning Conditions

The original Planning conditions for the development states:

Car Parking and Access ways
the on-site car parking area for the non-residential component shall be available for the occupiers of the residential component outside normal business hours;
The car parking area shown for the non-residential component shall be shown as ‘common property’ on any strata or survey strata subdivision plan for the property; and
(d) the car park shall be used only by employees, tenants, and visitors directly associated with the development;

The planning conditions make the car parking available to visitors only during business hours.

survey results

From the survey it is clear that residents or unauthorised persons are using the visitor’s car bays in contravention of the original planning approval.

The attached spreadsheet shows all residents cars or cars that part in the visitors bays on a regular basis in red.

Visitors are shown in black, cars which have infrequent visits to the site.

Car bays shown in green are visitors on a semi regular basis which cannot be reasonably determined as residents due to the frequency of use. The green bays are included in the survey results as visitors.

Some cars may belong to students but during the survey it was noted that students with cars parked in the street in the vicinity and not in the designated visitor bays.

Once construction of the medical centre starts Kingston college will revert to online learning and not onsite traditional education thereby minimising the car parking required for students.

The average number of available visitor parking bays between 8.30am and 4.00pm is 10.2

The average number of available visitor bays including 8.30am and 4.30pm timeslots is 8.5
The average number of visitors visiting the site is 3.12 with a maximum of 8 at any one time.

The average number of car bays occupied by residents or unauthorised persons is 14.36

unauthorised car parking

The survey has identified that an issue exists with unauthorised use of the existing visitor car bays on the site.

A review of registration numbers shows that 4 vehicles have never moved or only for very short periods of time during the full week that the survey was conducted.

The possibility exists that vehicle registration 1CAY464 may be abandoned.

The survey has shown that a further four vehicles have moved occasionally but occupied bays almost full time.

The remainder of identified vehicles shown in red on the attached spreadsheet occupy visitor car bays for extensive periods of time over the week.

Recommendations

A policy of enforcement of the existing planning conditions needs to be implemented.

The recommendations are:

1. Create a visitor's car parking policy to conform with the current planning approval for the site. Obtain strata approval for the policy. It's recommended to limit the period of parking to 1 hour and seek enforcement of policy after 2 hours of a carbay being occupied.
2. Register the visitor’s carpark with the City of Vincent. Annual Fee $200.00 ( signage 35.00 each )
3. The visitors bays are to be registered as exempt from permits with the City of Vincent to avoid residents seeking to use the car bays by avoiding the original planning conditions.
4. Install electronic monitored video surveillance able to view every visitor bay.
5. Authorise up to 3 persons to control the visitor bays usage through monitoring of the surveillance video.
6. Report any contraventions of the site visitor car parking policy to the Shire of Vincent for them to issue infringement notices.

A copy of the application forms for a registered private carpark are included in this report.

available visitor bays

Once enforcement of the existing planning conditions occurs and the carpark is registered as a private carpark with the City of Vincent the current unauthorised use of visitor car bays will cease.

The survey indicates that only an average of 3.12 visitor car bays are occupied at any one time with a maximum number of 8 on two occasions at 4.30pm only.

The available number of visitor car bays for the commercial development will increase to about 23 on average and to a minimum of 18 on occasions once the car parking compliance policy is enforced.
APPLICATION FORM

AUTHORITY FOR THE CITY OF VINCENT RANGER SERVICES AND COMMUNITY SAFETY SECTION TO ISSUE INFRINGEMENT NOTICE/S ON PRIVATE PROPERTY LAND UNDER THE CITY OF VINCENT PARKING AND PARKING FACILITIES LOCAL LAW.

PROPERTY TO BE POLICED:

Address: __________________________________________

Name of Building: __________________________________

Postal Address: ____________________________________

PLEASE COMPLETE OVERLEAF IF STRATA PROPERTY

LAND OWNER DETAILS:

Name: ____________________________________________

Address: __________________________________________

Contact No: ________________________________________

AUTHORISED COMPLAINANTS (Maximum 3 persons only)
(Please Print Clearly)

1. Name: __________________________ Title: __________ Company: ____________________

Phone: __________________________ Signature: __________________________

1. Name: __________________________ Title: __________ Company: ____________________

Phone: __________________________ Signature: __________________________

1. Name: __________________________ Title: __________ Company: ____________________

Phone: __________________________ Signature: __________________________

Please indicate if property is leased: YES ( ) NO ( )

AUTHORITY TO ENTER PROPERTY

I hereby authorise the Council to act on behalf of the complainant/s whose name/s appear/s above and lawfully confer an authorised Officer of the Council rights of entry at all reasonable times to enter the aforementioned building and/or land as the case may be for the purpose of issuing infringement notices on private property land under the City of Vincent Parking and Parking Facilities Local Law.

Signed: ___________________________ (Owner/Agent) Date: ____________________
- 2 -

ANY CHANGE TO NAME OF AUTHORISED COMPLAINANT/S TO BE ADVISED IN WRITING TO:
RANGER AND COMMUNITY SAFETY SERVICES
CITY OF VINCENT
PO BOX 82
LEEDERVILLE WA 6902

STRATA TITLED PROPERTIES

Title No.: ........................................ Volume: ....................... Folio: ........................................

Residential ( ) Commercial ( )
(Please tick)

RESIDENTIAL ONLY:

Number of Units: .................................

Are all units managed by the same Agent? YES ( ) NO ( )
(Please tick)

NOTE: If property is managed by more than one agent, the authorised complainants must be nominated by all agents and any individual lessees of the property.

PAYMENTS – PRIVATE CAR PARK ANNUAL REGISTRATION FEE

PLEASE COMPLETE THIS SECTION IF PAYING BY CREDIT CARD

Name shown on card

Card holder address

Telephone number ................................ Signature

Amount $ ................................ Expiry date ___/___ Card type (Visa etc)

Card number ___ ___ ___ / ___ ___ / ___ ___ / ___ ___
- 3 -

CONDITIONS

A COPY OF THESE CONDITIONS TO BE RETAINED BY ALL NOMINATED COMPLAINANT/S AND OWNER/S

1. Eligibility

Subsequent to a Council resolution on 4 November 2014, all registered private car parks within the City of Vincent will now be subject to an annual registration fee of $200 effective as from 1 January 2015.

As the owner/managing agent of a registered private car park, you will now be required to pay the approved annual registration fee of $200 to ensure the private car park remains registered with the City.

Where the owner/occupier of a commercial property invites the public to park vehicles on that property, the property cannot be registered as a private property and, therefore, will not be policed by the Council. The City will undertake spot-checks to ensure that this Policy is being adhered to and may cancel the registration for properties found to be encouraging customer/client/visitor etc parking.

2. Sketch Plan of Area/Certificate of Title

The Owner or their Agent will supply to the City of Vincent a sketch plan (A4 size) indicating in detail the location of the area to be policed and detailing the numbers of bays affected.

The Owner or their Agency will also supply a copy of the current Certificate of Title to the City of Vincent. If the Title consists of more than one page, then copies of all pages are to be supplied.

3. Display of Signs

The Owner or their Agent will for the duration of this registration display and maintain a sign provided by the City of Vincent indicating that the area is private property and advising that unauthorised parking is subject to a penalty of up to $5000.00 under the City of Vincent Parking and Parking Facilities Local Laws.

4. Change of Ownership

Should the ownership of the property change, the new owner must notify the City of Vincent forthwith and complete a registration form. A copy of the new Certificate of Title must be forwarded with the application.

5. Change of Managing Agents and/or Complainant/s

Providing this does not affect the ownership of the property, notification in writing must be received within seven days.
6. **Issuing of Infringement Notices**

The City of Vincent Ranger Services will only issue infringement notices to vehicles parked on the property that have not received prior permission from any person associated with the said property. This information must be ascertained prior to calling the City of Vincent.

It should be stressed that in cases where staff, tenants or any authorised persons use parking bays other than those allocated to them, the problem is considered to be of a “domestic” nature and must be dealt with accordingly.

Each property will be given a registration number and the City of Vincent will only act on the complaint after the registration number has been quoted by the authorised complainant to Ranger Services.

The person/s nominated as the complainant will be required to meet the Ranger on site and indicate the offending vehicle/s. If the nominee fails to comply with the above within five minutes of the nominated time, the Ranger will vacate the premises and no action will be taken.

The nominee will be required to complete the necessary Witness Complaint form in the presence of the Ranger.

No action will be taken if the offending vehicle/s is/are not given the opportunity to leave the premises within a reasonable time and/or are obstructed from leaving the premises in any way.

No action will be taken if the attending Officer deems it unnecessary.

Infringement Notices will only be issued between the hours of 8am to 5pm Monday to Friday. All other times are at the discretion of the Ranger Services Section and subject to the availability of staff.

7. **Cancellation of Infringement Notices**

Should the Owner or their Agent request an Infringement Notice to be withdrawn, they must;

(a) request in writing to the City of Vincent to withdraw the Notice and the letter must be signed by an Authorised Complainant or the Owner or their Agent;

(b) submit an administration fee of $50.00 (per notice) which must accompany the correspondence;

(c) any request to withdraw a Notice must comply with the above and be received by the City of Vincent within seven days of the issuing date of the Notice; and

(d) any request received after the said time may not be cancelled.

8. **Witness at Court**

Should an infringement notice result in action being taken to the Magistrates Court for the recovery of the penalty, the complainant (who witnessed the alleged offence) agrees to attend Court as a witness.
**Determination Advice Notes:**

1. A 'medical centre' means premises other than a hospital used by 3 or more health practitioners at the same time for the investigation or treatment of human ailments and for general outpatient care.

2. All 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 Building Permit application, being submitted and approved prior to the erection of the signage.

3. 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.

4. If the 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. This is a development approval issued under the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme only. It is not a building permit or an approval to commence or carry out development under any other law. It is the responsibility of the applicant/owner to obtain any other necessary approvals and to commence and carry out development in accordance with all other laws.

6. The obligation to comply with the requirements of a time limited condition continues whilst the approved development exists.
**TRIM Ref:** D19/40426  
**Author:** Karsen Reynolds, Urban Planner  
**Authoriser:** John Corbellini, Executive Director Development Services  
**Ward:** North  
**Attachments:**  
1. Attachment 1 - Consultation and Location Map  
2. Attachment 2 - Development Plans Deferral  
3. Attachment 3 - Development Plans  
4. Attachment 4 - Applicant Justification and Supporting Information  
5. Attachment 5 - Design Review Panel Comments  
6. Attachment 6 - Applicant Response to First Community Consultation Submissions  
7. Attachment 7 - Applicant Response to Second Community Consultation Submissions  
8. Attachment 8 - Administration’s Response to Summary of Submissions  
9. Attachment 9 - Photos of Site and Surrounding Context  
10. Attachment 10 - Streetscape Analysis

**RECOMMENDATION:**

That Council, in accordance with the provisions of the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme, REFUSES the application for a proposed Single House at No. 58 (Lot: 301 & 302; D/P: 34680) Kalgoorlie Street, Mount Hawthorn, in accordance with the plans provided in Attachment 2, for the following reason:

1. As a consequence of the large blank walls to the front façade the proposal:
   1.1 results in a bulk, scale and dominating appearance that is not compatible with and complementary to the established residential area in which it is located (Clause 67(m) of the deemed provisions in Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015) and is inconsistent with an objective of the Residential zone under the Scheme;
   1.2 would detract from the amenity and character of the residential neighbourhood (Clause 67(n) of the deemed provisions in Schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015) and is inconsistent with an objective of the Residential zone under the Scheme; and
   1.3 is not an appropriate design for the context of place and is inconsistent with Objective 1.3.1(a) of State Planning Policy 3.1: Residential Design Codes.

**PURPOSE OF REPORT:**

To consider an application for development approval for a Single House at No. 58 Kalgoorlie Street, Mount Hawthorn (subject site).

**PROPOSAL:**

The application proposes a two-storey single house at No. 58 Kalgoorlie Street, Mount Hawthorn.
BACKGROUND:

<table>
<thead>
<tr>
<th>Landowner:</th>
<th>Caitlin Kyron</th>
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<tbody>
<tr>
<td>Applicant:</td>
<td>Konstantine Dean Kyron</td>
</tr>
<tr>
<td>Date of Application:</td>
<td>3 October 2018</td>
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<tr>
<td>Zoning:</td>
<td>MRS: Urban LPS2 Zone: Residential R Code: R30</td>
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<td>Single House</td>
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<td>Proposed Use Class:</td>
<td>Single House</td>
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<tr>
<td>Lot Area:</td>
<td>Lot 301: 374 square metres Lot 302: 250 square metres Total Lot Area: 624 square metres</td>
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<tr>
<td>Right of Way (ROW):</td>
<td>No</td>
</tr>
<tr>
<td>Heritage List:</td>
<td>No</td>
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</table>

The subject site is bound by Kalgoorlie Street to the west, and developed residential lots to the north, east and south. The site is currently accommodates a double-storey detached dwelling, which is proposed to be demolished. The surrounding residential developments are single-storey and two-storey single houses. On the opposite side of Kalgoorlie Street are single-storey and two-storey single houses and grouped dwelling developments (refer to the location plan included in Attachment 1). The subject site and adjoining properties are zoned Residential R30 under the City’s Local Planning Scheme No. 2 (LPS2) and have been identified as a Residential Built Form Area as prescribed under the City’s Local Planning Policy No. 7.1.1 – Built Form (Built Form Policy).

An application to amalgamate Lot 301 and Lot 302 into a single lot on a Certificate of Title has been lodged with the Western Australian Planning Commission (WAPC). Administration provided a recommendation for approval for the proposed amalgamation. The WAPC granted conditional approval subject to conditions for the proposed amalgamation on 7 February 2018.

The development was presented to Council at its Ordinary Council Meeting on 5 March 2019. The application was deferred by Council to enable the applicant time to address Council’s reasons for deferral relating to the front façade, engagement to the streetscape and the overall bulk of the development. The development plans presented to Council on 5 March 2019 that resulted in the deferral are included as Attachment 2.

The applicant provided amended development plans that involve the following changes:

- Ground floor and upper floor setback from the dwelling to the eastern boundary increased from 2.77 metres to 4.1 metres;
- Bedroom 3 and the external stairs have been removed and replaced with an unroofed terrace on the first floor;
- The rooftop terrace has been reduced in size and the setback from the eastern lot boundary to the roof terrace has increased from 7.5 to 9 metres;
- The spa has been removed;
- The master bedroom window facing the primary street has increased in size and now meets the definition of ‘major opening’ within the R Codes;
- Additional landscaping and planter boxes provided on terraces;
- Bench seats included within the front setback area; and
- Additional information regarding the materials proposed to be used in the façade to a texture style render.

A copy of the amended development plans have been included as Attachment 3 and applicant justification and supporting information for the proposal is included as Attachment 4.

The applicant submitted an application for review to the State Administrative Tribunal (SAT) for a deemed refusal on 7 March 2019. The matter has been listed for a Directions Hearing on 9 April 2019. On 22 March 2019 the applicant provided the City and the SAT with written consent to proceed with the determination of the application at the April 2 Ordinary Meeting of Council. Pursuant to Clause 26(d) of the State Administrative Tribunal Act 2004 the City can proceed with the determination of the application.
DETAILS:

Summary Assessment

The table below summarises the planning assessment of the proposal against the provisions of the City of Vincent Local Planning Scheme No. 2 (LPS2), 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.

<table>
<thead>
<tr>
<th>Planning Element</th>
<th>Use Permissibility/Deemed-to-Comply</th>
<th>Requires the Discretion of Council</th>
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<tbody>
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<td>Street Setback</td>
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<tr>
<td>Front Fence</td>
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<tr>
<td>Building Setbacks/Boundary Wall</td>
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<tr>
<td>Building Height/Storeys</td>
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<td>Sightlines</td>
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<td>Parking and Access</td>
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<tr>
<td>Solar Access</td>
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<tr>
<td>Setback of Garages and Carports</td>
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<tr>
<td>Site Works/Retaining Walls</td>
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<tr>
<td>Essential Facilities</td>
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<td>External Fixtures</td>
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<td>Surveillance</td>
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<td>Outbuildings</td>
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</tbody>
</table>

Detailed Assessment

The deemed-to-comply assessment of the element that requires the discretion of Council is as follows:

<table>
<thead>
<tr>
<th>Building Setbacks/Boundary Wall</th>
<th>Deemed-to-Comply Standard</th>
<th>Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 5.1.3 of the R Codes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Northern Boundary</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Upper floor terrace privacy screens require a 3.1 metre setback from the northern boundary</td>
<td>Upper floor terrace privacy screens provide a 1.5 metre setback from the northern boundary</td>
<td></td>
</tr>
<tr>
<td>Southern Boundary</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Upper floor rumpus room and spiral stairs requires a 3.3 metre setback from the southern boundary</td>
<td>Upper floor rumpus room and spiral stairs provides a 2.1 metre setback from the southern boundary</td>
<td></td>
</tr>
<tr>
<td>Upper floor passageway requires a 1.8 metre setback from the southern boundary</td>
<td>Upper floor passageway provides a 1.6 metre setback from the southern boundary</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Front Fence</th>
<th>Deemed-to-Comply Standard</th>
<th>Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 5.10 of the Built Form Policy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Piers to have a maximum width of 400 millimetres</td>
<td>Piers propose a maximum width of 1.0 metre</td>
<td></td>
</tr>
<tr>
<td>The distance between piers should not be less than the height of the piers</td>
<td>The distance between piers is less than the height of the piers</td>
<td></td>
</tr>
</tbody>
</table>
Sightlines

<table>
<thead>
<tr>
<th>Deemed-to-Comply Standard</th>
<th>Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 5.2.5 of the R Codes</td>
<td>North of the proposed driveway: One pier and fence infill with a height of 1.2 metres is within 1.5 metres of the driveway South of the proposed driveway: One pier and fence infill with a height of 1.2 metres is within 1.5 metres of the driveway</td>
</tr>
</tbody>
</table>

Solar Access

<table>
<thead>
<tr>
<th>Deemed-to-Comply Standard</th>
<th>Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 5.4.2 of the R Codes</td>
<td>Shadowing proposed to Lot 303 and Lot 23 to the south of the subject site Shadow projection to Lot 303: 70.8 percent Shadow projection to Lot 23: 7 percent</td>
</tr>
</tbody>
</table>

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

CONSULTATION/ADVERTISING:

Community consultation was undertaken in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015, for a period of 14 days commencing on 9 November 2018 and concluding on 22 November 2018. Community consultation was undertaken by means of written notification being sent to surrounding landowners, as shown in Attachment 1 and a notice on the City’s website.

The City received 40 submissions; all objecting to the proposal. A summary of the submissions received and the Applicant’s response is provided in Attachment 6.

Following the first consultation period, the applicant sought to respond to the objections through the submission of amended plans, which involved the following modifications:

- Increased upper floor street setback from 4.9 metres to 7.5 metres and additional detail provided to the façade design;
- Reduction in boundary wall heights;
- Re-design to the southern walls to provide greater articulation and design detail;
- Reduction in the building height from 8.52 metres to 7.6 metres;
- Modifications to the front fence including the reduction of pier widths within vehicle sightline areas;
- Increased deep soil areas from 9.9 percent to 12.6 percent;
- Provision of privacy screens to raised terraces; and
- Increased setback from the rooftop terrace to the northern boundary.

Administration advertised the application for a second time to allow the community to provide feedback on the amended plans. The application was advertised for a period of 16 days between 16 January 2019 and 1 February 2019, to adjoining properties. The standard 14 days for neighbour consultation was extended by two business days due to technical problems on the City’s website.

Following the second advertising period the City received a total of 75 submissions; 34 in support; and 41 objecting to the proposal. A summary of the submissions received and the Applicant’s response is provided in Attachment 7.

A summary of all of the submissions received along with Administration’s comments on each is provided in Attachment 8.

The submissions received during the second advertising period are summarised with their relative locations in the table below.
Submissions received during the second advertising period

<table>
<thead>
<tr>
<th></th>
<th>Within 100 metres of subject site</th>
<th>More than 100 metres from subject site</th>
<th>All submissions</th>
</tr>
</thead>
<tbody>
<tr>
<td>SUPPORT</td>
<td>0%</td>
<td>100%</td>
<td>36.6%</td>
</tr>
<tr>
<td>OBJECT</td>
<td>58.5%</td>
<td>41.5%</td>
<td>63.4%</td>
</tr>
<tr>
<td>OTHER (not stated/no opinion)</td>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

The concerns raised in the submissions, which reiterated previous concerns received are as follows:

- Development results in building bulk to the street and adjoining properties;
- Adverse amenity impacts to adjoining properties;
- Overlooking provided to adjoining properties;
- Overshadowing provided to adjoining properties;
- Lack of deep soil zones and canopy cover;
- Development is not respectful of the local context;
- Development is not consistent with and does not contribute to the established built form and character of the streetscape and suburb; and
- Overdevelopment of the site.

Design Review Panel (DRP):

Referred to DRP: Yes

The development has been referred to DRP on one occasion following receipt of the application by Administration. Attachment 5 contains the development plans presented to the DRP and an extract of the minutes from the meeting.

The proposal was presented to the DRP on 6 February 2019, with comments raised by the DRP summarised as follows:

- Passive surveillance is important. Mt Hawthorn has a friendly and engaging community. House appears gated and is turning its back on the street;
- Glazing of the study is so far from the right that it is not visible. Look at increasing glazing on the ground floor such as to the study or the mudroom;
- A big window on upper level and flipping the master suite layout would be a good outcome for surveillance and softening the upper floor façade;
- Suggest putting a side window to the front door or could make front door glass to have better interaction between the street and house;
- Consider a perforated garage door. This would provide privacy but also create more transparency;
- No concerns with the contemporary nature. Architectural intent is very bold and strong, however the design does not seem to fit into the area;
- There is insufficient information provided on surrounding context as shown on floorplans, elevations and perspectives. Show the adjoining buildings to illustrate how the proposal responds to the surrounding context;
- Look at adding in additional materials to the front façade such as brickwork to relate to the local context.
- Review and amend building height to comply; and
- Look at planting choices within the front setback area, such as fruit trees, to provide greater depth and to draw the eye into the site.

The applicant submitted amended plans to on the 7 February 2018 in response to DRP comments, which involved the following modifications:

- Increased deep soil zones provided on site;
- Garage door amended from a solid door to perforated mesh;
- Front door to the dwelling amended from obscured glass to visually permeable glass;
- Additional circle window provided to the ground floor study;
- Building height reduced to meet relevant deemed-to-comply standards;
- Front fence materiality amended to white brickwork with rendered piers;
- Upper floor master suite floor plan amended to allow for increased surveillance to the street from the openings on the front facade; and
- Tree species to the front setback area amended to reflect DRP recommendations.
Comments received from the DRP have been discussed in the Comments section of this report.

LEGAL/POLICY:

- Planning and Development Act 2005;
- State Administrative Tribunal Act 2004
- Planning and Development (Local Planning Schemes) Regulations 2015;
- City of Vincent Local Planning Scheme No. 2;
- State Planning Policy 3.1 – Residential Design Codes;
- Policy No. 4.1.5 – Community Consultation; and
- Policy No. 7.1.1 – Built Form Policy.

The City is to have due regard to the matters contained under Clause 67 of the Planning and Development (Local Planning Scheme) Regulations 2015 and the objectives of the R Codes and relevant zone when exercising its discretion. An assessment of the matters and objectives relevant to this proposal is provided within the comments section of this report.

Matters to be considered

The following matters set out in Schedule 2, Clause 67 of the Planning and Development (Local Planning Schemes) Regulations 2015 are relevant matter Council is to have due regard to as part of determining this application:

m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;

n) the amenity of the locality including the following –

   (i) environmental impacts of the development;
   (ii) the character of the locality; and
   (iii) social impacts of the development.

The following objective of the Residential zone under City’s LPS2 is a relevant consideration for Council to have due regard to when determining this application:

- To enhance the amenity and character of the residential neighbourhood by encouraging the retention of existing housing stock and ensuring new development is compatible within these established areas.

The following objectives of the R Codes matter are relevant matters that Council is to have due regard to when determining this application:

- To provide residential development of an appropriate design for the intended residential purpose, density, context of place and scheme objectives;
- To encourage design consideration of the social environmental and economic opportunities possible from new housing and appropriate response to local amenity and place; and
- To encourage design which considered and respects heritage and local culture.

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 would have the right to apply to the State Administrative Tribunal for a review of Council’s determination.

The deemed-to-comply rear lot boundary standards set out in the Built Form Policy have not been approved by the Western Australian Planning Commission (WAPC). As a result, the assessment would only have ‘due regard’ to those deemed-to-comply rear setbacks approved by Council in the Built Form Policy.

The deemed-to-comply landscaping standards set out in the Built Form Policy have not been approved by the Western Australian Planning Commission (WAPC), which have instead issued approval for a modified set of deemed-to-comply landscaping standards that are similar to those set out in Design WA but which have not been approved by Council. As a result, the assessment would only have ‘due regard’ to those deemed-to-comply landscaping approved by Council in the Built Form Policy.
Delegation to Determine Applications:

This matter is being referred to Council for determination as the proposal has received more than five objections during the City’s community consultation period.

RISK MANAGEMENT IMPLICATIONS:

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:

This is in keeping with the City’s Strategic Community Plan 2018-2028:

Innovative and Accountable

*We are open and accountable to an engaged community*

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

As detailed within the table above, discretion is required for various elements. The proposed development has been considered against the relevant objectives and design principles below.

Lot Boundary Setbacks

*North*

The application involves an upper floor setback of 1.5 metres from the terrace (located to the front of the property) to the northern lot boundary. The terrace requires a 3.1 metre setback.

In considering the acceptability of the lot boundary setback proposed, the following is noted:

- The City received neighbour concerns in relation to overlooking from the terrace; over development of the site; and building bulk impacts;
- The upper floor terrace screens are adjacent the adjoining northern adjoining properties open space area. The portion of open space that the screens abut is not the primary outdoor living area of the northern property, to which is located to the rear of their property. The favourable location of the upper floor terrace reduces any adverse amenity impacts to the northern property;
- While the minimum setback from the terrace privacy screens is 1.5 metres, the structure is curved, and pulls away from the northern boundary to a maximum setback of 5.4 metres. The increasing setback from the screens to the northern boundary is assists in the reduction of building bulk when viewed from the northern adjoining property;
- The proposal involves a mature tree forward of the privacy screens as well as climbers to grow over the solid walls. Landscaping in this location would soften the appearance of the solid screens when viewed from the adjoining northern property and would assist in the reduction of solid blank walls and subsequent adverse visual impacts;
- There would be no overshadowing and subsequent loss of sunlight to the northern adjoining property due to the favourable location and orientation of the terrace. Buildings have been setback sufficiently so as to allow ventilation to flow between properties. The reduced setback contributes to a more effective use of building space in an area where there would be no adverse impact on the adjoining property, particularly in relation to access to sunlight or ventilation; and
- The terrace meets the deemed-to-comply standards for Clause 5.4.1 Visual Privacy of the R Codes. The terrace does not result in any overlooking and resultant loss of privacy to the northern adjoining property.
South

The technical assessment of the rooftop terrace to the southern lot boundary has been amended from the previous report for this application. The report presented to the 5 March Council meeting had incorrectly assessed the roof terrace as a major opening. In accordance with the R Codes Clause 5.1.3 Lot Boundary Setbacks, the rooftop terrace should not be assessed as a major opening. Following reassessment of the roof top terrace, the wall meets the deemed-to-comply standards of Clause 5.1.3 Lot boundary setbacks and is deemed acceptable under the R Codes.

The applicant has modified the proposal in response to concerns raised during community consultation and now proposes the setbacks provided below.

- The application provides an upper floor setback of 2.1 metres from the rumpus room / spiral stairs from the southern lot boundary in lieu of the 3.3 metre required setback; and
- The upper floor passageway provides a setback of 1.6 metres from the southern lot boundary in lieu of the 1.8 metre required setback.

In considering the acceptability of the southern lot boundary setback proposed, the following is noted:

- The City received submissions that raised concerns with the aesthetic impact and bulky appearance of the building as a result of the reduced setbacks, and adverse impacts relating to amenity, overlooking and overshadowing;
- The southern elevation provides an articulated façade with a range of openings and minor projections that assists in mitigating building bulk. The building has also incorporated landscaping around the perimeter of the site to further soften the building edge. The southern façade does not provide any large solid blank walls. The design detail proposed break up the appearance of solid blank walls when viewed from the adjoining southern property;
- The majority of the shadow from the development falls to the southern adjoining properties driveway, northern setback area that contains major openings, rear open space area, and roof space. The affected major openings on the southern adjoining property would remain shadowed if the setback were to comply and the reduced setback does not further reduce sunlight to these openings. The shadow that falls to the open space area to the rear of the southern property does not fall to the primary outdoor living area, to which is situated to south of the adjoining property. The patio located to the southern property is not shadowed from the proposed development. The southern adjoining properties outdoor living area would continue to receive adequate direct sunlight to the building and open space areas; and
- The upper floor facing south provides minor openings only. The subject walls meet the deemed-to-comply standards for Clause 5.4.1 Visual Privacy of the R Codes and do not result in any overlooking and resultant loss of privacy to the southern adjoining property.

East

The application has been assessed against the lot boundary setback provisions of the City’s Built Form Policy that establishes deemed-to-comply requirements. The deemed-to-comply boundary wall and lot boundary setback standards set out in the Built Form Policy have not been approved by the WAPC. These provisions are given due regard in the assessment of this application.

The Built Form Policy requires 6.5 metre lot boundary setbacks to the rear boundary.

The application provides a minimum setback of 1.1 metres from the ground floor to the rear boundary, and a minimum setback of 4.15 metres from the upper floor to the rear boundary.

In considering the acceptability of the rear lot boundary setbacks proposed, the following is noted:

- The City received submissions that raised concerns with the aesthetic impact and bulky appearance of the building as a result of the reduced setbacks, and adverse impacts relating to amenity, overlooking and overshadowing;
- The development meets the deemed-to-comply standards for lot boundary setbacks under Clause 5.1.3 of the R Codes (tables 2a/2b) and is acceptable in terms of building bulk and mass;
- The eastern elevation provides an articulated façade, due to the external stairs stepping back from the eastern boundary. The design has incorporated permeable brickwork to the rear façade as well as curved design detail and landscaping that further soften the building edge. The adjoining eastern properties that have views to the eastern walls also have mature plantings along their rear boundary.
that would restrict visibility of the proposed development. Photos of the development as viewed from the adjoining eastern properties (No. 55 The Boulevard and No. 57 The Boulevard) is included in Attachment 9;

- The roof terrace sits entirely within the upper floor roof space, moderating any perceived impacts of building bulk when viewed from the eastern property;
- The development complies with deemed-to-comply standards for Clause 5.4.1 Visual Privacy of the R Codes and does not result in any overlooking and resultant loss of privacy to the eastern adjoining properties. The external stairs do not fall under the R Code definitions of ‘major openings’ and ‘active habitable spaces’ and is not required to be screened in accordance with Clause 5.4.1 Visual Privacy and
- The articulation, design detail and required privacy screening provided to the rear elevation, as well as the landscaping incorporated into the rear setback area removes all adverse amenity impacts to adjoining properties. For the above reasons, the development meets the objectives of the R Codes and the Residential zone of LPS2 and having regard to the matters set out in Clause 67(m) and (n) of the Deemed Provisions, is acceptable development.

The lot boundary setbacks proposed satisfy the relevant design principles and local housing objectives of the R Codes and Built Form Policy, and are acceptable.

Street Walls and Fences

The development proposes front fencing to the primary street that contains maximum pier widths of 1.0 metre in lieu of 400 millimetres. The distance between piers is also less than the height of the piers.

In considering the acceptability of the street walls and fences, the following is noted:

- The reduced distance between piers and increased width of piers is attributed to the provision of a letter box and metre box within the front fence as well as the fence providing curved design details. The fence remains to be open in style and compliant in height;
- The fence is visually permeable along the entire primary street frontage, ensuring active street surveillance and maintaining relationships between the public and private domain;
- The fence is predominantly setback 1.5 metres from the street boundary and provides 700 millimetre high planter boxes in front of the fencing which would accommodate landscaping. The application proposes soft landscaping to be provided within the 1.5 metre setback and planter boxes, including one tree, which would soften the appearance of the fence when viewed from the street and would significantly contribute to the streetscape; and
- The front fence is compatible with the proposed single dwelling and existing fences within the established streetscape in terms of style and materials, incorporating rendered brickwork and wrought iron infill. The design and style of the fence would positively contribute to existing fences within the street.

The front fence proposed satisfies the relevant design principles and local housing objectives of the R Codes and Built Form Policy, and is acceptable.

Sightlines

The development proposes structures higher than 750 millimetres within 1.5 metres of the proposed driveway.

In considering the acceptability of the sightlines, the following is noted:

- The development proposes piers with a 350 millimetre diameter and visually permeable fencing within northern and southern driveway sightline areas. The reduced width of the piers proposed and visually permeable infill ensures that the driveway would maintain sufficient sightlines where it intersects with the adjacent footpath to ensure visibility and safety;
- The City’s technical officers have reviewed proposal and confirm that fencing has been provided in a manner that enables a safe view of the pedestrian and vehicular traffic for vehicles leaving the property boundary;
- Solid portions of wall higher than 750 millimetres have been setback 1.5 metres from the driveway and street boundary so as to ensure that vehicles could account for on-coming pedestrians and vehicles at the contact point; and
The fence infill and gate that falls within the truncation area would be conditioned to provide a 1:4 infill ratio to further ensure sufficient sightlines.

The sightlines proposed satisfy the relevant design principles of the R Codes, and are acceptable.

**Landscaping**

The Built Form Policy sets a deemed-to-comply standard of 15 percent of the site to be set aside for deep soil zones (areas of soil that allows for mature plants and tree growth) and 30 percent canopy coverage at maturity.

The development provides 14.6 percent of the site to be set aside as deep soil zones. The applicant has not provided a Landscape Plan that sufficiently demonstrates whether the canopy cover standard has been satisfied.

In considering the acceptability of the landscaping proposed, the following is noted:

- The City received objections during community consultation with concerns relating to reduced deep soil zones and canopy cover and the subsequent adverse impacts this would provide to the locality such as reduced vegetation cover and increased urban heat island effect;
- The proposed landscaping within the street setback reduces the overall impact of the proposal on the public street;
- The development proposes functional landscaping with a large range of plant species and vegetation. The proposal has incorporated a variety of species to the front setback area, such as fruit trees to create interest and soften the building when viewed from the street. The choice of species within the front setback sufficiently address DRP comments received;
- The landscaping is provided to the front setback area, side setback areas, rear setback area, and on the rooftop terrace. The provision of pockets of landscaping around the site provides a soft edge to the building form and creates a sense of open space between buildings and the street;
- The application proposes the remove and replace the existing verge tree to Kalgoorlie Street. Administration recommends a condition be imposed for the replacement of the verge tree. The provision of a replacement verge tree would provide a good level of landscaping amenity for residents/occupants and the community; and
- Administration’s technical officers confirm that the 30 percent canopy cover could be achieved in the deep soil zones provided on site. Compliant canopy cover would provide for greater landscaping amenity for the residents and the community, further reduce the impact of the development on adjoining residential lots and create a sense of open space between dwellings. It is recommended that Council impose a condition on any approval requiring a landscaping plan to be submitted prior to commencement of development to achieve a compliant canopy coverage in accordance with Clause 5.14 of the Built Form Policy. The applicant has provided their written consent to this condition.

The landscaping area provided satisfies the relevant design principles of the Built Form Policy, and is acceptable subject to a condition requiring 30 percent canopy coverage be delivered for the site.

**Solar Access**

The R Codes permit 35 percent shadowing to adjoining properties coded R30. The development involves 70.8 percent shadowing to Lot 303 and 7 percent to Lot 23, both of which are to the south of the subject site.

In considering the acceptability of the solar access proposed, the following is noted:

- The City received objections during community consultation with concerns relating to the amount of shadowing proposed to adjoining properties and subsequent loss of direct sunlight;
- While the shadow projection falls across two lots to the south of the subject site, there is only one single house (No. 56 Kalgoorlie Street Mount Hawthorn) constructed across the two lots affected. The two lots have not been recently subdivided, and have existed in their current form for a number of decades. The immediately affected lot (Lot: 303) is 248 square metres and does not meet current site area requirements for a R30 coded site. It is also likely that this lot would be largely overshadowed from a compliant development due to its unfavourable location, dimensions and orientation. If Lot 303 and Lot 23 were to be amalgamated to a total site area of 751 square metres, the proposed development would shadow 28 percent of the site and would meet the deemed-to-comply requirements for Clause 5.4.2 Solar Access of the R Codes. The development provides a sufficient shadow projection to the adjoining southern site.
The solar access provided satisfies the relevant design principles R Codes, and is acceptable.

**Interaction with the Street**

A number of the submissions received during the consultation period raised concerns regarding the built form outcome and the development not being consistent with the existing and desired streetscape.

The development proposes a high quality and contemporary design and meets either the deemed-to-comply standards or design principles of the R Codes and Built Form Policy.

The applicant has submitted amended plans that increases the size of the master bedroom window facing the primary street and has opened the brickwork detailing. The window now meets the definition of ‘major opening’ within the R Codes.

The amended plans have demonstrated additional passive surveillance from the upper floor, however the opening does not reduce the solid blank walls and associated dominance of the upper floor when viewed from the street. The bulk, mass and scale of the proposal appears obtrusive to the streetscape and is not in keeping with the scale and character of the established streetscape or locality.

The development does not meet the objectives of the R Codes or the Residential zone of LPS2 and having regard to the matters set out in Clause 67(m) and (n) of the Deemed Provision, is not acceptable development.
Item 5.9 - Attachment 2
Articulated Southern Wall to alleviate bulk and scale to Southern neighbour

View of Southern Boundary

state of kin

58 Kalgoorlie Street, Mount Hawthorn | Council Briefing
FIRST FL 37.01.2 FEL

JALI WINDOW OPENING TIDS NIT AND MISS BRICKLAYING PATTERN IS
19 March 2019

Karsen Reynolds
City of Vincent
244 Vincent Street
Leederville WA 6007

Dear Karsen

**NO. 58 (LOTS 301 & 302) KALGOORLIE STREET, MOUNT HAWTHORN PROPOSED SINGLE HOUSE – PROPOSED AMENDED PLANS**

The subject application was presented to Council at its Ordinary Meeting held on 5 March 2019. From what I understood of the discussions held at the Council Meeting on 5 March 2019, was that the main concerns of Council related to the ‘bulk and scale’ of the development on the streetscape and the neighbouring properties and the amenity impacts of the roof terrace. Based on this, the proposal was deferred as follows:

“That the motion be DEFERRED to a future Council Meeting to allow the applicant to consider the commentary of Council in relation to;

- The front façade;
- Engagement to the streetscape; and
- The overall bulk of the development.”

In response to the concerns raised by the Council, the following amendments have been made to the plans:

- Increasing the rear setback on the ground and upper floor from 2.77m to 4.1m
- Removing bedroom 3 and the external stairs and replacing with a unroofed terrace on the first floor.
- Reducing the area of the roof terrace and removing the spa.
- Increasing the rear setback of the roof terrace to 9m.
- Increasing the ‘openness’ of the Jali window from the master bedroom on the front elevation – refer to specifications on plans.
- Additional landscaping, planter boxes, herb garden and bench seating provided on the terraces and within the street setback area.
- Change in the materials of the façade to a texture style render.

In terms of the “bulk and scale” impacts on the streetscape and the “lack of interaction”, I provide the following comments:

The front facade includes several elements which provide interaction with the streetscape. These include:
- Two separate windows in the studio that front the street;
- A clear glass front door;
- A sizeable balcony/terrace with open balustrading fronting the street; and
- A ‘Jail’ brickwork style window from the master bedroom – which has seen an increase in the openness in the amended plans.

Whilst I acknowledge that this window is not a traditional style window, this window still provides the ability for residents to look out onto the street for the purposes of surveillance whilst maintaining privacy into the master bedroom.

In addition, I note that the proposal complies with the deemed-to-comply requirements of building height, street setbacks, landscaping in the front setback area, garage width and all other design elements that form part of a dwelling’s ‘bulkiness’ on the street.

In regards to the overall built form not being consistent with the existing and desired streetscape, I would like to note that this portion of Kalgoorlie Street has no established or particular streetscape character, which is evident in the presentation to the Design Review Panel. Furthermore, the City has not developed a streetscape character or precinct style policy which demonstrates that development should be of a particular style.

In terms of the roof terrace, this has now been significantly reduced in size and setback much further than previously proposed. Also, the roof terrace is now only accessible from an additional rear terrace provided on the first floor, which is only accessible from the first floor bedroom hallway. Previously the roof terrace was
much larger and accessible from the outdoor space on the ground floor, making it much more useable and accessible for the residents.

In light of the above as well as the fact that proposal satisfies all the deemed-to-comply requirements and design principles of the R-Codes, as established in the officer’s report, we seek the officers recommendation for approval.

Should you have any question in relation to the details provided in this submission, please contact Daniella Mrdja on 6441 9171 or daniella@urbanistaplanning.com.au.

Daniella Mrdja, Director
Urbanista Town Planning
View to terrace from Master Bedroom
Artificialised Southern Wall, to alleviate bulk and scale to southern neighbour.

View of Southern Boundary

state of kin

58 Kalgoorlie Street, Mount Hawthorn | Council Briefing
CITY OF VINCENT

DESIGN REVIEW PANEL

Wednesday 6 February 2019 at 3.30pm

Venue: Function Room
City of Vincent Administration and Civic Centre

MINUTES

Attendees:
Design Advisory Committee Members: City of Vincent Officers
James Christou (Chairperson) John Corbellini (Director Development Services)
Simon Venturi Jay Naidoo (Manager Development & Design)
Alisa Blackwood Joslin Colli (Coordinator Planning Services)
Joe Chindarsi Mitch Hoad (Senior Urban Planner)

********************************************

Applicant-Item 3.1

REDACTED FOR PRIVACY REASONS

Applicant-Item 3.2

Ara Salomone State of Kin
Jessie Nguyen State of Kin
Dean Kyron Client
Arthur Kyron Client

Applicant-Item 3.3

REDACTED FOR PRIVACY REASONS

********************************************

3.15pm Member Discussion
4.10pm

1. Welcome / Declaration of Opening

The Chairperson, James Christou declared the meeting open at 4.10pm.

2. Apologies

3. Business

_________________________________________
4.50pm–5.25pm – Applicant’s Presentation – DA Lodged 5.2018.372.1

3.3 Address: 58 Kalgoorlie Street, Mount Hawthorn
Proposal: Single House
Applicant: Caitlin Kyron / Konstantine Dean Kyron

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

Applicant’s Presentation:
The presented a power point presentation

Recommendations & Comments by DRP (using the Built Form Policy Design Principles):

| Principle 1 – Context and Character | • Passive surveillance is important Mt Hawthorn has a friendly community and engaging community this looks |
like it is gated and turning its back on the street
- Look at possibility flipping the wardrobe and bedroom. This would assist with the blankness of the upper floor. Glazing of the study is so far from the right that it is not visible
- See opportunities to soften the approach to the surveillance. A big window on upper level by flipping the layout and a discreet entry is quite a good outcome
- No concern with contemporary nature. Aesthetic is bold. Can understand why it might be considered out of context
- There is insufficient information provided on surrounding context as shown on floorplans, elevations and perspectives. Show the adjoining buildings including Cleaver Court to illustrate how the proposal responds to the surrounding context
- Suggest putting a side window to the front door or could make front door glass to have better interaction between the street and house
- Line up with really strong front fence with the solid building behind
- Consider a perforated garage door. This will provide privacy but also create more transparency
- Outcome is reliant on detailing. Consideration is needed to ensure the intention is achieved.
- Look at adding in additional materials to the front façade such as brickwork to relate to the local context
- Think about elements that can be brought in that can enhance the streetscape and community feel

| Principle 2 – Landscape quality | • Missing the invitation of the eye into the site. Planting could assist with this and increase with making it seem ‘friendly’
• Recommend getting a landscape architect in before getting approval
• Imagine some pruned short planting within the grassed area – fruit trees etc – will draw you in a bit help provide some depth |
| Principle 3 – Built form and scale | • Slightly over height, look at way to push down a little
• Study area could open up a little more – look at increasing glazing
• Potential highlight window around the mudroom |
| Principle 4 – Functionality and build quality | N/A |
| Principle 5 – Sustainability | N/A |
| Principle 6 – Amenity | N/A |
| Principle 7 – Legibility | N/A |
| Principle 8 – Safety | • Terrace will provide some good opportunities for surveillance |
| Principle 9 – Community | • Suggest providing bench seats to the front fence to create better interaction to the street |
| Principle 10 – | N/A |
Aesthetics
Comments  N/A

Conclusion:
To be returned to DRP

REDACTED FOR PRIVACY REASONS
3458_KYRON
DEVELOPMENT APPLICATION - CITY OF VINCENT

Amended Plan
CITY OF VINCENT RECEIVED
31 Jan 2018

Item 5.9 - Attachment 5
Amended Plan

CITY OF VINCENT
RECEIVED
31 Jan 2018
First Community Consultation - Summary of Submissions:

Total number of submissions received: 40
Total number of objections received: 40
Total number of support submissions received: 0
Total number of submissions that neither objected nor supported: 0

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

<table>
<thead>
<tr>
<th>Community Comments Received in Objection</th>
<th>Applicant Response</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Building Height:</strong></td>
<td></td>
</tr>
<tr>
<td>• Concerns relating to rooftop terrace - too high and provides visual intrusion into neighbouring properties</td>
<td>Heights and overlooking issues have been amended on the current plans.</td>
</tr>
<tr>
<td>• Significant amenity impacts to the adjoining properties</td>
<td>Impact has been reduced with the change to eastern elevation aesthetics. Eastern Elevation (56 Kalgoorlie Street) is the only neighbour potentially impacted byamenity prior to the elevation changes.</td>
</tr>
<tr>
<td>• Increases overlooking to adjoining properties</td>
<td>Overlooking issues have been rectified in the current submission.</td>
</tr>
<tr>
<td>• Mass and scale of the building impacts the neighbouring properties</td>
<td>Plans have been amended to reduce impact</td>
</tr>
<tr>
<td>• Sets negative precedence for future development</td>
<td>The current house adds no additional value or streetscape to the area. The applicant is not willing to create a fake post-war era house. Measures have been taken on the current plans by changing the elevation to increase its integration with the streetscape.</td>
</tr>
<tr>
<td>• Noise from the rooftop will adversely impact the amenity of the area</td>
<td>Noise from a rooftop is not a planning consideration. It should be determined under the Health Act in the event of a noise complaint.</td>
</tr>
<tr>
<td>• Building height has adverse amenity impacts on the adjoining properties. Results in visual privacy issues, dominating visual bulk and mass</td>
<td>Heights have been amended on the current plans.</td>
</tr>
<tr>
<td>• Rooftop is not consistent with other dwellings in the area -- no roof tops found in this locality. It will be out of character</td>
<td>The rooftop has no implications on character. Character component in question is the elevation. Character cannot be maintained due to the existing structure not being inter-war of Californian bungalow.</td>
</tr>
<tr>
<td>• Development does not consider neighbour amenity</td>
<td>Impact has been reduced with the change to eastern elevation aesthetics which was mainly impacted by neighbour amenity. Eastern Elevation (56 Kalgoorlie Street) is the only neighbour impacted by amenity. The structure is two storeys.</td>
</tr>
<tr>
<td>• Heights should comply and reduced to two storeys only. Height and boundary walls result in large imposing and overshadowing building</td>
<td>Heights have been amended on the current plans. Overshadowing component is compliant as per the overshadowing plan submitted.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Street setbacks:</th>
<th>Street setbacks:</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Contemporary design, form and scale of the development is not compatible with the established streetscape</td>
<td>The current house is not compatible with the streetscape.</td>
</tr>
<tr>
<td>• Street setback will disturb continuity of the streetscape</td>
<td>Setbacks have been amended to comply.</td>
</tr>
<tr>
<td>• Development does not align with the existing street</td>
<td>The developments orientation is parallel with the blocks boundaries, similar to the majority of the blocks on the street.</td>
</tr>
</tbody>
</table>
First Community Consultation - Summary of Submissions:

- Development is overbearing to the street
- Not in keeping with architectural styles within the street
- Design is not sympathetic to streetscape – not enough streetscape analysis has been undertaken
- True character of the street is interwar and post war - development not in keeping with this
- Façade is featureless
- Development is unsympathetic and out of character to the street
- The frontage is domineering with the cantilevered 2nd storey and no windows
- Front of the dwelling does not adequately address the street – turns it back to the street rather than connecting to the street
- Design does not attempt to adhere to standards, compliment the heritage nature of the street, or consider the impact such an imposing structure has on neighbours.

- Elevation has been amended to integrate.
- Elevation has been amended to integrate. Direct quote City of Vincent Mount Hawthorn Precinct Policy “To encourage the development of a range of housing types within the precinct, offering variety in built form and typology and to facilitate housing affordability, sustainable design, diversity and choice”
- Streetscape analysis has been undertaken and submitted with the current revision of the drawings.
- Elevation has been amended to integrate.
- The owner is unable to create an inter-war or post war development as we are now in the year 2018/2019, and is not willing to put a standard project home on the block therefore has opted to build an architecturally designed home.
- Elevation has been amended.
- Elevation has been amended to integrate.
- Cantilever is reduced and small windows added.
- Unable to comment as this does not make sense, the back of the house it at the rear of the block. With revised setbacks it allows a substantial front garden, in conjunction with the front balcony/terrace this will connect the house to the street.
- Current house complies excluding the ~500mm height of screening to the roof terrace. Although this additional height is not visible from the street. ‘Standards’ are not an issue as the building will comply with Australian Standards.

Lot boundary setbacks and lot boundary walls:

- Concerns relating to noise pollution from the sauna and pool – too close to the boundary
- Roof terrace will provide significant noise issues to adjoining properties and the locality – noise will travel from the terrace through the suburb. Disturbance too many residences that have children.
- Building is unnecessarily excessive and is an overdevelopment of the narrow site
- Boundary walls are too high – adversely impact properties in terms of mass and scale

Lot boundary setbacks and lot boundary walls:

- Pool pump has its own enclosed room. Sauna is internal; saunas do not create noise. Please review the plans correctly. This is an uneducated comment.
- Noise from a rooftop is not a planning consideration. It should be determined under the Health act. The Applicant has a child also, this comment is invalid.
- Building complies with the block coverage.
- Heights have been amended on the current plans.
- Setbacks have been amended to comply.
- Boundary setbacks and landscaping have been amended to comply including canopy coverage.
**First Community Consultation - Summary of Submissions:**

| Insufficient setbacks proposed – increases overlooking to all adjoining properties | Eastern boundary elevation has been amended and the aesthetics have been increased to reduce impact on adjoining property. |
| Overdeveloped with little regard to side boundary setbacks and landscaping | Boundary setbacks have been changed and are compliant. |
| All walls are dominating when viewed from adjoining properties and the street | Overshadowing is compliant. Comment is invalid as the overshadowing plan was attached and clearly the commented cannot read plans. |
| Significant building bulk provided to adjoining properties and the street from the boundary walls and lot boundary setbacks | Comment does not explain what it impacts. This point has been covered as the only adjoining property impacted has had the elevation amended. |
| Reduces direct sunlight to adjoining properties | |
| Affects the amenity of adjoining properties and reduces quality of life | |

**Sightlines:**

| Concerns relating to non-compliant sightlines and pedestrian safety | Front fencing has been amended to comply with site lines. |
| A lot of children pass by on the pedestrian path and would be at risk due to non-compliant sightlines. | Front fencing has been amended to comply with site lines. Owner agrees as they also have a child. |
| Sightlines pose danger to pedestrians | Front fencing has been amended to comply with site lines. |
| Significant safety hazard | Front fencing has been amended to comply with site lines. |
| Safety concerns result from sightlines proposed | Front fencing has been amended to comply with site lines. |

**Landscaping:**

| Full 15% deep soil should be provided – no reason this cannot be achieved | Plans have been amended to comply. |
| Very limited trees available on site - full canopy cover should be provided | |
| Too much concrete surfaces – trees and landscaping need to be provided to reduce views to the concrete | |

**Visual Privacy:**

| Development compromises neighbours visual privacy | Visual privacy requirements are now compliant. |
| Rear stairs overlook neighbours | Stairs are not a habitable room. |
| Terrace and stairs to the rear reduce privacy to adjoining properties | Front terrace screening has been amended. |
| Front terrace above the garage is too close to adjoining properties | Front terrace screening has been amended. |
| Concerns relating to overlooking from the front terrace and rear stairs - major overlooking concerns. | Visual privacy requirements are now compliant. |
| Both raised terraces should be entirely screened | This is not a requirement. |

**Overshadowing:**

| Significant reduction of sunlight to adjoining properties | Overshadowing plan shows that it is compliant. |
| Rendered image does not accurately represent the winter shadow that the development will cast – image is misleading. | |
### First Community Consultation - Summary of Submissions:

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Item 5.9 - Attachment 6</strong></td>
<td>Page 153</td>
</tr>
</tbody>
</table>

| Surveillance | Attachment 6
---|---|
| • No overshadowing diagram provided. Concerns relating to shadows to the southern property. Southern property will be significantly overshadowed in the winter | • There is a terrace above the garage which allows passive surveillance to the street. There will be Security camera's installed to the front elevation which will assist in reducing crime. |
| **Overall development and general comments:** | **Overall development and general comments:** |
| • Development has no desire to build or identify with the character and evolution of Mt Hawthorn | • "Mount Hawthorn" encourages architecturally designed residences. Evolution will imply that it is evolving from the current character (inter-war and Californium bungalow), into something new and modern (the current design). |
| • Too many areas of non-compliance proposed – results in cumulative impacts to the adjoining properties and entire locality | • Current plans rectify the majority of non-compliances. |
| • Development is at odds with the majority of residential buildings of Mt Hawthorn and detracts from the character of the suburb | • The current house detracts from the character of the suburb. |
| • No respect to the streetscape and the amenity of the direct neighbours and neighbourhood. | • Previously addressed |
| • Development is not in keeping with surrounding homes in Mount Hawthorn | • Previously addressed |
| • Development will adversely impact quality of life of neighbours | • This is not a planning issue as the impact on neighbours is now compliant. |
| • Front facade of house is not in keeping with the style of Mt Hawthorn | • Previously addressed |
| • The Brutalist architecture, scale, bulk and nature of this proposal is not consistent with the character charm of Mt Hawthorn that makes the suburb unique and attractive | • Site is not overdeveloped, as it is compliant with the block coverage. Canopy coverage now compliant. |
| • Overdevelopment of the site results in significantly reduced canopy cover and greenery and increased amounts of concrete | • Not a planning issue. |
| • Development is a dangerous precedence for future approvals, particularly relating to building heights and visual privacy | • Direct quote City of Vincent Mount Hawthorn Precinct Policy "To encourage the development of a range of housing types within the precinct, offering variety in built form and typology and to facilitate housing affordability, sustainable design, diversity and choice” |
| • Development is not consistent with the Mt Hawthorn Precinct Policy which ensures that the prevailing residential character of the area is protected and the form and scale of the development does not adversely impact the street | • This is an uneducated subjective statement. In fact the value of this property will increase the surrounding properties values. Particularly those with re-development potential, which excludes the interwar and Californian bungalow styles of architecture. |
| • Development will de-value adjoining properties | • The development will not "have negative implications on other residents". It is predominantly compliant in the current revision. |
First Community Consultation - Summary of Submissions:

- Proposal will have negative implications on other residents of Mt Hawthorn and will set an adverse precedence for future proposals
- House design does not belong in Mt Hawthorn
- Development will destroy the traditional character and feel of the suburb
- Totally out of character with adjoining residences
- Negative precedence will be set
- The ostentatious and brusque attitude that is demonstrated by this proposal is at odds with the relaxed, non-competitive, values-based community for which Mount Hawthorn is envied.
- Major overdevelopment of the site
- Building does not compliment the heritage feel of the neighbourhood.
- Concerns for impacts to Anzac Cottage a few houses away.
- Development is detrimental to neighbouring properties and erosion of acceptable precedence

<table>
<thead>
<tr>
<th>Topic</th>
<th>Count</th>
<th>Planning Issue</th>
<th>Issue Addressed</th>
<th>Comment</th>
</tr>
</thead>
</table>
| Amenity on adjoining property      | 5     | Yes            | Yes             | Significant amenity impacts to the adjoining properties
|                                    |       |                |                 | Mass and scale of the building impacts the neighbouring properties
|                                    |       |                |                 | Building height has adverse amenity impacts on the adjoining properties. Results in visual privacy issues, dominating visual bulk and mass
|                                    |       |                |                 | Development does not consider neighbour amenity
|                                    |       |                |                 | Affects the amenity of adjoining properties and reduces quality of life                                                                 |
| Block Coverage                     | 1     | Yes            | Yes             | Building is unnecessarily excessive and is an overdevelopment of the narrow site                                                      |
| Setbacks and height/Bulk and scale | 7     | Yes            | Partially       | Concerns relating to rooftop terrace - too high and provides visual intrusion into neighbouring properties
|                                    |       |                |                 | Street setback will disturb continuity of the streetscape
|                                    |       |                |                 | Boundary walls are too high – adversely impact properties in terms of mass and scale
|                                    |       |                |                 | Insufficient setbacks proposed – increases overlooking to all adjoining properties
|                                    |       |                |                 | Overdeveloped with little regard to side boundary setbacks and landscaping                                                            |
### First Community Consultation - Summary of Submissions:

<table>
<thead>
<tr>
<th>Elevation/heritage</th>
<th>19</th>
<th>Yes</th>
<th>Yes</th>
</tr>
</thead>
</table>

- All walls are dominating when viewed from adjoining properties and the street
- Significant building bulk provided to adjoining properties and the street from the boundary walls and lot boundary setbacks
- Contemporary design, form and scale of the development is not compatible with the established streetscape
- Development does not align with the existing street.
- Development is overbearing to the street
- Not in keeping with architectural styles within the street
- Design is not sympathetic to streetscape – not enough streetscape analysis has been undertaken
- True character of the street is interwar and post war - development not in keeping with this
- Façade is featureless
- Development is unsympathetic and out of character to the street
- The frontage is domineering with the cantilevered 2nd storey and no windows.
- Front of the dwelling does not adequately address the street – turns it back to the street rather than connecting to the street
- Design does not attempt to adhere to standards, compliment the heritage nature of the street, or consider the impact such an imposing structure has on neighbours.
- Development is not in keeping with the streetscape and does not provide passive surveillance to the street
- Not consistent with the objectives of Liveable Neighbourhoods which is to increase passive and active surveillance
- Design will not assist in reducing crime within the area
- No windows that overlook the street and there is not visual connection to the street or street surveillance
- Development is not in keeping with the streetscape and does not provide passive surveillance to the street
- Not consistent with the objectives of Liveable Neighbourhoods which is to increase passive and active surveillance
- Design will not assist in reducing crime within the area
- No windows that overlook the street and there is not visual connection to the street or street surveillance
First Community Consultation - Summary of Submissions:

<table>
<thead>
<tr>
<th>Category</th>
<th>Number</th>
<th>In Favor</th>
<th>Against</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noise</td>
<td>3</td>
<td>No</td>
<td>N/A</td>
<td>• Noise from the rooftop will adversely impact the amenity of the area.</td>
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<tr>
<td></td>
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<td></td>
<td></td>
<td>• Disturbance too many residences that have children.</td>
</tr>
<tr>
<td>Overshadowing</td>
<td>6</td>
<td>Yes</td>
<td>Yes</td>
<td>• Heights should comply and reduced to two storeys only. Height and boundary walls result in large imposing and overshadowing building.</td>
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<td>• Significant reduction of sunlight to adjoining properties</td>
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<td>• Rendered image does not accurately represent the winter shadow that the development will cast – image is misleading.</td>
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<td></td>
<td></td>
<td></td>
<td>• No overshadowing diagram provided. Concerns relating to shadows to the southern property.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Southern property will be significantly overshadowed in the winter.</td>
</tr>
<tr>
<td>Overlooking</td>
<td>6</td>
<td>Yes</td>
<td>Yes</td>
<td>• Increases overlooking to adjoining properties</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
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<td>• Development compromises neighbours visual privacy</td>
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<td></td>
<td>• Concerns relating to overlooking from the front terrace and rear stairs - major overlooking concerns. Both raised terraces should be entirely screened</td>
</tr>
<tr>
<td>Precedence for future development</td>
<td>1</td>
<td>No</td>
<td>N/A</td>
<td>• Sets negative precedence for future development</td>
</tr>
<tr>
<td>Front Fencing/Sightlines</td>
<td>4</td>
<td>Yes</td>
<td>Yes</td>
<td>• A lot of children pass by on the pedestrian path and would be at risk due to non-compliant sightlines.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Sightlines pose danger to pedestrians</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Significant safety hazard</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Safety concerns result from sightlines proposed</td>
</tr>
<tr>
<td>Landscaping</td>
<td>3</td>
<td>Yes</td>
<td>Yes</td>
<td>• Full 15% deep soil should be provided – no reason this cannot be achieved</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Very limited trees available on site - full canopy cover should be provided</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Too much concrete surfaces – trees and landscaping need to be provided to reduce views to the concrete</td>
</tr>
<tr>
<td>Other/General Comments</td>
<td>16</td>
<td>No</td>
<td>N/A</td>
<td>• Rooftop is not consistent with other dwellings in the area – no roof tops found in this locality. It will be out of character</td>
</tr>
</tbody>
</table>
First Community Consultation - Summary of Submissions:

- Development has no desire to build or identify with the character and evolution of Mt Hawthorn
- Too many areas of non-compliance proposed – results in cumulative impacts to the adjoining properties and entire locality
- Development is at odds with the majority of residential buildings of Mt Hawthorn and detracts from the character of the suburb
- No respect to the streetscape and the amenity of the direct neighbours and neighbourhood.
- Development is not in keeping with surrounding homes in Mount Hawthorn
- Development will adversely impact quality of life of neighbours
- Front facade of house is not in keeping with the style of Mt Hawthorn
- The Brutalist architecture, scale, bulk and nature of this proposal is not consistent with the character charm of Mt Hawthorn that makes the suburb unique and attractive
- Overdevelopment of the site results in significantly reduced canopy cover and greenery and increased amounts of concrete
- Development is a dangerous precedence for future approvals, particularly relating to building heights and visual privacy
- Development is not consistent with the Mt Hawthorn Precinct Policy which ensures that the prevailing residential character of the area is protected and the form and scale of the development does not adversely impact the street
- Development will de-value adjoining properties
- Proposal will have negative implications on other residents of Mt Hawthorn and will set an adverse precedence for future proposals
- House design does not belong in Mt Hawthorn
- Development will destroy the traditional character and feel of the suburb
- Totally out of character with adjoining residences
- Negative precedence will be set
- The ostentatious and brusque attitude that is demonstrated by this proposal is at odds with the relaxed, non-competitive, values-based community for which Mount Hawthorn is envied.
- Major overdevelopment of the site
- Building does not compliment the heritage feel of the neighbourhood.
- Concerns for impacts to Anzac Cottage a few houses away.
First Community Consultation - Summary of Submissions:

- Development is detrimental to neighbouring properties and erosion of acceptable precedence
Summary of Submissions:

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

<table>
<thead>
<tr>
<th>Comments Received in Support:</th>
<th>Applicant Comment:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Built Form Outcome</strong></td>
<td></td>
</tr>
<tr>
<td>• The development is a true example of forward-thinking design that will contribute to the value and character of the neighbourhood;</td>
<td>• The applicant welcomes these positive comments from the community.</td>
</tr>
<tr>
<td>• Architecture like this sculptures the future direction and quality of the built form within the City of Vincent;</td>
<td></td>
</tr>
<tr>
<td>• Beautiful build that will enhance any street;</td>
<td></td>
</tr>
<tr>
<td>• Project adds to the streetscapes of Mount Hawthorn and will make a more beautiful place;</td>
<td></td>
</tr>
<tr>
<td>• Project is very innovative with good use of space, both indoor and outdoor;</td>
<td></td>
</tr>
<tr>
<td>• The development meets the current and future needs of the homeowner;</td>
<td></td>
</tr>
<tr>
<td>• The design has wonderful design integrity and consideration of the surrounding streetscape.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Comments Received in Objection:</th>
<th>Applicant Comment:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Street Setback</strong></td>
<td></td>
</tr>
<tr>
<td>• The City of Vincent Newsletter No 64 Spring 2012 states that the upper floor should be setback at least 2.0m behind the ground floor; and</td>
<td>• This newsletter was written 7 years ago and since then the planning framework has changed.</td>
</tr>
<tr>
<td>• The bulk of the house will still dominate the street with a compliant setback and detract from the Mt Hawthorn character, particularly as there is no other house on the street or in the locality that has the same bulk and mass;</td>
<td>• The street setback is compliant with the City’s Built Form Policy.</td>
</tr>
<tr>
<td><strong>Height</strong></td>
<td></td>
</tr>
<tr>
<td>• The height is not appropriate as it is out of character with the rest of the area and provides significant adverse visual impacts to the streetscape.</td>
<td>• The height of the development is now compliant with the Residential Design Codes and sits lower than those houses with a pitched roof on the street.</td>
</tr>
<tr>
<td>• The development appears too large and overbearing from the street;</td>
<td></td>
</tr>
<tr>
<td>• The rooftop terrace adds an additional storey, resulting in a three storey development. Three storeys is not in keeping with existing developments within the area;</td>
<td></td>
</tr>
<tr>
<td>• The additional height proposed is considered excessive, resulting in significant additional overshadowing, overlooking, and adverse visual impacts to neighbouring properties;</td>
<td>• The stated “overshadowing, overlooking, and adverse visual impacts” is incorrect as the design addresses these items and is compliant in all aspects.</td>
</tr>
</tbody>
</table>
### Summary of Submissions:

<table>
<thead>
<tr>
<th>Comments Received in Objection:</th>
<th>Applicant Comment:</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Additional height has adverse amenity impacts on surrounding properties, especially as the</td>
<td>- The roof top is compliant with the height and overlooking requirements of the R</td>
</tr>
<tr>
<td>rooftop will be used as an active space;</td>
<td>Codes.</td>
</tr>
<tr>
<td>- The additional height results in lot boundary setback variations, particularly from the</td>
<td>- The height is now compliant with the R Codes.</td>
</tr>
<tr>
<td>upper levels. Building this high should be setback further from the boundaries and reduced</td>
<td>- The vegetation has been removed from the roof top.</td>
</tr>
<tr>
<td>in size;</td>
<td>- This is an opinion and is subjective.</td>
</tr>
<tr>
<td>- Trees on the rooftop terrace will further increase the height of the development. Concerns</td>
<td>- ‘Undesirable precedent’ is simply an opinion of a surrounding landowner and should</td>
</tr>
<tr>
<td>about how high the house will appear with trees on top;</td>
<td>not be considered as a valid planning reason.</td>
</tr>
<tr>
<td>- Scale of the development is not suited to the land size, streetscape or locality. This</td>
<td></td>
</tr>
<tr>
<td>size of development would be better suited in coastal suburbs or Inner City, and</td>
<td></td>
</tr>
<tr>
<td>- The third storey / additional height of the development will set an undesirable precedence</td>
<td></td>
</tr>
<tr>
<td>for future developments.</td>
<td></td>
</tr>
</tbody>
</table>

#### Lot Boundary Setbacks to Adjoining Properties

- Setbacks to the rear lot boundary have decreased in the amended plans, resulting in significant overlooking to the adjoining properties, adverse visual impacts and excessive noise;
- Walls of the development do not engage with surrounding properties, and rather impose on them;
- Reduced setbacks result from the house being too large for the land size;
- The design of the development does not relate to the surrounding properties and therefore appears out of character;
- The proposal does little to mitigate its significant reduction of the rear setback standards, resulting in bulk and mass to the rear properties, reduction in sunlight and increased overlooking.

- The rear setbacks and privacy requirements are compliant with the R Codes. Furthermore, any impacts of noise are covered in the Health Legislation.
- This comment is not clear?
- The lot boundary setbacks of the site are either compliant with the deemed-to-comply requirement or a considered to address the design principles of the R Codes.
- The existing dwellings in the streetscape are inconsistent in their design and therefore there is no established streetscape in this portion of Kalgoorlie Street.

#### Boundary Walls to Adjoining Properties

- Boundary walls are too high and too close to the adjoining properties providing visual bulk to the southern property;
- Boundary walls are only on the verge of compliance;

- The proposed boundary walls comply with the deemed-to-comply requirements of the R Codes and City’s Policies.

#### Street Surveillance

- The house has no windows facing the street, and subsequently makes no effort to relate to the streetscape and Mount Hawthorn community; and
- The studio window facing the street is covered by trees.

- New iterations of the plans show a clear front door of 1.5m wide. A new window to the study has been added and a clear garage door for increased surveillance. Also, the master bedroom has been re-designed and the brick openings with glass backing have been...
Summary of Submissions:

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<tr>
<th>Comments Received in Objection:</th>
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</thead>
<tbody>
<tr>
<td>changed to the master bedroom side to increase surveillance. There is also a roof terrace/balcony to the front which has some surveillance. Landscaping has been changed, although when we progress to building application phase we will obtain a full landscaping plan. New designs show different landscaping to increase surveillance.</td>
<td></td>
</tr>
</tbody>
</table>

Street Walls and Fences

- The front gate slides externally, creating potential safety issues for pedestrians walking past.  
- The proposal is compliant with the deemed-to-comply street walls and fences requirements of the City’s Policies.

Garage Setback

- The garage should be 0.5m behind the house to comply with the R Codes.  
- The setback of the garage complies with the deemed-to-comply requirements of the City’s Policies.

Landscaping

- The existing greenery within Mount Hawthorn is what makes the suburb so desirable. The development should achieve the full 15% required landscaping to contribute to vegetation in Mount Hawthorn;  
- The accuracy of the 12.6% calculation is questioned;  
- The development proposes deep soil areas where amenities are located, do these contribute to the calculation?  
- Concerns that deep soil zones may be provided with astro-turf;  
- Trees provided to the south of the lot will be in constant shade;  
- Reduced landscaping will result in an urban heat island effect;  
- Concerns relating to inconsistencies in landscaping between plans, as trees are shown in different locations between plans, and in locations where trees could not be accommodated (e.g the driveway).  
- It has been consented with the council that at Building Application phase a landscaping plan will be submitted with 30% canopy coverage.

Visual Privacy

- Development provides major visual intrusions to neighbouring properties from the windows and terraces proposed;  
- The rooftop terrace will cause considerable overlooking to all adjoining properties, particularly as it is so high. The overlooking from the rooftop terrace falls onto back gardens of the adjoining properties, resulting in major privacy concerns.  
- All privacy and overlooking requirements are compliant with the requirements of the R Codes.
Summary of Submissions:

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</table>
| - The rooftop terrace should be setback 7.5m from all lot boundaries so as to reduce all overlooking and subsequent loss of privacy to all properties;  
- Rear external stairs are not screened and are too close to lot boundaries therefore providing considerable overlooking to backyards of the adjoining properties. The rear stairs should be screened;  
- Concerns relating to overlooking from upper floor doorways that are not glazed;  
- The terrace above the garage is not screened to the front, resulting in overlooking to the northern adjoining property; and  
- Overlooking if supported will set an undesirable precedence for future development. | - The proposal is compliant with the deemed-to-comply overshadowing requirements of the R Codes. |
| Solar Access | |
| - The additional height and reduced lot boundary setbacks of the development results in a loss of natural sunlight to the adjoining properties;  
- If the southern property were subdivided, overshadowing would be a lot more significant;  
- Wall heights, lengths, setbacks and roof design should be modified to reduce overshadowing to the south; and  
- The solar access diagram provided by the applicant does not show the shadow from the rooftop terrace. The solar access diagram as provided from the applicant should be checked as it does not appear to be compliant. | |
| Access and Parking | - The proposal is compliant with the deemed-to-comply parking requirements of the R Codes. |
| - The development may result in additional traffic and subsequent safety issues; and  
- The number of bedrooms proposed will increase occupants and subsequent parking required. | |
| Heritage | - There is no heritage of the surrounding properties on Kalgoorlie street and the existing house isn't a heritage listed property. |
| - The development will have an adverse impact the heritage character of the locality. | |
| Noise | - Noise is a health act issue not a planning issue. This comment is based on assumption to what we will use the roof garden for. |
| - Noise will travel from the rooftop terrace through the whole suburb given it is on the top level; and  
- Concerns relating to noise generated from people walking up and down the external stairs; and | |
Summary of Submissions:

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<thead>
<tr>
<th>Comments Received in Objection</th>
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</tr>
</thead>
<tbody>
<tr>
<td>• The outdoor shower is on the boundary and will create noise issues to the adjoining properties.</td>
<td></td>
</tr>
<tr>
<td><strong>Built Form Outcomes</strong></td>
<td><strong>These are simply opinions of surrounding landowners and should not be considered as a valid planning reason.</strong></td>
</tr>
<tr>
<td>• The design of the development does not fit into or complement the streetscape. There are no houses along this street or in the surrounding locality that are similar to this design or are of this scale and mass;</td>
<td></td>
</tr>
<tr>
<td>• The development is not in keeping with Mount Hawthorn character homes;</td>
<td></td>
</tr>
<tr>
<td>• The façade of the development does not promote a sense of community and instead turns its back on the street and community. The design is counter to neighbourly interaction;</td>
<td></td>
</tr>
<tr>
<td>• The development has not been designed to engage with surrounding properties;</td>
<td></td>
</tr>
<tr>
<td>• There is too much white concrete, which does not relate to the streetscape and detracts from the character homes in Mount Hawthorn;</td>
<td></td>
</tr>
<tr>
<td>• The development would be better located in another suburb where there are similar residences and streetscapes that it would fit into;</td>
<td></td>
</tr>
<tr>
<td>• Roof top terraces are completely out of character in Mt Hawthorn. The terrace will be damaging to neighbours; and</td>
<td></td>
</tr>
<tr>
<td>• The design will provide an undesirable precedence to future developments within the locality.</td>
<td></td>
</tr>
<tr>
<td><strong>Other</strong></td>
<td></td>
</tr>
<tr>
<td>• The development will alienate surrounding properties;</td>
<td><strong>These are simply opinions of surrounding landowners and should not be considered as a valid planning reason.</strong></td>
</tr>
<tr>
<td>• The development does not need the amount of amenities it has proposed and should be reduced in size (e.g. number of bedrooms, bathrooms, BBQ areas, gym, sauna etc);</td>
<td></td>
</tr>
<tr>
<td>• Concerns relating to how smells, gasses and steam released from the sauna will be addressed;</td>
<td></td>
</tr>
<tr>
<td>• Concerns relating to how waste water from the outdoor shower will be drained;</td>
<td></td>
</tr>
<tr>
<td>• The plans do not show the rooftop terrace on the front elevation;</td>
<td></td>
</tr>
<tr>
<td>• The development will reduce property values; and</td>
<td></td>
</tr>
<tr>
<td>• Development does not comply with the Mount Hawthorn Precinct Policy.</td>
<td></td>
</tr>
</tbody>
</table>
Summary of Submissions:

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

<table>
<thead>
<tr>
<th>Comments Received in Support:</th>
<th>Officer Technical Comment:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Built Form Outcome</td>
<td></td>
</tr>
<tr>
<td>• The development is a true example of forward-thinking design that would contribute to the value and character of the neighbourhood;</td>
<td>Comments in support of the proposal is noted.</td>
</tr>
<tr>
<td>• Architecture like this sculpt the future direction and quality of the built form within the City of Vincent;</td>
<td></td>
</tr>
<tr>
<td>• Beautiful build that would enhance any street;</td>
<td></td>
</tr>
<tr>
<td>• Project adds to the streetscapes of Mount Hawthorn and would make a more beautiful place;</td>
<td></td>
</tr>
<tr>
<td>• Project is very innovative with good use of space, both indoor and outdoor;</td>
<td></td>
</tr>
<tr>
<td>• The development meets the current and future needs of the homeowner, and</td>
<td></td>
</tr>
<tr>
<td>• The design has wonderful design integrity and consideration of the surrounding streetscape.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Comments Received in Objection:</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Street Setback</td>
<td></td>
</tr>
<tr>
<td>• The City of Vincent Newsletter No 64 Spring 2012 states that the upper floor should be setback at least 2.0m behind the ground floor;</td>
<td>• The street setback as referenced City of Vincent Newsletter is not a current requirement under the City’s Local Planning Scheme No 2 (LPS2) or relevant local planning policies. The street setbacks have been assessed in accordance with the Built Form Policy Clause 5.2 Street Setback;</td>
</tr>
<tr>
<td>• Street setback proposed disturbs the continuity of the streetscape. The style of the development is not in keeping with architectural styles within the street. The applicant has not undertaken enough streetscape analysis; and</td>
<td>• The proposed street setbacks meet the deemed-to-comply standards of the Built Form Policy Clause 5.2 Street Setback; and</td>
</tr>
<tr>
<td>• The bulk of the house would still dominate the street with a compliant setback and detract from the Mt Hawthorn character, particularly as there is no other house on the street or in the locality that has the same bulk and mass.</td>
<td>• The relationship of the proposed development to the street and locality has been considered under Clause 67 of the Planning and Development (Local Planning Scheme) Regulations 2015. The City considers that opposing form, scale and mass of the Single House when compared to existing developments does not contribute to a high quality streetscape.</td>
</tr>
</tbody>
</table>
## Summary of Submissions:

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<thead>
<tr>
<th>Comments Received in Objection:</th>
<th>Officer Technical Comment:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Height</strong></td>
<td><strong>Following neighbour consultation the applicant submitted amended plans with a reduction in building height. The proposed building height meets the deemed-to-comply standards of the Built Form Policy Clause 5.6 Building Height:</strong></td>
</tr>
<tr>
<td>• The height is not appropriate as it is out of character with the rest of the area and provides significant adverse visual impacts to the streetscape. The development appears too large and overbearing from the street;</td>
<td>• The rooftop terrace sits entirely within the upper floor roof. The dwelling proposed is two storeys only.</td>
</tr>
<tr>
<td>• The rooftop terrace adds an additional storey, resulting in a three storey development. Three storeys is not in keeping with existing developments within the area. The third storey / additional height of the development would set an undesirable precedence for future developments;</td>
<td>• Amended plans have removed mature tree planting from the rooftop terrace.</td>
</tr>
<tr>
<td>• Rooftop is not consistent with other dwellings in the area – no roof tops found in this locality. It would be out of character;</td>
<td>• The upper floor terrace has been provided with privacy screening and meets the deemed-to-comply standards of Clause 5.4.1 Visual Privacy;</td>
</tr>
<tr>
<td>• The additional height proposed is considered excessive, resulting in significant additional overshadowing, overlooking, and adverse visual impacts to neighbouring properties;</td>
<td>• The rooftop terrace provides privacy screening around its perimeter to reduce all overlooking and subsequent loss of privacy to adjoining properties. The reduction in height of the rooftop terrace mitigates any additional building bulk and subsequent amenity impacts to adjoining properties;</td>
</tr>
<tr>
<td>• Additional height has adverse amenity impacts on surrounding properties, especially as the rooftop would be used as an active space;</td>
<td>• Rooftop terraces is permitted provided they meet relevant planning standards including, but not limited to, building height, lot boundary setbacks, overshadowing, visual privacy; and</td>
</tr>
<tr>
<td>• The additional height results in lot boundary setback variations, particularly from the upper levels. Building this high should be setback further from the boundaries and reduced in size;</td>
<td>• The relationship of the proposed development to the street and locality has been considered under Clause 67 of the Planning and Development (Local Planning Scheme) Regulations 2015. Following assessment under those provisions, the City does not consider that the mass, scale and design of the development is consistent or compatible with the established character of the streetscape and surrounding locality.</td>
</tr>
<tr>
<td>• Trees on the rooftop terrace would further increase the height of the development. Concerns about how high the house would appear with trees on top; and</td>
<td></td>
</tr>
</tbody>
</table>
Summary of Submissions:

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<tr>
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</thead>
<tbody>
<tr>
<td><strong>Lot Boundary Setbacks to Adjoining Properties</strong></td>
<td></td>
</tr>
<tr>
<td>• Setbacks to the rear lot boundary have decreased in the amended plans, resulting in significant overlooking to the adjoining properties, adverse visual impacts and excessive noise;</td>
<td>• The application has been assessed against the lot boundary setback provisions of the City’s Built Form Policy that establishes deemed-to-comply requirements. The deemed-to-comply lot boundary setback standards set out in the Built Form Policy have not yet been approved by the WAPC. As such, the rear setback provisions is given due regard in the assessment of this application. The development meets the deemed-to-comply standards for lot boundary setbacks under Clause 5.1.3 of the R Codes (tables 2a/2b) and is acceptable in terms of building bulk and mass. The articulated eastern façade and provision of landscaping also assists in softening the building edge when viewed from adjoining properties;</td>
</tr>
<tr>
<td>• Walls of the development do not engage with surrounding properties, and rather impose on them;</td>
<td>• The southern elevation provides articulation to wall lengths, wall heights and large openings that breaks up solid portions of mass wall and subsequently reduces building bulk when viewed from the southern adjoining property;</td>
</tr>
<tr>
<td>• Reduced setbacks result in overlooking to all adjoining properties. Amenity issues would decrease the quality of life for adjoining residents;</td>
<td>• The development meets the deemed-to-comply standards of the R Codes Clause 5.4.1 Visual Privacy, ensuring no adverse overlooking and subsequent loss of privacy to the adjoining properties.</td>
</tr>
<tr>
<td>• Reduced setbacks result from the house being too large for the lot size;</td>
<td>• The development does not result in a reduction of solar access to the adjoining eastern properties;</td>
</tr>
<tr>
<td>• The design of the development does not relate to the surrounding properties and therefore appears out of character;</td>
<td>• The relationship of the proposed development to the character of the locality has been considered under Clause 6T of the Planning and Development (Local Planning Scheme) Regulations 2015. The mass, scale and design of the development is not consistent or compatible with the established character of the streetscape and surrounding locality;</td>
</tr>
<tr>
<td>• The proposal does little to mitigate its significant reduction of the rear setback standards, resulting in bulk and mass to the rear properties, reduction in sunlight and increased overlooking.</td>
<td></td>
</tr>
</tbody>
</table>

**Boundary Walls to Adjoining Properties**

| **Boundary walls is too high and too close to the adjoining properties providing visual bulk to the southern property;** | **Following neighbour consultation the applicant submitted amended plans with a reduction in the proposed boundary wall heights. The amended boundary walls proposed comply with the Built Form Policy Clause 5.3 Lot boundary setbacks and is acceptable.** |
| **Boundary walls is only on the verge of compliance.** | |

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### Summary of Submissions:

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<tr>
<th>Comments Received in Objection:</th>
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</thead>
<tbody>
<tr>
<td><strong>Street Surveillance</strong></td>
<td>• The development provides a major opening from the ground floor Studio that faces the street and vehicle approach to the dwelling. The development meets the deemed-to-comply standard of the Built Form Policy Clause 5.9 Street Surveillance;</td>
</tr>
<tr>
<td>• The house has no windows facing the street, and subsequently makes no effort to relate to the streetscape and Mount Hawthorn community;</td>
<td>• If approved, the development would be required to maintain active street surveillance. The acceptability of tree location and species would be considered through a relevant condition of approval; and</td>
</tr>
<tr>
<td>• The studio window facing the street is covered by trees;</td>
<td>• The relationship of the proposed development to the street and locality has been considered under Clause 67 of the Planning and Development (Local Planning Scheme) Regulations 2015. The development does provide sufficient passive surveillance and subsequent relationship the established street.</td>
</tr>
<tr>
<td>• Design would not assist in reducing crime in the area; and</td>
<td></td>
</tr>
<tr>
<td>• Development is not consistent with the objectives of Liveable neighbourhoods which is to increase passive and active surveillance.</td>
<td></td>
</tr>
<tr>
<td><strong>Street Walls and Fences</strong></td>
<td>• The gate proposed as part of the front fence slides entirely within the subject site, presenting no conflicts to the adjacent footpath. The development has also provided sufficient vehicle sightlines to ensure safety and visibility to the footpath.</td>
</tr>
<tr>
<td>The front gate slides externally, creating potential safety issues for pedestrians walking past.</td>
<td></td>
</tr>
<tr>
<td><strong>Sightlines</strong></td>
<td>• Following neighbour consultation the application provided amended plans addressing sightlines. The front fence now falls within the City's acceptable standard for sightlines, ensuring that vehicles exiting the site would have clear vision of pedestrians located on the footpath or verge areas. The City's Technical Officers have reviewed the front fence plan and have confirmed that the design meets the Design Principles of the R Codes Clause 5.2.5 Sightlines.</td>
</tr>
<tr>
<td>• Concerns relating to non-compliant sightlines and pedestrian safety risks;</td>
<td></td>
</tr>
<tr>
<td>• A lot of children pass by on the pedestrian path and would be at risk due to non-compliant sightlines; and</td>
<td></td>
</tr>
<tr>
<td>• significant safety hazard.</td>
<td></td>
</tr>
<tr>
<td><strong>Garage Setback</strong></td>
<td>• The proposed garage is setback 2.0 metres behind the upper floor façade. The development meets the deemed-to-comply standards for the Built Form Policy Clause 5.7 Setback of garages and carports and the R Codes Clause 5.2.2 Garage width.</td>
</tr>
<tr>
<td>• The garage should be 0.5m behind the house to comply with the R Codes.</td>
<td></td>
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</tbody>
</table>
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<tr>
<td><strong>Landscaping</strong></td>
<td>• Following neighbour consultation the applicant submitted amended plans with increased deep soil zones. The amended proposal included 14.6% deep soil zones, as well as additional landscaping areas on site that does not contribute to deep soil. The provision of landscaping within the front setback and along all lot boundaries is considered to reduce the overall impact of the development to the street and adjoining properties. The range of species proposed would soften the building edge and provide sufficient shading and greenery on site. The landscaping provided as part of this application is consistent with the Mount Hawthorn locality;</td>
</tr>
<tr>
<td>• The existing greenery within Mount Hawthorn is what makes the suburb so desirable. The development should achieve the full 15% required landscaping to contribute to vegetation in Mount Hawthorn;</td>
<td>• Locations where amenities is located on site such as soak wells and air conditioning units have not been included in deep soil calculations;</td>
</tr>
<tr>
<td>• The accuracy of the 12.6% calculation is questioned;</td>
<td>• If the development were to be approved, a condition requiring 30% canopy cover at maturity would be recommended to be provided on any approval notice. The City’s Technical Officers have confirmed that 30% canopy cover could be achieved on site within the deep soil zones proposed. Compliant canopy cover would provide for greater landscaping amenity for the residents and the community, further reduce the impact of the development on adjoining residential lots and create a sense of open space between dwellings;</td>
</tr>
<tr>
<td>• The development proposes deep soil areas where amenities is located, do these contribute to the calculation?</td>
<td>• Amended plans received no longer propose mature plantings along the southern boundary;</td>
</tr>
<tr>
<td>• Concerns that deep soil zones may be provided with astro-turf;</td>
<td>• In accordance with the definition of ‘deep soil zone’ within the Built Form Policy, deep soil zones is not permitted be covered with impervious surfaces. Deep soil zones is required to support mature plant and tree growth, and</td>
</tr>
<tr>
<td>• Trees provided to the south of the lot would be in constant shade;</td>
<td>• Amended plans received following neighbour consultation addressed inconsistencies between plans;</td>
</tr>
<tr>
<td>• Reduced landscaping would result in an urban heat island effect;</td>
<td>• The development meets the deemed-to-comply standards of the R Codes Clause 5.4.1 Visual Privacy;</td>
</tr>
<tr>
<td>• Very limited trees available on site. Full canopy cover should be provided; and</td>
<td>• The rooftop terrace and upper floor terrace have been provided permanent screening devices in accordance with R Codes Clause 5.4.1 Visual Privacy that restricts views within the cone of vision to all adjoining properties;</td>
</tr>
<tr>
<td>• Concerns relating to inconsistencies in landscaping between plans, as trees is shown in different locations between plans, and in locations where trees could not be accommodated (e.g. the driveway).</td>
<td>• The external stairs and upper floor external doors do not fall under the R Code definition of ‘major openings’ or ‘active habitable spaces’ and is not required to be screened or glazed in accordance with Clause 5.4.1 Visual Privacy.</td>
</tr>
</tbody>
</table>
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<tbody>
<tr>
<td>• The rooftop terrace should be setback 7.5m from all lot boundaries so as to reduce all overlooking and subsequent loss of privacy to all properties;</td>
<td>• The upper floor terrace meets the deemed-to-comply standards for Clause 5.4.1 Visual Privacy of the R Codes. The front of the terrace is open (1 metre balustrading proposed), noting that overlooking from this portion of the terrace falls forward of the northern adjoining properties street setback line; and</td>
</tr>
<tr>
<td>• Rear external stairs is not screened and is too close to lot boundaries therefore providing considerable overlooking to backyards of the adjoining properties. The rear stairs should be screened;</td>
<td>• Future development within the locality would be subject to compliance with the City’s LPS2 and the R Codes.</td>
</tr>
<tr>
<td>• Concerns relating to overlooking from upper floor doorways that is not glazed;</td>
<td></td>
</tr>
<tr>
<td>• The terrace above the garage is not screened to the front, resulting in overlooking to the northern adjoining property; and</td>
<td></td>
</tr>
<tr>
<td>• Overlooking if supported would set an undesirable precedence for future development.</td>
<td></td>
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</tbody>
</table>

Solar Access

<table>
<thead>
<tr>
<th>Officer Technical Comment:</th>
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<tbody>
<tr>
<td>• The shadow cast from the proposed development falls across two lots to the south of the subject site. There is one single house (No. 56 Kalgonie Street Mount Hawthorn) constructed across the two lots affected. The immediately affected lot (Lot 303) is 248 square metres and does not meet current site area requirements for a R30 coded site. It is likely that this lot would be largely overshadowed from a compliant development due to its unfavourable location, dimensions and orientation. If Lot 303 and Lot 23 were to be amalgamated to a total site area of 751 square metres, the proposed development would shadow 33 percent of the site and would meet the deemed-to-comply requirements for Clause 5.4.2 Solar Access of the R Codes. For these reasons, development provides a sufficient shadow projection to the adjoining southern site;</td>
</tr>
<tr>
<td>• Following neighbour consultation the applicant submitted amended plans with a reduction in the overall building height, and a change in the design of the rooftop terrace. The rooftop terrace was modified to sit entirely within the upper floor roof space. These amendments were made to assist in the reduction of overshadowing to the south;</td>
</tr>
<tr>
<td>• The City confirms that the Solar Access Diagram submitted by the applicant has been accurately provided in accordance with the deemed-to-comply standards of the R Codes Clause 5.4.2 Solar Access; and</td>
</tr>
<tr>
<td>• The City does not calculate shadow projection based on rendered images provided.</td>
</tr>
</tbody>
</table>
### Summary of Submissions:

<table>
<thead>
<tr>
<th>Comments Received in Objection</th>
<th>Officer Technical Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Access and Parking</strong></td>
<td>The development has provided the minimum required on-site car parking spaces in accordance with the deemed-to-comply standards of the R Codes Clause 5.3.3 Parking. Car parking spaces and manoeuvring areas have been designed and provided in accordance with Australian Standard 2890.1 (as amended). Adequate car parking has been provided on-site in accordance with the projected need.</td>
</tr>
<tr>
<td><strong>Heritage</strong></td>
<td>The subject site is not identified as a Heritage or Character Retention Isa.</td>
</tr>
<tr>
<td><strong>Noise</strong></td>
<td>The development would be subject to compliance with the Environmental Protection (Noise) Regulations 1997.</td>
</tr>
<tr>
<td><strong>Built Form Outcome</strong></td>
<td>The City is to have due regard to the matters contained under Clause 67 of the Planning and Development (Local Planning Scheme) Regulations 2015 when exercising its discretion. An assessment against matters to which is considered most relevant to this application have been addressed within the Officer report; The application proposes a predominantly compliant development which either meets the deemed-to-comply requirements, or, meets the design principles and local housing objectives of the R Codes and Built Form Policy. The scale, mass and design of the single house is not respectful or in keeping with the scale and character of the established streetscape or locality; While the development is of a high quality, the style of the development is not entirely compatible with the streetscape and locality. The design of the proposed dwelling is not consistent with dwellings within the locality, particularly due to the limited surveillance provided to the street, the provision of solid blank walls to the street, and limited contrasting materials and colours. The opposing form of the Single House proposed...</td>
</tr>
</tbody>
</table>

- The development may result in additional traffic and subsequent safety issues; and
- The number of bedrooms proposed would increase occupants and subsequent parking required.
- The development would have an adverse impact the heritage character of the locality.
- Noise would travel from the rooftop terrace through the whole suburb given it is on the top level.
- Rooftop noise would provide disturbance to many residences that have children;
- Concerns relating to noise generated from people walking up and down the external stairs; and
- The outdoor shower, sauna and pool is all on the boundary and would create noise issues to the adjoining properties.
- The design of the development does not fit into or complement the streetscape. There is no houses along this street or in the surrounding locality that is similar to this design or is of this scale and mass. Development is at odds with the majority of developments within the locality;
- Brutalist architecture is totally out of character;
- The development is not in keeping with Mount Hawthorn character homes;
- The façade of the development does not promote a sense of community and instead turns its back on the street and community. The design is counter to neighbourly interaction and has no desire to identify with the character of Mt Hawthorn;
- The development has not been designed to engage with surrounding properties;
- True character of the street is interwar and post-war - development not in keeping with this;
- Design does not attempt to adhere to standards, compliment the...
### Summary of Submissions:

<table>
<thead>
<tr>
<th>Comments Received in Objection</th>
<th>Officer Technical Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>- heritage nature of the street, or consider the impact such an imposing structure has on neighbours;</td>
<td>- when compared to existing developments is not considered to contribute to a high quality streetscape, and</td>
</tr>
<tr>
<td>- Overdevelopment of a small and narrow lot;</td>
<td>- Should the development be approved, the City considers the development has the potential to be used as a reference point for other development in the area seeking developments of similar mass and scale, would likely affect the future development of the locality by incrementally eroding the open nature and consistency of the streetscape which form the existing and desired future character of the area;</td>
</tr>
<tr>
<td>- There is too much white concrete, which does not relate to the streetscape and detracts from the character homes in Mount Hawthorn;</td>
<td></td>
</tr>
<tr>
<td>- The development would be better located in another suburb where there is similar residences and streetscapes that it would fit into;</td>
<td></td>
</tr>
<tr>
<td>- Roof top terraces is completely out of character in Mt Hawthorn. The terrace would be damaging to neighbours, and</td>
<td></td>
</tr>
<tr>
<td>- The design would provide an undesirable precedence to future developments within the locality.</td>
<td></td>
</tr>
</tbody>
</table>

**Other**

- The development would alienate surrounding properties;
- The development does not need the amount of amenities it has proposed and should be reduced in size (e.g. number of bedrooms, bathrooms, BBQ areas, gym, sauna etc.);
- Concerns relating to how smells, gasses and steam released from the sauna would be addressed;
- Concerns relating to how waste water from the outdoor shower would be drained;
- Concerns for impacts to Anzac Cottage a few houses away;
- The plans do not show the rooftop terrace on the front elevation;
- The development would reduce property values, and
- Development does not comply with the Mount Hawthorn Precinct Policy which ensures that the prevailing residential character of the area is protected and the form and scale of the development does not adversely impact the street.

- The relationship of the proposed development to the street and locality has been considered under Clause 67 of the Planning and Development (Local Planning Scheme) Regulations 2015. Following assessment under these provisions, the City considers proposal would have adverse social impacts on the adjoining residential properties;
- The development complies with the R Code definitions of 'Single House' and 'Residential Building'. The number of amenities on site is not a relevant planning consideration;
- The function of the Outdoor shower and Sauna would be subject to compliance with the City of Vincent Health Local Law 2004;
- The rooftop terrace is contained entirely within the upper floor roof space and is not visible from the front elevation;
- There is no evidence the development would result in a loss of property values, and
- Policy No. 71.1 – Mount Hawthorn Precinct Policy was rescinded at Ordinary Meeting of Council (OMC) on 13 December 2016. The Built Form Policy was adopted at this same OMC, and applies to all development applications in the City of Vincent.
Attachment 8 - Photos of Site and Surrounding Context:
Streetscape Analysis of Kalgoorlie Street, West Perth

LHS - Subject site

RHS - 56 Kalgoorlie Street Mount Hawthorn
Streetscape Analysis of Kalgoorlie Street, West Perth

LHS - 62 Kalgoorlie Street Mount Hawthorn

RHS – subject site
Streetscape Analysis of Kalgoorlie Street, West Perth

55 Kalgoorlie Street and 57 Kalgoorlie Street Mt Hawthorn
*Streetscape Analysis of Kalgoorlie Street, West Perth*

From left to right - 66 Kalgoorlie Street, 64 Kalgoorlie Street and 62 Kalgoorlie Street Mount Hawthorn
Streetscape Analysis of Kalgoorlie Street, West Perth

Left to right – 59 Kalgoorlie Street, 61 Kalgoorlie Street and 63 Kalgoorlie Street Mount Hawthorn
Streetscape Analysis of Kalgoorlie Street, West Perth

LHS – 65 Kalgoorlie Street Mount Hawthorn
RHS – 67 Kalgoorlie Street Mount Hawthorn
Streetscape Analysis of Kalgoorlie Street, West Perth

From left to right – 72 Kalgoorlie Street, 70 Kalgoorlie Street and 68 Kalgoorlie Street Mount Hawthorn
StreetScapе Analysis of Kalgoorlie Street, West Perth

69 Kalgoorlie Street Mount Hawthorn
StreetScape Analysis of Kalgoorlie Street, West Perth

From left to right - 71 Kalgoorlie Street, 73 Kalgoorlie Street and 75 Kalgoorlie Street Mount Hawthorn
Streetscape Analysis of Kalgoorlie Street, West Perth

From left to right - 74 Kalgoorlie Street and 72 Kalgoorlie Street Mount Hawthorn
Streetscape Analysis of Kalgoorlie Street, West Perth

From LHS to RHS – 52 Kalgoorlie Street, 50 Kalgoorlie Street and 48 Kalgoorlie Street Mount Hawthorn
**Streetscape Analysis of Kalgoorlie Street, West Perth**

51 Kalgoorlie Street Mount Hawthorn
Streetscape Analysis of Kalgoorlie Street, West Perth

LHS – 47 Kalgoorlie Street Mt Hawthorn

RHS – 45 Kalgoorlie Street Mt Hawthorn
Streetscape Analysis of Kalgoorlie Street, West Perth

LHS – 44 Kalgoorlie Street Mt Hawthorn

RHS – 42 Kalgoorlie Street Mt Hawthorn
**Streetscape Analysis of Kalgoorlie Street, West Perth**

From left to right – 43 Kalgoorlie Street, 45 Kalgoorlie Street and 47 Kalgoorlie Street Mount Hawthorn
**Streetscape Analysis of Kalgoorlie Street, West Perth**

Contempory style homes within the Kalgoorlie Street and Ashby Street streetscapes:

48 Kalgoorlie Street Mount Hawthorn
Streetscape Analysis of Kalgoorlie Street, West Perth

67 Kalgoorlie Street Mount Hawthorn
**Streetscape Analysis of Kalgoorlie Street, West Perth**

From left to right - 88 Kalgoorlie Street, 86 Kalgoorlie Street and 84 Kalgoorlie Street Mount Hawthorn
Streetscape Analysis of Kalgoorlie Street, West Perth

From left to right - 88 Kalgoorlie Street, 86 Kalgoorlie Street and 84 Kalgoorlie Street Mount Hawthorn
Streetscape Analysis of Kalgoorlie Street, West Perth

From left to right - 90 Kalgoorlie Street and 88 Kalgoorlie Street Mount Hawthorn
Streetscape Analysis of Kalgoorlie Street, West Perth

25 Kalgoorlie Street Mount Hawthorn
Streetscape Analysis of Kalgoorlie Street, West Perth

32 Ashby Street and 55 Kalgoorlie Street Mount Hawthorn.
Streetscape Analysis of Kalgoorlie Street, West Perth

70 Kalgoorlie Street Mount Hawthorn
Streetscape Analysis of Kalgoorlie Street, West Perth

50 Kalgoorlie Street Mount Hawthorn
Streetscape Analysis of Kalgoorlie Street, West Perth

Contemporary build at 52 Buxton Street Mount Hawthorn (cnr Ashby Street and Buxton Street)
Streetscape Analysis of Kalgoorlie Street, West Perth

35 Ashby Street Mount Hawthorn
**Streetscape Analysis of Kalgoorlie Street, West Perth**

Immediately adjoining property – 56 Kalgoorlie Street Mount Hawthorn
7 CORPORATE SERVICES

7.4 LATE REPORT: AMENDMENTS TO THE TRADING IN PUBLIC PLACES LOCAL LAW 2008 AND LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008

TRIM Ref: D18/193088
Authors: Meluka Bancroft, Manager Governance, Property and Contracts
Alice Harford, Senior Strategic Planner
Authoriser: Kerryn Batten, Executive Director Corporate Services
Attachments: 1. Trading in Public Places Amendment Local Law 2019 (draft)
2. Local Government Property Amendment Local Law 2019 (draft)
3. Street Entertainment Policy (draft)
4. Trading In Public Places Local Law 2008 (with amendments marked up)
5. Local Government Property Local Law 2008 (with amendments marked up)

RECOMMENDATION:

That Council:

1. **GIVES** Statewide and local public notice, in accordance with section 3.12 of the *Local Government Act 1995* stating that:

   1.1 It is proposed to make the City of Vincent Trading in Public Places Amendment Local Law 2019 at Attachment 1;

   1.2 The purpose of the City of Vincent Trading in Public Places Amendment Local Law 2019 is to repeal the City of Vincent Trading in Public Places Amendment Local Law 2015 and to amend the City of Vincent Trading in Public Places Local Law 2008 to:

      1.2.1 align the provisions with the City’s online permit process for outdoor eating areas, goods, display and portable advertising signage;

      1.2.2 manage the placement of portable advertising signage on local government property;

      1.2.3 simplify the requirements relating to the Permit Free Entertainer Zones; and

      1.2.4 to make administrative modifications so that the local law aligns with the City’s current objectives and processes;

   1.3 The effect of the City of Vincent Trading in Public Places Amendment Local Law 2019 is that:

      1.3.1 the City’s online permit process for outdoor eating area, goods display and portable advertising signage will be reflected in the local law;

      1.3.2 portable advertising signage on local government property will now be governed by the Trading in Public Places Amendment Local Law 2019;

      1.3.3 the requirements relating to the Permit Free Entertainer Zones are simplified within the local law and additional guidelines will be provided in an associated Policy;

      1.3.4 administrative modifications are made to ensure the local law aligns with the City’s current objectives and processes;
1.4 Copies of the proposed local law are available for inspection at the City’s office, Library and Local History Centre and on its website; and

1.5 Submissions on the proposed local law may be made to the City within a period of not less than six weeks after public notice is given;

2. NOTES that the City of Vincent Trading in Public Places Amendment Local Law 2015 will be repealed;

3. GIVES Statewide and local public notice, in accordance with section 3.12 of the Local Government Act 1995 stating that:

3.1 It is proposed to make the City of Vincent Local Government Property Amendment Local Law 2019 at Attachment 2;

3.2 The purpose of the City of Vincent Local Government Property Amendment Local Law 2019 is to amend the City of Vincent Local Government Property Local Law 2008 to:

3.2.1 remove provisions relating to portable advertising signage on local government property;

3.2.2 to increase the deterrent for causing damage to local government property or using local government property for a commercial activity without a permit;

3.2.3 to increase the efficiency in the management (beautification) of verges;

3.2.4 to deter damage or removal of trees on verges, thoroughfares or local government property;

3.2.5 to prohibit and effectively deter the use of recording devices within change rooms; and

3.2.6 to make administrative modifications so that the local law aligns with the City’s current objectives and processes;

3.3 The effect of the City of Vincent Local Government Amendment Local Law 2019 is that:

3.3.1 portable advertising signage on local government property will now be governed by the City of Vincent Trading in Public Places Amendment Local Law 2019;

3.3.2 increased penalties will apply for causing damage to local government property or using local government property for a commercial activity without a permit;

3.3.3 the conditions relating to management (beautification) of verges are prescribed in the City’s relevant policy;

3.3.4 increased penalties will apply for damage or removal of trees on verges, thoroughfares or local government property;

3.3.5 the use of recording devices within change rooms is prohibited and an appropriate penalty is applicable; and

3.3.6 administrative modifications are made to ensure the local law aligns with the City’s current objectives and processes;

3.4 Copies of the proposed local laws are available for inspection at the City’s office, Library and Local History Centre and on its website; and
3.5 Submissions on the proposed local laws may be made to the City within a period of not less than six weeks after public notice is given;

4. NOTES that in accordance with Section 3.12(3)(b) of the Local Government Act 1995 a copy of the proposed local laws and public notice will be provided to the Minister for Local Government;

5. NOTES that any submissions received as a result of the public notice provided as set out in 1. and 3. above will be presented to Council for consideration;

6. GIVES local public notice of draft Policy No 3.10.4 – ‘Street Entertainment’, at Attachment 3, which sets out the guidelines for street entertainment, for a period of not less than 21 days, in accordance with the City’s Policy No. 4.1.1. ‘Policy Manual – Adoption and Review of Policies’; and

7. NOTES that any submissions received in relation to 6. above will be presented to Council for consideration.

PURPOSE OF REPORT:

To consider giving public notice of the City of Vincent Trading in Public Places Amendment Local Law 2019, City of Vincent Local Government Property Amendment Local Law 2019 and Street Entertainers Policy.

BACKGROUND:

Council, at its meeting of 7 March 2017, resolved (in part) as follows:

“That Council:

1. Pursuant to section 3.16(4) of the Local Government Act 1995, DETERMINES BY ABSOLUTE MAJORITY that it considers that the following local laws should be amended for the reasons set out below and REQUIRES Administration, for each local law, to present a report back to Council by September 2017 to consider making amendments to those local laws, pursuant to section 3.12 of the Local Government Act 1995:

<table>
<thead>
<tr>
<th>Local Law</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Government Property Local Law 2008</td>
<td>To address concerns that construction activity on private property is damaging or obstructing access to footpaths, thoroughfares and other public places; and To increase the City’s powers to deal effectively with for-profit groups that use public spaces without agreement.</td>
</tr>
</tbody>
</table>

Action 7.2 of the City’s Corporate Business Plan 2016/17 – 2019/20 relates to Council’s resolution from its meeting of 5 April 2016 concerning the process for outdoor eating areas and display of goods. Council’s resolution is provided below:-

“That Council:

1. REQUESTS the Chief Executive Officer to prepare an amendment to the City of Vincent’s Trading in Public Places Local Law 2008 for Council’s formal consideration and following public consultation on the 8-yearly review of local laws, in order to give effect to the following changes to the licencing of Outdoor Eating Areas and Display of Goods on Footpaths:

1.1 To generally remove the need for the City’s approval of outdoor eating areas and display areas, where those areas comply with existing Local Law and Policy standards and conditions for approval of such areas; and
1.2 To specify any circumstances where the City’s approval will still be required;

2. NOTES AND ENDORSES Administration’s intent to develop an electronic self-assessment and self-certification tool to assist businesses in the City of Vincent to apply for and obtain licences for outdoor eating area and outdoor display areas as an interim measure, pending the formal review and revision of the Trading in Public Places Local Law 2008; and

3. LISTS for consideration in the Draft 2016/17 Annual Budget a revision and reduction to the fee charged for outdoor eating areas and outdoor display areas, to reflect the self-assessment and self-certification approach referred to in 2 above."

The Trading in Public Places Amendment Local Law 2015 was gazetted on 15 January 2015 to introduce provisions relating to Permit Free Entertainer Zones. The Department of Local Government and Communities, now the Department of Local Government, Sport and Cultural Industries (DLGSC) identified procedural inconsistencies following gazettal relating to the period of statewide notice, differences between the advertised and gazetted version of the local law and the incorrect operation date for the Amendment Local Law 2015 being published. This may affect the validity of the local law if it were to be challenged and therefore should be rectified as part of this amendment process.

This report is presented to repeal the City’s Trading in Public Places Amendment Local Law 2015 and to amend the City’s Trading in Public Places Local Law 2008 and Local Government Property Local Law 2008 in accordance with the process prescribed in section 3.12 of the Local Government Act 1995.

DETAILS:

Trading In Public Places Local Law

Council’s resolution of 5 April 2016 and item 7.2 of the City’s Corporate Business Plan 2016/17 – 2019/20 sought to generally remove the need for the City’s approval of outdoor eating areas and goods displays that complied with the requirements of the Trading in Public Places Local Law 2008.

In February 2018, the City launched the electronic self-assessment and self-certification tool for outdoor eating areas, portable advertising sign and goods display permits (online permit process). The online permit process allows business owners to make their application for an outdoor eating area, goods display or portable advertising sign permit online and receive an automatically generated permit, where they meet the requirements.

Having reviewed the Trading in Public Places Local Law 2008 in the context of the success of the online permit process, it is considered that removing the need for approval altogether for outdoor eating areas, goods display and portable advertising signs could unnecessarily increase the City’s risk of non-compliance with the Trading in Public Places Local Law 2008, which may affect public safety and amenity. As an alternative, appropriate amendments to the Trading in Public Places Local Law 2008 to complement the online permit process will ensure that the process for obtaining a permit will be simple and efficient for local businesses. This approach is in line with Council’s desire to generally remove the need for approval which stemmed from the length of time that it was taking the City to determine applications for permits and the impact that this was having on local businesses.

The proposed amendments to the Trading in Public Places Local Law are as follows:

Repealing the Trading in Public Places Amendment Local Law 2015:

The inconsistencies with the processing of the Trading in Public Places Amendment Local Law 2015 identified by DLGSC relate to the following:

- Section 3.12(3) of the Local Government Act 1995 requires the local government to provide statewide notice of a proposed local law and provide a public notice period of no less than six weeks (42 days). State-wide consultation for the Trading in Public Places Amendment Local Law 2015 commenced on 18 June 2014 and the closing date for submissions was 11 July 2014, a total of 23 days;

- The advertised version of the proposed local law included specific maps listed in clause 2.10 which identified the location of Permit Free Entertainer Zones. The gazetted version of the local law did not include the maps or zones, and clause 2.10 enabled the City to designate any public place as a Permit Free Entertainer Zone; and
Section 3.12(6) of the Local Government Act 1995 requires the local government to issue a public notice indicating the date of gazettal and the day the local law comes into effect. The notice published by the City on 10 February 2015 stated that the local law would come into operation on 23 February 2015 when in fact it came into effect on 30 January 2015.

The inconstancies as outlined above could affect the validity of the local law on the basis that the procedural requirements of the Local Government Act 1995 were not satisfied. To remedy this situation, it is proposed to repeal the Trading in Public Places Amendment Local Law 2015. This will remove any doubt as to the validity of the local law. The rescission process can be undertaken simultaneously to the amendments currently proposed.

**Aligning the Trading in Public Places Local Law 2008 with the online permit process:**

The implementation of the online permit process, whilst greatly reducing the timeframes associated with the processing of application for permits, does not provide the City the ability to verify the information submitted by the applicant before the permit is issued. A number of amendments are proposed to the local law in order to remedy this issue by expanding the circumstances under which the City can cancel or suspend a permit, including:

- If the application is found to be incomplete or incorrect;
- If the application is found to contain incorrect or falsified information;
- If the City considers the activity permitted by the permit poses a public health, safety or amenity issue;
- If valid development approval is not held for the premises which relate to the activity permitted by the permit; and
- Where a permit already exists for the same location.

**Including provisions relating to the display of portable advertising signs (this is currently included within the Local Government Property Local Law 2008), and introducing penalties that relate to this activity:**

The requirements relating to the display of portable advertising signs are currently located in the Local Government Property Local Law 2008. It is proposed to relocate these provisions to the Trading in Public Places Local Law 2008, given that these signs relate to businesses trading in a public place. The provisions related to fixed advertising signage, directional signs and election signs will still be retained in the Local Government Property Local Law 2008.

**Clarifying the requirements that apply to the Permit Free Entertainer Zone:**

The Trading in Public Places Amendment Local Law 2015 includes a number of obligations for both performers inside and outside of the Permit Free Entertainer Zones, as well as referring to a set of ‘Risk Management Guidelines and Code of Practice for Street Performers’. This document however was not adopted by Council at the time of gazettal of the Trading in Public Places Amendment Local Law 2015 and as such has not been applied.

It is proposed firstly, to simplify the requirements for Permit Free Entertainer Zones within the Trading in Public Places Local Law 2008, and secondly to adopt a revised set of guidelines for street entertainers in the form of a policy which will be referred to within the local law and provide guidance for all performers within the City of Vincent. The revised Street Entertainment Policy is included as Attachment 3.

**Local Government Property Local Law**

The proposed amendments to the Local Government Property Local Law 2008 are discussed in turn below.

**Portable advertising signs**

Provisions relating to the display of portable advertising signs on local government property and thoroughfares are proposed to be removed from the local law as these requirements will now be incorporated within theTrading in Public Places Local Law 2008, as explained above.
Deterring damage to local government property, including trees

To address concerns that construction activity on private property is damaging or obstructing access to footpaths, thoroughfares and other public places, a number of penalties are proposed to be increased in order to act as a more realistic deterrent.

It is also proposed to create two separate offences for failing to obtain a permit to carry out works on local government property and for failing to comply with the conditions of that permit. This will enable the City to increase the penalties relating to this activity without increasing the penalties that relate to other activities that require a permit. Similarly, a specific offence will be created for failure to pay a bond or security when required to do so by the City. The proposed prescribed penalties for the above are $500.

In order to deter damage or removal of trees on local government property or on a thoroughfare, the penalty is proposed to be increased from $300 to $5,000.

These amended / new penalties are detailed below:

<table>
<thead>
<tr>
<th>Clause</th>
<th>Description</th>
<th>Current Penalty</th>
<th>Proposed Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.5(2)</td>
<td>Failure to comply with conditions of a permit for works on local government property.</td>
<td>100</td>
<td>500</td>
</tr>
<tr>
<td>3.14(2)</td>
<td>Failure to obtain a permit to carry out works on local government property.</td>
<td>-</td>
<td>500</td>
</tr>
<tr>
<td>3.14(3)</td>
<td>Failure to obtain a permit to use local government property or a community facility for a for profit purpose</td>
<td>-</td>
<td>500</td>
</tr>
<tr>
<td>5.3(m)</td>
<td>Using a mobile phone, camera or other recording device in a change room in a pool premises, library or other community facility</td>
<td>-</td>
<td>500</td>
</tr>
<tr>
<td>9.1</td>
<td>Damaging a thoroughfare or anything belonging to or under the care, control or management of the local government that is on a thoroughfare.</td>
<td>200</td>
<td>500</td>
</tr>
<tr>
<td>9.2(1)(a)</td>
<td>Failing to take necessary precautions to ensure footpaths, verges or trees are not damaged during works.</td>
<td>200</td>
<td>500</td>
</tr>
<tr>
<td>9.2(1)(b)</td>
<td>Failing to ensure footpath remains in a safe and functioning state suitable for use by the public.</td>
<td>200</td>
<td>500</td>
</tr>
<tr>
<td>9.2(2)(a)</td>
<td>Failing to take reasonable precautions to prevent damage to footpath, verge or street tree.</td>
<td>200</td>
<td>500</td>
</tr>
<tr>
<td>9.4</td>
<td>Failure to install or maintain a verge in accordance with the relevant City policy, as amended from time to time.</td>
<td>100</td>
<td>250</td>
</tr>
<tr>
<td>10.1(g)</td>
<td>Damaging or removing a tree, which includes a tree on a verge, thoroughfare or local government property, or a part thereof, without the approval of the local government.</td>
<td>300</td>
<td>5,000</td>
</tr>
</tbody>
</table>

Deterring for-profit activities on local government property without a permit

In relation to increasing the City’s powers to deal effectively with for-profit groups that use public spaces without agreement, a new clause is proposed which deals with using local government property or a community facility for a commercial purpose (including group fitness). This offence has prescribed a penalty of $500, as set out in the above table.

Prohibiting the use of recording devices in change rooms

As part of the review it was also identified that the local law did not expressly prohibit the use of recording devices within change rooms at pool premises, the library or other community facilities. This was currently managed through the use of signage in change rooms, with enforcement possible for non-compliance with a direction on a sign. Introducing this express provision will streamline the management of this, and enables an increased penalty to be prescribed. The proposed penalty is $500, as set out in the table above.

Further additional administrative changes have been made to ensure the local law aligns with the City’s current practices and strategic objectives. Changes have also been made to reduce the prescriptiveness of the local law. An example of this is the removal of a number of clauses relating to verge treatments. As the requirements for treatments, planting and beautifications of a verge are stipulated in the City’s relevant policy, it is appropriate for the local law to refer to verges being treated, planted and beautified in accordance
with the City’s relevant policy, as amended from time to time. A penalty of $250 is proposed for non-compliance.

Another example is the removal of the prohibition to play or participate in sport on a street

Track changes versions of the Trading in Public Places Local Law 2008 and Local Government Property Local Law 2008 including the proposed amendments are provided at Attachments 4 and 5 respectively.

CONSULTATION/ADVERTISING:

Section 3.12 of the Local Government Act 1995 sets out the consultation requirements for making a local law. This section of the Act is reproduced in the Legal/Policy section of this report.

The City’s Community Consultation Policy No. 4.1.5 also requires that notice of the proposed amendment local law is provided on the City’s website and to local businesses and community groups.

The proposed amendments to the Trading in Public Places Local Law 2008 were presented to the Council Members at a workshop on 20 November 2018. Both marked up local laws were subsequently circulated to Council Members on 20 February 2019 for review and comment.

LEGAL/POLICY:

Section 3.12 of the Local Government Act 1995 sets out the requirements for making a local law:

"3.12. Procedure for making local laws

(1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.

(2A) Despite subsection (1), a failure to follow the procedure described in this section does not invalidate a local law if there has been substantial compliance with the procedure.

(2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.

(3) The local government is to —

(a) give Statewide public notice stating that —

(i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice; and

(ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and

(iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given; and

(b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and

(c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.

(3A) A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.

(4) After the last day for submissions, the local government is to consider any submissions made and may make the local law* as proposed or make a local law* that is not significantly different from what was proposed.

* Absolute majority required.
(5) After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.

(6) After the local law has been published in the Gazette the local government is to give local public notice

(a) stating the title of the local law; and
(b) summarizing the purpose and effect of the local law (specifying the day on which it comes into operation); and
(c) advising that copies of the local law may be inspected or obtained from the local government’s office.

(7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.

(8) In this section — making in relation to a local law, includes making a local law to amend the text of, or repeal, a local law."

In accordance with Policy No. 4.1.5 – Community Consultation, Administration will also write to any impacted Business and Community Groups.

RISK MANAGEMENT IMPLICATIONS:

Low: There are considered to be minimal risks involved in reviewing the City’s local laws and making the proposed amendments.

STRATEGIC IMPLICATIONS:

This is in keeping with the City’s Strategic Community Plan 2018 – 2028:

“Innovative and Accountable:

The City of Vincent has a significant role to play in supporting our community to realise its vision. To achieve this, we will be an innovative, honest, engaged and responsible organisation that manages resources well, communicates effectively and takes our stewardship role seriously.”

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

There are nominal costs associated with making the local laws, including advertising and Gazettal, which can be expended from the City’s operating budget.
LOCAL GOVERNMENT ACT 1995
TRADING IN PUBLIC PLACES LOCAL LAW 2008
City of Vincent
Trading in Public Places Amendment Local Law 2019

Under the powers conferred by the Trading in Public Places Local Law 2008 and by all other powers enabling it, the Council of the City of Vincent resolved on .............. to make the following local law:

1. Citation

This local law may be cited as the City of Vincent Trading in Public Places Amendment Local Law 2019.

2. Commencement

This local law comes into operation 14 days after the date of its publication in the Government Gazette.

3. Principle local law

In this local law, the City of Vincent Trading in Public Places Local Law 2008 published in the Government Gazette on 15 April 2008 and amended as published in the Government Gazette on 7 October 2008 and 27 February 2009 is referred to as the principle local law.

4. Table of Contents

In the table of contents –

(1) Delete clauses 1.6, 1.7 and 1.8 and insert –

”1.6 Definitions
1.7 Interpretation
1.8 Fees and charges”

(2) In Division 2

(a) After clause 2.9 insert –

”2.10 Permit free entertainer zone”

(b) Rename clauses 2.10, 2.11, 2.12, 2.13 and 2.14 as 2.11, 2.12, 2.13, 2.14 and 2.15 respectively.

(c) In clause 2.15 delete “permit holder” and insert “performers”

(3) Delete Division 3 and 4 and insert –

”Division 3 – Outdoor Eating Areas

2.16 Definitions
2.17 Outdoor eating area permit
2.18 Requirements for an outdoor eating area
2.19 Obligations of permit holder
2.20 Removal of an outdoor eating area unlawfully conducted
2.21 Use of an outdoor eating area by public
2.22 Temporary removal of an outdoor eating area may be requested

Division 4 – Display of Goods on a Footpath
2.23 Definitions
2.24 Goods permit
2.25 Requirements for goods display
2.26 Obligations of permit holder
2.27 Safety of persons
2.28 Removal of goods for works
2.29 Removal of goods
2.30 Unlawful placement of goods"

(4) After Division 4 insert –

“Division 5 – Portable Advertising Signs on Thoroughfares

2.31 Definitions
2.32 Portable advertising sign permit
2.33 Requirements for portable advertising signs
2.34 Dimensions for portable advertising signs
2.35 Obligations of permit holder
2.36 Safety of persons
2.37 Removal of portable advertising sign for works
2.38 Removal of portable advertising sign which does not comply
2.39 Unlawful placement of portable advertising signs"

(5) In PART 3

(a) In clause 3.4 insert “an” after the word “which”;

(b) In clause 3.7 insert “permit” after the word “with”;

(c) In clause 3.14 delete “holder” and replace with “holder’s”;

(d) In clause 3.15 delete “Planning approval” and replace with “Other approvals”.

(6) In clause 5.4 delete “and indemnity” and replace with “policy”;

(7) In clause 6.4 delete “thoroughfares” and replace with “thoroughfare”;

(8) Delete clause 7.3 and insert –

“7.3 Infringement notices and infringement withdrawal notices”

(9) In Schedule 1 insert “prescribed offences”.

5. Clause 1.2 amended
In clause 1.2(1) delete “items and” and insert “portable advertising signs and the activities of”.

6. Clause 1.4 amended
After clause 1.4(1)(c) insert –


7. Clause 1.6 amended
(1) Insert "amend" means replace, substitute, in whole or in part, add to or vary, and the doing of any two or more such things simultaneously or by the same written law; 

(2) Amend "applicant" definition; insert "or a body corporate" after the word "person", delete "for a permit under" and insert "to the local government to trade in a public place or use local government property in accordance with"; 

(3) Insert "body corporate" means a legal entity, such as an association, company, government, government agency, institution, partnership, or a person that is a corporation created by charter, prescription or legislation; 

(4) Amend "carriageway" definition; insert "bitumen or" after the word "the", and delete "or made"; 

(5) Insert "development approval" means an approval issues under a local planning scheme; 

(6) Amend "kerb" definition; delete "includes" and insert "means"; 

(7) Amend "local government property" definition: 
   (a) Delete "belongs to" and insert "is owned or leased by"; 
   (c) Delete "under" and insert "within the district as defined in"; 

(8) Insert "local planning scheme" shall have the same meaning given to it under Part 1 of the Planning and Development Act 2005; 

(9) Amend "nuisance" definition: 
   (a) Delete "any thing" and replace with "anything"; 
   (b) Delete "any thing" and replace with "anything"; 

(10) Amend "permit" definition; delete "means a permit issued under this local law" and replace with "means written confirmation from the local government of an applicant's right to trade on or use local government property in accordance with this local law, and may include electronic confirmation, and may include a booking/reference number"; 

(11) Amend "person" definition, insert "means a natural person and" 

(12) Delete definition of "planning approval" 

(13) Delete definition of "Town planning scheme" 

(14) Insert "thoroughfare" is defined in section 1.4 of the Act, and means a road or thoroughfare and includes structures or other things relating to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end"; 

(15) Amend " verge" definition; delete "and" and replace with "private property" and insert "but does not include any footpath or kerb" after the word "thoroughfare". 

8. New clause 1.7 inserted

After clause 1.6 insert –

"1.7 Interpretation
In this local law unless the context required otherwise, a reference to local property includes a reference to any part of that local government property."

9. Clause 1.7 amended
   (1) Rename clause 1.7 as 1.8;
   (2) Insert “and will be specified in the City’s Schedule of Fees and Charges, as amended from time to time” after the word “Act”.

10. Clause 2.3 amended
   (1) After clause 2.3(1) insert –
   "(2) A trader’s permit is not required for activities subject to another permit issued under this local law, including a goods permit under Division 4 of Part 2 and a portable advertising sign permit issued under Division 5 of Part 2;"
   (2) Rename clause 2.3(2) as 2.3(3);
   (3) Rename clause 2.3(3) as 2.3(4).

11. Clause 2.9 amended
    Insert the following definitions:
    (1) “permit free entertainer zone” means an allocated area where an entertainer can perform without the need for a permit, and
    (2) “pitch location” means a prescribed location within the permit free entertainer zones where a performer or performance group may perform.

12. New clause 2.10 inserted
    After Clause 2.9 insert –
    "2.10 Permit free entertainer zone
    (1) A permit to perform is not required within the permit free entertainer zone;
    (2) Permit free entertainer zones are determined by the local government;
    (3) Performers or performance groups may only perform at prescribed pitch locations in the permit free entertainer zones as delineated by the local government by a marker on the ground; and
    (4) The local government can designate any public place as a pitch location within the permit free entertainer zones."

13. Division 2 renumbered
    Rename clauses 2.10, 2.11, 2.12, 2.13 and 2.14 as 2.11, 2.12, 2.13, 2.14 and 2.15 respectively.

14. Clause 2.10 amended
    (1) In clause 2.10(1) insert “outside of the permit free entertainer zone” after the word “place”;
    (2) Delete clause 2.10(3)(a) and (b).
15. Clause 2.12 amended
Delete clause 2.12 and insert –

“2.13 Duration of permit
An entertainer’s permit is valid for the period of 3 specified in the permit unless cancelled in accordance with clause 2.14.”

16. Clause 2.14 amended
Delete clause 2.14 and insert –

“2.15 Obligations of permit holder
(1) Performers or performance groups in the permit free entertainer zones shall not perform in a public place otherwise than in accordance with the terms and conditions of the associated Policy, as amended from time to time.

(2) A permit holder shall not perform in a public place otherwise than in accordance with the terms and conditions of his or her entertainers permit and the associated Policy, as amended from time to time.”

17. Division 3 renumbered
Rename clauses 2.15, 2.16, 2.18, 2.19, 2.20, 2.21 as 2.16, 2.17, 2.19, 2.20, 2.21 and 2.22 respectively.

18. Clause 2.15 amended
Amend “food business” definition, delete “section” and replace with “Section”.

19. Clause 2.16 amended
Delete clause 2.16 and insert –

“2.17 Outdoor eating area permit
(1) A person shall not establish or conduct an outdoor eating area without a valid permit;

(2) The rights of a permit holder under an outdoor eating area permit are subject to this local law.”

20. Clause 2.17 deleted

21. New clause 2.18 inserted

“2.18 Requirements for an outdoor eating area
An outdoor eating area must –

(a) be conducted in conjunction with and as an extension of food premises or licensed premises abutting the outdoor eating area which are registered as a food business under the Food Act, and the applicant must be the person conducting such food premises or licensed premises;

(b) effect and maintain all necessary approvals governing the operation of the outdoor eating area;

(c) comply with any local law made under section 172 of the Health Act or any other relevant local law of the local government;

(d) have access to proper and sufficient sanitary and ablutionary conveniences for users of the outdoor eating area;
(e) not –

(i) obstruct the visibility or clear sight lines of any person at an intersection of thoroughfares;
(ii) impede pedestrian access; or
(iii) contain furniture which obstructs or impedes the use of the public place for the purpose for which it was designed.

22. Clause 2.18 amended

(1) In clause 2.18(1)(b) insert “or other Act relevant to the outdoor eating area” after the word “Act”;

(2) In clause 2.18(1)(e) insert “relating to the” after the word “costs”;

(3) In clause 2.18(1)(f) insert “immediately”;

(4) Insert clause 2.18(1)(h) “produce evidence of the outdoor eating area permit whenever requested by an authorised person to do so. Evidence could include the written confirmation (electronic version acceptable) provided by the City of the permit number (if applicable).”

23. Clause 2.19 amended

Delete clause 2.19 and insert –

“2.20 Removal of an outdoor eating area unlawfully conducted

Where an outdoor eating area is established or conducted without a permit, or in contravention of a condition of a permit or this local law, any furniture may be removed by an authorised person and impounded in accordance with the Act.”

24. Clause 2.20 amended

In clause 2.20(1) delete “them” and insert “the chair or furniture”.

25. Clause 2.21 amended

In clause 2.21(1) delete “service” and replace with “Service”.

26. Clause 2.22 amended

(1) Rename clause 2.22 to 2.23;

(2) Amend “goods” definition; delete “has the meaning given to it under the Act” and replace with “for the purposes of display of goods under this local law means goods for sale and/or hire as part of the permit holder’s business.”

27. Clause 2.23 deleted

28. Clause 2.24 amended

Delete clause 2.24(2) and insert –

“2.24 The rights of a permit holder under a goods display permit are subject to this local law.”

29. Clause 2.25 amended

Delete clause 2.25 and insert –

“2.25 Requirements for goods display
A goods display must not—

(a) obstruct the visibility of clear sightlines of any person at an intersection of thoroughfares;

(b) impede pedestrian access, or

(c) obstruct or impede the use of the footpath for the purpose for which it was designed."

30. Clause 2.26 amended

Delete clause 2.26 and insert—

"2.26 Obligations of permit holder

The permit holder shall—

(a) Comply with the terms and conditions of the permit to establish and conduct the goods display;

(b) Maintain the goods and the goods display in a safe condition at all times;

(c) Produce evidence of the goods permit whenever requested by an authorised person to do so. Evidence could include the written confirmation (electronic version acceptable) provided by the City or the permit number (if applicable);

(d) Ensure that the goods display is of a stable design and is not readily moved by the wind, and does not cause any hazard or danger to any person using the thoroughfare;

(e) Only display goods on a footpath which immediately abuts the building occupied by the owner of the goods, and not more than 1 metre from that building in a location approved by the local government and specified in the permit, and

(f) Ensure the free passage of persons using the footpath on which the goods display is positioned."

31. Clause 2.30 amended

(1) In clause 2.30(1) insert "display" after the word "goods";

(2) In clause 2.30(2) insert "display" after the word "goods".

32. Division 5 inserted

Insert—

"Division 5 – Portable Advertising Signs on Thoroughfares

2.31 Definitions

In this Division unless the context otherwise requires—

"A frame sign" means a folding sign which is hinged at the top to provide a stable structure when open;

"permit holder" means the person to whom a portable advertising sign permit is issued;

"portable advertising sign" means a free standing sign and includes a ground based sign, a sandwich board and an A frame sign that is used or intended to be used for the purpose of advertising any premises, services, business, function, event, product or thing;

"portable advertising sign permit" means a permit to display a portable advertising sign;
2.32 Portable advertising sign permit

(1) A person shall not erect or place a portable advertising sign on a thoroughfare unless that person is the holder of a valid portable advertising sign permit.

(2) The rights of a permit holder under a portable advertising sign permit are subject to this local law.

2.33 Requirements for portable advertising signs

A portable advertising sign must –

(a) be consistent with, and be erected or placed in accordance with any other written law regulating the erection or placement of portable advertising signs within the district;

(b) be consistent with the dimensions in clause 2.34 of this local law;

(c) relate to the business described on the portable advertising sign permit;

(d) not be erected or placed on a footpath in front of a building if there is another portable advertising sign already erected or placed in front of that building relating to that business;

(e) only be displayed on a footpath which directly abuts a building occupied by the permit holder, and not more than 1 metre from the building, or in another location approved by the local government and specified in the permit;

(f) not create a hazard to persons using a thoroughfare;

(g) be secure and of stable design and not readily moved by the wind;

(h) be maintained in a good, safe and serviceable condition;

(i) not obstruct the visibility or clear sightlines of:

(1) any person at an intersection of thoroughfares; or

(2) any vehicle;

(j) not impede pedestrian access on the thoroughfare; and

(k) not obstruct or impede the use of the footpath for the purpose of which it is used.

2.34 Dimensions for portable advertising signs

The permit holder shall ensure that the portable advertising sign:

(a) does not exceed 1.000 millimetres in height, and

(b) does not exceed an area of 0.8 square metres on any side.

2.35 Obligations of a permit holder

The permit holder shall –

(a) ensure that the portable advertising sign complies with the requirements in clauses 2.33 and 2.34 of this local law;

(b) ensure that the portable advertising sign is removed each day at the close of the business to which it relates and is not erected again until the business next opens for trading.
(c) only display the portable advertising sign on a footpath in the location approved by the local government and specified in the permit;

(d) comply with any conditions imposed on the portable advertising sign permit; and

(e) produce evidence of the portable advertising sign permit whenever requested by an authorised person to do so. Evidence could include the written confirmation (electronic version acceptable) provided by the City or the permit number (if applicable).

2.36 Safety of persons

A person shall not cause or permit a portable advertising sign to be erected or displayed in such a condition, where, in the opinion of an authorised person, causes or is likely to cause injury or danger to any person or damage to the clothing or possessions of any person.

2.37 Removal of portable advertising sign for works

A permit holder shall ensure that a portable advertising sign is removed from any footpath to permit the footpath to be swept or to permit any other authorised work to be carried out when directed to do so by an authorised person.

2.38 Removal of portable advertising sign which does not comply

A person shall remove any portable advertising sign which does not comply with the requirements of this local law from any footpath when directed to do so by an authorised person.

2.39 Unlawful placement of portable advertising signs

A person who places, causes, or permits to be placed on any thoroughfare any portable advertising sign except in accordance with this local law commits an offence.

33. Clause 3.2 amended

(1) Delete clause 3.2(2)(b);

(2) Rename clause 3.2(2)(c) and 3.2(2)(d) as 3.2(2)(b) and 3.2(2)(c) respectively;

(3) In clause 3.2(2)(c) insert “which may include a plan, specifications or photographs” after the word “form”;

(4) Delete clause 3.2(2)(d) and insert –

“(c) be forwarded to the local government or the specified person at the local government together with any fee specified in the City’s Schedule of Fees and Charges, as amended from time to time.”;

(5) Delete clause 3.2(5)(a) and insert –

“(a) which does not comply with the requirements in subclause (2)”

(6) In clause 3.2(5)(b)(i) insert “or”;

(7) In clause 3.2(5)(b)(ii) delete “(2)” and replace with “(3)”;

(8) In clause 3.2(5)(b)(iii) delete “2.10” and replace with “2.11”;

(9) Delete clause 3.2(5)(b)(iv);

(10) Delete clause 3.2(5)(c) and (d) and insert –
"(c) Which is not properly completed",

(11) Rename Clause 3.2(5)(e) to 3.2(5)(d).

34. Clause 3.3 amended

(1) Delete clause 3.3(c);

(2) Rename clause 3.3(d) to 3.3(c).

35. Clause 3.4 amended

(1) In clause 3.4 delete "division" and replace with "local law";

(2) In clause 3.4(a) insert "or condition of lease or licence" after the word "law";

(3) In clause 3.4(b) insert "in the opinion of the local government" after the word "applicant";

(4) After clause 3.4(c) insert –

"(d) the local government deems the permit application to be for an activity which is not appropriate for the local government property or thoroughfare which the permit is sought in respect to",

(5) Rename clause 3.4(d) to 3.4(e).

36. Clause 3.5 amended

(1) In clause 3.5(1)(a) insert "including but not limited to those conditions in clause 3.6";

(2) In clause 3.5(1)(b) insert "including but not limited to those grounds specified in clause 3.4";

(3) Delete clause 3.5(2) and insert –

"(2) If the local government approved an application for a permit, it will provide the applicant with written confirmation in the form determined by the local government, which could be electronic.

(4) In clause 3.5(3) insert "(which includes electronic)" after the word "notice", and "it is not necessary for the local government to provide reason for the refusal" after the word "applicant";

(5) Delete clauses 3.5(4) and (5).

37. Clause 3.6 amended

(1) In clause 3.6 insert "without limiting the generality of clause 3.5(1)(a), the";

(2) In clause 3.6(1)(a) delete "a fee" and insert "fees, charges and bonds, as specified in the City's Schedule of Fees and Charges, as amended from time to time or as otherwise determined by the local government, at the local government's sole discretion";

(3) In clause 3.6(1)(h) insert "as set out in clause 5.4" after the word "government";

(4) Delete clause 3.6(1)(i) and insert –

"(i) compliance with a standard or a policy of the local government adopted by the local government"
38. Clause 3.7 amended

(1) In clause 3.7 insert "permit" in the heading after the word "with";

(2) Delete clause 3.7(2).

39. Clause 3.8 amended

(1) In clause 3.8(3) insert "subject to providing the permit holder with written notice of the reasons for the amendment" after the word "permit";

(2) In clause 3.8(4) delete "after the amendment is made, and unless otherwise specified in the amendment, the amended term of condition, or both, of the permit apply from the date of notification" and insert "and the amended condition(s) shall apply from the date of notification, unless otherwise specified in the amendment."

(3) Delete clause 3.8(5) and (6).

40. Clause 3.9 amended

Delete clause 3.9 and insert –

"3.9 Duration of permit

A permit is valid for the period specified in the permit unless cancelled in accordance with clause 3.13."

41. Clause 3.10 amended

Delete clause 3.10(2) and insert –

"(2) The provisions of this Part and any other provision of this local law relevant to the permit which is to be renewed shall apply to an application for the renewal of a permit, to the extent that it is applicable for a permit renewal."

42. Clause 3.11 amended

(1) In clause 3.11(1)(d) delete "CEO" and replace with "local government";

(2) In clause 3.11(3) delete "the transfer may be effected by" and insert "it will provide written confirmation to the former permit holder and the transferee;"

(3) Delete clause 3.11(a) and (b).

43. Clause 3.12 amended

(1) Delete "is to" and "their permit;"

(2) Insert "must" after the word "holder", and insert "evidence of a permit" after the word "produce", and insert "evidence could include the written confirmation (electronic version acceptable) provided by the City or the permit number (if applicable)".

44. Clause 3.13 amended

Delete clause 3.13 and insert –

"3.13 Cancellation of permit"
(1) Subject to clause 8.1, a permit may be cancelled by the local government on any one or more of the following grounds –

(a) the permit holder has not complied with a –
   (i) condition of the permit; or
   (ii) provision of this local or any other written law relating to the activity regulated by the permit;

(b) the permit holder is convicted of an offence against this local law;

(c) the permit holder fails to maintain any required public liability insurance or ceases to indemnify the local government against damages in connection with loss or damage in connection with an activity conducted by the permit holder under the permit;

(d) the permit holder has become bankrupt, or gone into liquidation;

(e) the permit holder has entered into any composition or arrangement with creditors;

(f) a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the permit holder’s undertakings or property,

(g) if the permit holder’s application is subsequently found to be incomplete, insufficient or not containing a required document;

(h) if the permit holder’s application is subsequently found to contain incorrect or falsified information and/or documents;

(i) if the City reasonably considers that the activity permitted by the permit may create a public health, safety or amenity issue;

(j) if valid development approval is required and not held for the abutting premises at which the business relating to the activity authorised by the permit is conducted or for the outdoor eating area; and

(k) another permit for an outdoor eating area, goods display or portable advertising sign has been granted, and remains in effect, in relation to the building or business premises related to the permit.

(2) On the cancellation of a permit the local government will provide the permit holder with written notice that the permit has been cancelled –

(3) On receiving notice that the permit has been cancelled in accordance with sub clause (2):

(a) the permit holder must immediately cease using the local government property or thoroughfare unless the notice from the local government provides otherwise, and

(b) any fees paid by the permit holder in respect of the permit are forfeited and will not be refunded by the local government."

45. Clause 3.14 amended

(1) In the heading of clause 3.14 delete “holder” and replace with “holder’s”;

(2) In clause 3.14(2) insert “by notice in writing to the permit holder” after the word “government”;

(3) Insert clause 3.14(3) –

"(3) The rights and privileges granted to a permit holder on the issue of a permit may be suspended by the local government where –
(a) the permit holder’s application is subsequently found to be incomplete, insufficient or not containing a required document;

(b) the permit holder’s application is subsequently found to contain incorrect or falsified information and/or documents, or

(c) the City considers the activity permitted by the permit may create a public health, safety or amenity issue.

until the defect in the permit holder’s application is rectified to the satisfaction of the local government and/or the local government considers that the activity may be conducted in a manner which does not create a public health, safety or amenity issue."

46. Clause 3.15 amended

(1) Delete the heading “Planning approval” and replace with “Other approvals”;

(2) Delete “a planning” and insert “any other approvals, including but not limited to development”.

47. Clause 4.1 amended

In clause 4.1(1) delete “2.18” and insert “2.19”.

48. Clause 4.2 amended

(1) In clause 4.2(1) delete “2.18” and insert “2.19”;

(2) In clause 4.1(1)(a) insert “that clause” after the word “specified” and insert “or the notice (as the case may be), or” after the word “conditions”;

(3) In clause 4.1(1)(b) delete “establish or conduct the outdoor eating area” and insert “complete restoration or reinstatement works”;

(4) Delete clause 4.2(1)(c);

(5) In clause 4.2(3) insert “the” after the word “meet” and “incurred by it” after the word “costs”.

49. Clause 5.2 amended

In clause 5.2(2) insert “portable” after the word “area”.

50. Clause 5.4 amended

Delete clause 5.4 and insert –

“5.4 Public liability insurance policy

(1) Where, as a condition of a permit, the permit holder is required to obtain and maintain a public liability insurance policy, the permit holder shall –

(a) effect and maintain a policy of insurance in the name of the permit holder and the local government (if required by the local government) in respect to any injury to any person or any damage to any property which may occur in connection with the use of the local government property by the permit holder;

(b) ensure that any policy of insurance referred to in (a) indemnifies the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the local government property by the permit holder;
(c) effect and maintain the policy of insurance referred to in (a) for the duration of the permit.

(d) immediately notify the local government if the policy of insurance cover lapses, in which case the permit may be cancelled by the local government in accordance with clause 3.11;

(e) provide the local government with a certificate of currency confirming that public liability insurance cover is in place at any time requested by the local government

(f) ensure that, as a minimum, the permit holder’s public liability insurance policy provides coverage of $10 million (ten million dollars), or such other amount as the local government considers appropriate to the risk and liability involved in the activity authorised by the permit. At the discretion of the local government, minimum value of coverage required may be increased at the policy renewal date;

(g) ensure that the public liability insurer of the permit holder is a reputable insurer licensed to conduct insurance business in Australia in accordance with the guidelines issued by the Australian Prudential Regulatory Authority (APRA).

(2) A permit holder who refuses to or cannot provide a current certificate of insurance at least 14 days prior to the commencement of any activity, action or thing performed or erected in accordance with the permit, as required in accordance with subclause (1) commits an offence.

(3) A permit holder must provide the local government with a copy of their certificate of insurance currency at any time requested by the local government, including at the permit application stage.

51. Clause 6.1 amended
Delete "WA" and "Service" and replace with "Western Australia" and "Force" respectively.

52. Clause 7.1 amended
In clause 7.1(3) delete "shall be liable" and "250" and replace with "is liable" and "300" respectively.

53. Clause 7.3 amended
In the heading of clause 7.3 delete "Forms of" and insert "notices" and "infringement".

54. Prescribed Offences amended
Schedule 1 be deleted and substituted with the following:

**SCHEDULE 1**

**PRESCRIBED OFFENCES**

<table>
<thead>
<tr>
<th>CLAUSE</th>
<th>DESCRIPTION</th>
<th>MODIFIED PENALTY $</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.2 (1)</td>
<td>Conducting a stall in a public place without a permit</td>
<td>250</td>
</tr>
<tr>
<td>2.3 (1)</td>
<td>Trading without a permit</td>
<td>250</td>
</tr>
<tr>
<td>2.8 (1)(b)</td>
<td>Failure of stallholder or trader to display or carry permit</td>
<td>100</td>
</tr>
<tr>
<td>2.8 (1)(c)</td>
<td>Stallholder or trader not displaying valid permit</td>
<td>100</td>
</tr>
<tr>
<td>2.8 (1)(d)</td>
<td>Stallholder or trader not carrying certified scales when selling goods by weight</td>
<td>100</td>
</tr>
<tr>
<td>2.8 (3)</td>
<td>Stallholder or trader engaged in prohibited conduct</td>
<td>250</td>
</tr>
<tr>
<td>2.11 (1)</td>
<td>Performing in a public place outside of the permit free entertainer zone without a permit</td>
<td>250</td>
</tr>
<tr>
<td>2.12 (2)</td>
<td>Failure of performer to move onto another area when directed</td>
<td>100</td>
</tr>
<tr>
<td>Item</td>
<td>Description</td>
<td>Penalty</td>
</tr>
<tr>
<td>-------</td>
<td>-----------------------------------------------------------------------------</td>
<td>---------</td>
</tr>
<tr>
<td>2.15</td>
<td>Failure of performer to comply with obligations</td>
<td>100</td>
</tr>
<tr>
<td>2.17</td>
<td>Establishment or conduct of outdoor eating area without a permit</td>
<td>250</td>
</tr>
<tr>
<td>2.19</td>
<td>Failure of permit holder of outdoor eating area to comply with obligations</td>
<td>250</td>
</tr>
<tr>
<td>2.21 (1)</td>
<td>Use of furniture of outdoor eating area without purchase of food or drink from permit holder</td>
<td>100</td>
</tr>
<tr>
<td>2.21 (2)</td>
<td>Failure to leave outdoor eating area when requested to do so by permit holder</td>
<td>100</td>
</tr>
<tr>
<td>2.24 (1)</td>
<td>Displaying goods on a footpath without a permit</td>
<td>250</td>
</tr>
<tr>
<td>2.26</td>
<td>Failure of permit holder of goods display to comply with obligations</td>
<td>250</td>
</tr>
<tr>
<td>2.27</td>
<td>Permitting goods to be displayed in an unsafe or dangerous manner</td>
<td>250</td>
</tr>
<tr>
<td>2.28</td>
<td>Refusing or failing to remove goods to allow for sweeping, cleaning or any other authorised work</td>
<td>100</td>
</tr>
<tr>
<td>2.29</td>
<td>Refusing or failure to remove goods when requested to do so</td>
<td>250</td>
</tr>
<tr>
<td>2.30 (1)</td>
<td>Placing or permitting goods contrary to the requirements of the local law</td>
<td>250</td>
</tr>
<tr>
<td>2.30 (2)</td>
<td>Placing or permitting an item so as to obstruct a footpath without lawful authority</td>
<td>250</td>
</tr>
<tr>
<td>2.32 (1)</td>
<td>Erecting or placing a portable sign on a thoroughfare without a permit</td>
<td>250</td>
</tr>
<tr>
<td>2.35</td>
<td>Failure of a permit holder to comply with obligations</td>
<td>250</td>
</tr>
<tr>
<td>2.36</td>
<td>Permitting a portable advertising sign to be displayed in an unsafe or dangerous manner</td>
<td>250</td>
</tr>
<tr>
<td>2.37</td>
<td>Refusing or failing to move a portable advertising sign to allow for sweeping, cleaning or other authorised works</td>
<td>100</td>
</tr>
<tr>
<td>2.38</td>
<td>Refusing or failing to remove a portable advertising sign which does not comply when requested to do so</td>
<td>250</td>
</tr>
<tr>
<td>2.39</td>
<td>Placing or permitting a portable advertising sign contrary to the requirements of the local law</td>
<td>250</td>
</tr>
<tr>
<td>3.7</td>
<td>Failure to comply with a condition of a permit</td>
<td>250</td>
</tr>
<tr>
<td>3.12</td>
<td>Failure to produce a permit when requested to do so by an authorised person</td>
<td>100</td>
</tr>
<tr>
<td>5.3</td>
<td>Carrying out works in thoroughfare without permission</td>
<td>250</td>
</tr>
<tr>
<td>5.4 (2)</td>
<td>Failure to hold or provide a current certificate of currency to an authorised person when requested</td>
<td>250</td>
</tr>
<tr>
<td>6.1</td>
<td>Failure to obey a lawful direction of an authorised person</td>
<td>250</td>
</tr>
<tr>
<td>6.2</td>
<td>Failing to leave local government property when directed to do so</td>
<td>250</td>
</tr>
<tr>
<td>7.1 (2)</td>
<td>Failure to comply with notice</td>
<td>250</td>
</tr>
<tr>
<td>7.1</td>
<td>All other offences not described above</td>
<td>100</td>
</tr>
</tbody>
</table>
LOCAL GOVERNMENT ACT 1995

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008

City of Vincent

Local Government Property Amendment Local Law 2019

Under the powers conferred by the Local Government Property Local Law 2008 and by all other powers enabling it, the Council of the City of Vincent resolved on ………………… to make the following local law:

1. Citation
This local law may be cited as the City of Vincent Local Government Property Local Law 2008

2. Commencement
This local law comes into operation 14 days after the date of its publication in the Government Gazette.

3. Principal local law
In this local law the City of Vincent Local Government Property Local Law published in the Government Gazette on ……….. is referred to as the principal local law. The principal local law is amended.

4. Table of Contents
The table of contents is deleted and replaced with:

*PART 1 – PRELIMINARY
1.1 Citation
1.2 Objective
1.3 Commencement
1.4 Repeal
1.5 Application
1.6 Definitions
1.7 Interpretation
1.8 Fees and charges

PART 2 – DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

Division 1 – Determinations
2.1 Determinations as to use of local government property
2.2 Procedure for making a determination
2.3 Discretion to erect sign
2.4 Determination to be complied with
2.5 Register of determinations
2.6 Amendment or revocation of a determination

Division 2 – Activities which may be pursued or prohibited under a determination

Local Government Property Amendment Local Law 2019
2.7 Activities which may be pursued on specified local government property

2.8 Activities which may be prohibited on specified local government property

**Division 3 – Transitional**

2.9 Signs taken to be determinations

**PART 3 – PERMITS**

**Division 1 – Preliminary**

3.1 Application of Part

**Division 2 – Applying for a permit**

3.2 Application for permit

3.2A Relevant considerations in determining application for permit

3.3 Decision on application for permit

3.3A Grounds on which an application may be refused

**Division 3 – Conditions**

3.4 Conditions which may be imposed on a permit

3.5 Compliance with permit conditions

3.5A Amendment of permit conditions

**Division 4 – General**

3.6 Erection of a building

3.7 Duration of permit

3.8 Renewal of permit

3.9 Transfer of permit

3.10 Production of permit

3.11 Cancellation of permit

3.12 Suspension of permit holder’s rights and privileges

3.13 Other approvals

**Division 5 – When a permit is required**

3.14 Activities on local government property and thoroughfares needing a permit

3.15 Permit required to camp outside a facility

3.16 Permit required for possession and consumption of liquor

**Division 6 – Responsibilities of permit holder**

3.17 Responsibilities of permit holder

**PART 4 – BEHAVIOUR ON LOCAL GOVERNMENT PROPERTY**

**Division 1 – Behaviour on and interference with local government property**

4.1 Personal behaviour

Local Government Property Amendment Local Law 2019
4.2 Only specified gender to use entry of toilet block or change room
4.3 Property and adequate clothing
4.4 Behaviour detrimental to property
4.5 Taking or injuring any fauna
4.6 Intoxicated persons not to enter local government property, community facility
4.7 No prohibited drugs or substances

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4.8 Signs

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5.2 Direction of manager or authorised person to be observed
5.3 Responsibilities of users of a community facility

Division 2 – Fishing and boat launching
5.4 Definition
5.5 Boat launching
5.6 Fishing

Division 3 – Fenced or closed property
5.7 No entry to fenced or closed local government property

Division 4 – Air conditioning units over thoroughfares
5.8 Definition
5.9 Siting and design of air conditioning units

Division 5 – Awnings, balconies and verandahs over thoroughfares
5.10 Definitions
5.11 Approval to erect or maintain an awning, balcony or verandah
5.12 Dimensions of awnings, balconies and verandahs
5.13 Design of awnings, balconies and verandahs
5.14 Maintenance and public safety
5.15 Permanent structures within a thoroughfare or road reserve

PART 6 – ADVERTISING SIGNS ON THOROUGHFARES

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6.1 Definitions
6.1A Permit period for advertising sign
6.1B Advertising sign permit

Local Government Property Amendment Local Law 2019
Division 2 – Permit

6.2 Portable direction sign permit
6.3 Nature and position of an advertising sign or portable direction sign
6.4 Matters to be considered in determining application for a permit

Division 3 – Conditions on permit

6.5 Conditions on portable direction sign permit
6.6 Conditions on election sign permit
6.7 Obligations of permit holder
6.8 Safety of persons
6.9 Removal sign for works
6.10 Removal of sign which does not comply
6.11 Unlawful placement of signs

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7.2 Prohibitions relating to animals

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7.3 Definitions
7.4 Name of owner of shopping trolley
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8.2 Use by local government of bond or security

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9.2 Footpath, verge and street tree protection
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9.4 Verge treatment
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9.6 Public works on verges
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10.1 General prohibitions
10.2 Activities allowed with a permit

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11.1 Offence to fail to comply with notice
11.2 Local government may undertake requirements of notice
11.3 Notice to remove, redirect or repair sprinkler
11.4 Hazardous plants
11.5 Notice to repair damage to thoroughfare
11.6 Notice to remove thing unlawfully placed on thoroughfare

**PART 12 – OBJECTIONS AND REVIEW**

12.1 Application of Division 1, Part 9 of the Act

**PART 13 – MISCELLANEOUS**

13.1 Authorised person to be obeyed
13.2 Persons may be refused admission or directed to leave local government property or a community facility
13.3 Liability for damage to local government property
13.4 Public liability insurance policy
13.5 Payment of applicable fees
13.6 No unauthorised entry to function

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14.1 Offences and general penalties
14.2 Prescribed offences
14.3 Infringement notices and infringement withdrawal notices

Division 2 – Evidence in legal proceedings

14.4 Evidence of a determination

**SCHEDULE 1 – PRESCRIBED OFFENCES**

**SCHEDULE 2 – DETERMINATIONS**

5. Clause 1.5 amended

In clause 1.5(2) —

Delete "Notwithstanding anything to the contrary" and insert "Unless otherwise provided for"

Local Government Property Amendment Local Law 2019
6. Clause 1.6 Definitions Amended

(1) Insert "Amend" means replace, substitute, in whole or part, add to or vary, and the doing of any two or more of such things simultaneously or by the same written law";

(2) Amend "Applicant" definition; insert "or a body corporate" after the word person. Delete after the word applies "for a permit under clause 3 2" and insert "to the local government to use local government property; in accordance with this local law";

(3) Insert "a body corporate means a legal entity, such as an association, company, government, government agency, institution, partnership, or a person that is a corporation created by charter, prescription or legislation;"

(4) Amend "carriageway" definition; delete "or made" after the word paved and insert "bitumen or;"

(5) Amend "community facility" definition; delete "Infant welfare centre" after word centre, and replace with "child health clinic;"

(6) Insert "'face of kerb' means the side of the kerb adjacent to the carriageway;"

(7) Amend "firework" definition; delete "catherine" and insert "Catherine;"

(8) Amend "function" definition, part (c), delete "organisation" and replace with "organised";

(9) Amend "kerb" definition; delete "includes" and insert "means;"

(10) Insert "'landscaping feature' means any garden bed, rock, pathway, seating, decoration and lighting or similar feature, installed with a verge;"

(11) Amend "lawn" definition; insert "such as a tree" after the word local government;

(12) Amend "local government property" definition:
    (a) Delete "belongs to" and replace with "is owned or leased by;"
    (c) Delete "under" and replace with "within the district as defined in;"

(13) Amend "permit" definition. Delete "means a permit issued under this local law" and insert "means written confirmation from the local government of an applicant's right to use local government property in accordance with this local law, and can include electronic confirmation, and may include a booking/reference number;"

(14) Amend "person" definition. Insert "means a natural person and"

(15) Amend "sign" definition. Delete "approved by the local government;"

(16) Amend "thoroughfare" definition. Delete "has the meaning given it" and insert "is defined" followed by the following after the word Act "and means a road or thoroughfare and includes structures or other things relating to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end;"

(17) Amend "verge" definition. Delete "lurid" and replace with "private property" and insert after the word footpath "or kerb;"

7. Clause 1.8 amended

(1) Insert "and will be specified in the City's Schedule of Fees & Charges, as amended from time to time;"

8. Clause 2.8 amended

(1) In clause 2.8(1)(a) delete "on premises;"

(2) In clause 2.8(1)(c) delete "on the property;"
9. Clause 3.1 amended

(1) In clause 3.1(1) insert "which includes but is not limited to a lease, license or shared use agreement" after the word government;

(2) In clause 3.1(2) delete "and any permit required under this" and replace with "to use";

(3) In clause 3.1(2) delete "law" and replace with "government property or a thoroughfare";

10. Clause 3.2 amended

(1) Delete clause 3.2(2)(b)

(2) Renumber clause 3.2(2)(c) and 3.2(2)(d) as 3.2(2)(b) and 3.2(2)(c) respectively;

(3) In clause 3.2(2)(b) insert "which may include a plan, specifications or photographs";

(4) In clause 3.2(2)(c) delete "CEO together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act" and insert "local government or the specified person at the local government together with any fee specified in the form or as specified in the City's schedule of Fees and Charges";

(5) In clause 3.2(5)(a) delete "is not in accordance with" and insert "does not comply with the requirements in";

(6) In clause 3.2(5)(b) delete "in the case of an application for a sign permit, is not in accordance with clause 3.2(2)" and insert "is not properly completed; or"

(7) Delete clause 3.2(5)(c)

(8) Delete clause 3.2(5)(d)

(9) Renumber clause 3.2(5)(e) as 3.2(5)(c)

11. Clause 3.2A amended

(1) In clause 3.2A (1) (b) insert "and";

(2) Delete clause 3.2A (1)(c)

(3) Rename clause 3.2A(1)(d) as 3.2A(1)(c)

12. Clause 3.3 amended

(1) In clause 3.3(1)(e) insert "including but not limited to those conditions in clause 3.4";

(2) In clause 3.3(1)(b) insert "on any of the grounds specified in the clause 3.3A, or for any other reason determined at the sole discretion of the local government";

(3) In clause 3.3(2) delete "is to issue" and replace with "will provide" and delete "a permit" and replace with "written confirmation" and after the word government insert "which could be electronic";

(4) In clause 3.3(3) insert "(which includes electronic)" after the word notice and after the word applicant insert "It is not necessary for the local government to provide reasons for the refusal";

(5) Delete clause 3.3(4) and 3.3(5);

13. Clause 3.3A amended

(1) In clause 3.3A title delete "applicant" and insert "application";

(2) In clause 3.3A delete "to approve";
(3) In clause 3.3A(a) insert "or condition of a lease or licence or hire arrangement" after the word law.

(4) In clause 3.3A(b) insert "in the opinion of the local government" after the word applicant.

(5) Insert clause 3.3A(d) "the local government deems the permit application to be for an activity which is not appropriate for the local government property or thoroughfare which the permit is sought in respect to;"

(6) Rename clause 3.3A(d) to 3.3A(e);

14. Clause 3.4 amended

(1) In clause 3.4(1)(a) delete "the payment of fees and charges" and insert "the payment of fees and charges, as amended from time to time, or as otherwise determined by the local government, at the local government’s sole discretion;"

(2) In clause 3.4(1)(i) insert "as set out in clause 13.4;"

(3) Delete clause 3.4(2)

15. Clause 3.5 amended

(1) In title of clause 3.5 delete "and variation of" and insert "permit;"

(2) In clause 3.5(1) insert "for an activity defined in clause 3.14(1)" after the word approved;

(3) In clause 3.5(2) delete "the local government may vary the conditions of a permit, and" and insert "Where an application for a permit has been approved for an activity defined in clause 3.14(2) subject to conditions, the permit holder shall comply with each of those conditions;"

16. Clause 3.5A inserted

3.5A Amendment of permit conditions

(1) A permit holder may apply in writing to the local government to vary or amend any of the terms or conditions of the permit.

(2) The local government may, in respect of an application under sub-clause (1) —

(a) amend the permit, either in accordance with the application or otherwise as it sees fit; or

(b) refuse to amend the permit.

(3) The local government may, at any time, amend any of the terms or conditions of a permit, subject to providing the permit holder with written notice of the reasons for the amendment.

(4) If the local government amends a permit under this clause, it is to notify the permit holder in writing of the amendment as soon as practicable and the amended condition(s) shall apply from the date of notification, unless otherwise specified in the amendment;"

17. Clause 3.6 amended

(1) In clause 3.6 title delete "Agreement for" and insert "erection of a";

(2) Rename clause 3.6 as 3.6(1)

(3) Insert clause 3.6(2) "The person is required to obtain all other necessary approvals to govern the erection of a building, including but not limited to development approval, if applicable, and a permit for use of the local government property;"
18. Clause 3.7 amended
Delete clause 3.7 and insert:

"3.7 Duration of Permit
A permit is valid for the period specified in the permit unless cancelled in accordance with clause 3.11."

19. Clause 3.8 amended
In clause 3.8(2) delete "mutatis mutandis" and insert "to the extent that is applicable for a permit renewal."

20. Clause 3.9 amended
In clause 3.9(3) delete "transfer may be affected by an endorsement on the permit signed by the CEO" and insert after the word permit "it will provide written confirmation to the former permit holder and the transferee."

21. Clause 3.10 amended
(1) Delete "his or her permit" after the word person;
(2) Insert "evidence of a permit" after the word produce;
(3) Insert a new sentence "Evidence could include the written confirmation (electronic version acceptable) provided by the City or the permit number (if applicable)."

22. Clause 3.11 amended
Delete clause 3.11 and insert –

"3.11 Cancellation of permit

(1) Subject to clause 12.1, a permit may be cancelled by the local government on any one or more of the following grounds:

(a) the permit holder has not complied with a
   (i) condition of the permit; or
   (ii) provision of this local or any other written law relating to the activity regulated by the permit;

(b) the permit holder is convicted of an offence against the local law

(c) the permit holder fails to maintain any required public liability insurance or ceases to indemnify the local government against damages in connection with loss or damage in connection with an activity conducted by the permit holder under the permit;

(d) the permit holder has become bankrupt, or gone into liquidation;

(e) the permit holder has entered into any composition or arrangement with creditors;"
(f) a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the permit holder’s undertakings or property;

(g) if the permit holder’s application is subsequently found to be incomplete, insufficient or not containing a required document;

(h) if the permit holder’s application is subsequently found to contain incorrect or falsified information and/or documents

(i) if the City reasonably considers that the activity permitted by the permit may create a public health, safety or amenity issue;

(j) if valid development approval is required and not held for the abutting premises at which the business relating to the activity authorised by the permit is conducted or for the outdoor eating area, and

(k) another permit for an outdoor eating area, goods display or portable advertising sign has been granted, and remains in effect, in relation to the building or business premises related to the permit.

(2) On the cancellation of a permit the local government will provide the permit holder with written notice that the permit has been cancelled.

(3) On receiving notice that the permit has been cancelled in accordance with subclause (2):

(a) the permit holder must immediately cease using the local government property or the thoroughfare unless the notice from the local government provides otherwise; and

(b) any fees paid by the permit holder in respect of the permit are forfeited and will not be refunded by local government.”

23. Clause 3.11A amended

(1) rename clause “3.11A” to “3.12” and in the heading replace “holder” with “holder’s”

(2) In clause 3.12(2) insert “by notice in writing to the permit holder” after the word local government.

(3) Insert a new clause (3):

“(3) The rights and privileges granted to a permit holder on the issue of a permit may be suspended by the local government where —

(a) the permit holder’s application is subsequently found to be incomplete, insufficient or not containing a required document;

(b) the permit holder’s application is subsequently found to contain incorrect or falsified information and/or documents; or

(c) the City considers the activity permitted by the permit may create a public health, safety or amenity issue.

until the defect in the permit holder’s application is rectified to the satisfaction of the local government and/or the local government considers that the activity may be conducted in a manner which does not create a public health, safety or amenity issue.”
24. Clause 3.11B amended

(1) Rename clause "3.11B" to "3.13".

(2) Delete clause 3.11B and insert:

"The requirement for a permit under this local law, is additional to the requirement, if any, for any other approvals, included but not limited to development approval."

25. Clause 3.12 amended

(1) Rename clause "3.12" to "3.14"

(2) In clause 3.14 heading insert "on local government property and thoroughfares" after the word activity.

(3) In clause 3.14(1)(a) delete the word "hire" and replace with "use";

(4) In clause 3.14(1)(e) insert after the word property "or a thoroughfare for any purpose which amounts to exclusive use of the whole or a portion of the property for any period of time";

(5) In clause 3.14(1)(b) insert after the word property "or a thoroughfare, except where the person holds a permit issued under another local law of the local government authorising such advertising in that location";

(6) In clause 3.14(1)(c) insert after the word property "or a thoroughfare";


(8) In clause 3.14(1)(d) delete the word "or" after plant

(9) In clause 3.14(1)(d) insert after the word seeds "or install any other landscaping feature" and "unless in accordance with the clause 9.4 of this local law."

(10) Delete clause 3.14(1)(e) and insert –

"carry on any trading on local government property unless the trading is conducted in accordance with a permit issued under the City's Trading in Public Places Local Law;";

(11) In clause 3.14(1)(h) delete after the words entry to "land or a building hired by a voluntary non profit organisation" and insert "an area or a building hired or leased from the local government, and that hire or lease arrangement provides that a fee for entry may be charged;"

(12) In clause 3.14(1)(i) insert "or on a thoroughfare" after the word property;

(13) In clause 3.14(1)(j) insert "or a thoroughfare", after the word property;

(14) Delete clause 3.14(1)(r) and 3.14(1)(s) and insert –

"3.14(1)(q) erect, display, post, stick, stamp, stencil, paint or otherwise affix or cause to be erected displayed, posted, stuck, stamped, stencilled, painted or otherwise affixed any sign, banner, placard, handbill, notice, advertisement, writing or picture whatsoever upon any tree, plant, building, structure, fitting or soil being local government property or on any other local government property, except where the
person holds a permit issued under another local law of the local government authorising such an activity in that location, and”;

(15) Delete clause 3.14(1)(l) and insert –

“3.14(1)(r) carry out filming, shoot or take a recording on a local government property or within a thoroughfare where exclusive use of a portion of the local government property or thoroughfare is required;

(16) Insert a new clause –

“3.14(1)(s) Construct anything or locate any infrastructure on local government property; or a thoroughfare, including but not limited to paving, planter boxes and outdoor seating.”

(17) Delete clause 3.14(2) and insert

“3.14(2) A person shall not without a permit carry out work in a thoroughfare or on a local government property, including but not limited to-

(a) verge treatments, unless the verge treatment is in accordance with clause 9.4 of this local law;

(b) vehicle crossovers;

(c) crossing a footpath with a vehicle which is likely to cause, or causes damage to the footpath;

(d) locating construction materials on a verge or thoroughfare;

(e) Undertaking construction activities adjacent to a verge or thoroughfare”;

(18) Insert a new clause –

“3.14(3) A person shall not without a permit use local government property or a community facility for a for profit purpose, including but not limited to:

(a) group fitness classes;

(b) life coaching or counselling;

(c) meetings or seminars; or

(d) guided walks or tours.”

(19) Amend clause 3.14(4) –

(1) Insert the words "at the local government’s sole discretion" after the word may;

(2) Insert ‘(2) or (3)’ after the word subclauses; and

(3) Insert the words “by providing notice in writing to that person” after the word person.

26. Clause 3.13 amended

Rename 3.13 as 3.15.

27. Clause 3.14 amended

(1) Rename 3.14 as 3.16;
(2) In clause 3.16(1)(a) delete "and" and replace with "or";

(3) In clause 3.16(1)(b) insert "or" after the word purpose;

(4) delete clauses 3.16(2)(a) and 3.16(2)(b);

(5) rename clause 3.16(2)(c) as 3.16(1)(c);

28. **Clause 3.15 amended**

   Rename clause 3.15 as 3.17.

29. **Clause 4.6 amended**

   Insert "unless pursuant to a permit issued under clause 3.14" after the word liquor.

30. **Part 5 division 1 amended:**

   (1) Replace clause 5.1 definitions with –

   "administration centre" means the local government's administration centre which is currently located on Crown Land Lot 502, being Reserve 50345 and having an address of 244 Vincent Street, Leederville.

   "change room" means the room or area designated for changing one's clothes in a public place such as a pool premises, and includes any bathroom or toilet at the public place.

   "library" means the place or premises provided by the local government for the purpose of borrowing books and local history, and includes the library and local history centre located on a portion of Crown Land Lot 501, being Reserve 39009 and having an address of 99 Loftus Street, Leederville, and

   "pool premises" means the place or premises provided by the local government for the purpose of swimming or bathing, and includes Beatty Park Leisure Centre, which is located on a portion of Crown Land Lot 1618 and being Reserve Number 884, and having an address of 220 Vincent Street, North Perth, and includes all buildings, fences, gardens, car parks, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of the place or premises or used in connection with it.

31. **Clause 5.2 amended**

   (1) In clause 5.2(1) insert "administration centre, library or" after the word the;

   (2) Rename clauses 5.2(1)(a)(ii), 5.2(1)(a)(iii) and 5.2(1)(a)(iv) as 5.2(1)(a)(ii), 5.2(1)(a)(iii) and 5.2(1)(a)(iv) respectively;

   (3) Insert clause –

   "5.2(1)(a)(ii) under the age of 5 years and who is unaccompanied in the water by a responsible person 16 years or older, or;"

   (4) In clause 5.2(2) insert "administration centre, library or" after the word the;

   (5) In clause 5.2(3) insert "administration centre, library or" after the word the.
32. Clause 5.3 amended

(1) Insert "administration centre, library or" after the word the;

(2) In clause 5.3(b) delete "or" and insert "wall";

(3) In clause 5.3(b) delete "on the pool premises or a community facility" and replace with "or other structure not intended for climbing";

(4) In clause 5.3(c) delete "whilst" and insert "enter the premises if";

(5) In clause 5.3(c) delete "enter or use or attempt to enter or use the pool premises or a community facility";

(6) In clause 5.3(d) delete "pool";

(7) In clause 5.3(e) delete "on the pool premises whereby the water may be discoloured or contaminated or rendered turbid or, in the opinion of the Manager or authorised person, in anyway unfit";

(8) In clause 5.3(f) delete "in the pool premises";

(9) In clause 5.3(k) delete "and";

(10) In clause 5.3(l) insert "and";

(11) Insert clause –

"(m) using a mobile phone, camera or other similar recording device in a change room at a pool premises, library or other community facility."

33. Division 4 part 5.8 amended

In thoroughfare definition insert "has the meaning in section 1.4 of the Act and" after the word thoroughfare.

34. Clause 5.9 amended

(1) In clause 5.9(1) insert "which is at the discretion of the City."

(2) In clause 5.9(2) delete "no" and insert "if the local government provides approval in subclause (1) above, the";

(3) In clause 5.9(2) insert "not".

35. Division 5 amended

(1) Insert definitions –

"permanent structure" means a structure which is affixed to the ground and is considered to form part of the ground, and includes verandah posts and canopy structures;

"road reserve" means crown land which the local government has care, control and management of pursuant to section 56(2) of the Land Administration Act 1997;*

(2) In thoroughfare definition insert "has the meaning in section 1.4 of the Act and" after the word thoroughfare;

Local Government Property Amendment Local Law 2019
36. Clause 5.11 amended
   (1) In the heading insert words "an awning, balcony or verandah" after the word maintain;
   (2) delete "a person shall not erect or maintain" and insert "the local government may approve";
   (3) delete "without" and insert "provided that it complies with" after the word thoroughfare;
   (4) Delete "approval of the local government" and insert "dimensions and design requirements as set out in clauses 5.12 and 5.13";

37. Clause 5.12 amended
   (1) Delete "a person shall not erect an awning, balcony or verandah over a thoroughfare unless it complies with the following dimension requirements";
   (2) In clause 5.12(c) delete "500" and insert "600";
   (3) In clauses 5.12(c) insert "face of the" at the end of the sentence.

38. Clause 5.13 amended
   Delete "a person shall not erect an awning, balcony or verandah over a thoroughfare unless it complies with the following design requirements"

39. Clause 5.15 inserted
   Insert –

   "5.15 Permanent structures within a thoroughfare or road reserve
   A person shall not erect or maintain a permanent structure within a road reserve or thoroughfare without the prior written approval of the local government, and subject to the person obtaining any other approvals required, including development approval."

40. Part 6 amended
   (1) In the heading delete "advertising";
   (2) In the heading delete "on thoroughfares";
   (3) In clause 6.1 delete definition of advertisement - "advertisement means the use or intention of use for the purpose of advertising any premises, services, business, function, event, product or thing";
   (4) In definition of "advertising sign" delete "free standing" after the words means a;
   (5) In "advertising sign" definition delete "and includes a ground based sign, a sandwich board sign and an A frame sign";
   (6) In "advertising sign" definition insert –
      "(a) used or intended to be used for the purpose of advertising any premises, services, business, function, event, product or thing; and",
      "(b) not portable advertising sign under the local governments Trading in Public Places Local Law 2008.",
   (7) delete "portable sign" definition;
   (8) In "sign" definition insert "and advertising signs, portable direction signs and election signs"
   (9) Insert "Division 2 – Permits"

Local Government Property Amendment Local Law 2019
41. **Clause 6.1A amended**
   (1) In heading insert "for advertising sign" after the word period;
   (2) replace "one year or three years, whichever the applicant chooses on" with "the duration of";
   (3) replace "application for a sign" and insert "period specified in the permit";

42. **Clause 6.1B amended**
   (1) In the heading insert the word "Advertising";
   (2) Delete clause 6.1B(1);
   (3) Delete clause 6.1B(2);
   (4) Insert clause 6.1B "A person shall not display an advertising sign on local government property unless that person is the holder of a valid permit for that advertising sign"

43. **Clause 6.2 amended**
   (1) Delete ‘Permit required for advertising signs and portable signs’ and insert ‘portable sign permit’;
   (2) Delete clause 6.2(1);
   (3) Insert –
   "6.2(1) Subject to clause 6.2(2), a person shall not, without a permit erect or place a portable direction sign on local government property;"
   (4) In clause 6.2(2) delete "neither exceeds" and insert "does not exceed";
   (5) In clause 6.2(2) delete "provided" and insert "on any side provided" after the word area;
   (6) Delete clause 6.2(3)

44. **Clause 6.3 amended**
   (1) Rename clause 6.3 as 6.4
   (2) Insert –
   "6.3 Nature and position of an advertising sign or portable direction sign
   Notwithstanding any provision of this local law, a person shall not erect or place an advertising sign or portable direction sign –
   (a) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2,700 millimetres;
   (b) on or within 500 millimetres from the face of the kerb;
   (c) in any other location where, in the opinion of the local government or an authorised person, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare, or
   (d) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge."
   (3) In clause 6.4 delete "the purpose of clauses 3.3 and 6.2(1)" and insert "an advertising sign or a portable direction sign",
   (4) In clause 6.4(a) delete "advertising";
   (5) In clause 6.4(a) delete "or advertisements";

Local Government Property Amendment Local Law 2019
(6) In clause 6.4(b) delete "advertising signs or advertisements" and replace with "sign";
(7) In clause 6.4(c) delete "advertising";
(8) In clause 6.4(c) delete "or advertisements";
(9) In clause 6.4(f) insert "whether" and delete "advertising";
(10) In clause 6.4(g) insert "whether" and delete "advertising";
(11) In clause 6.4(g) delete "was designed" and insert "is used";

45. Division 3 amended

(1) Rename clause 6.4, 6.5, 6.6, 6.7, 6.8, 6.9, 6.10 as 6.5, 6.6, 6.7, 6.8, 6.9, 6.10, and 6.11 respectively.

46. Clause 6.5 amended

(1) In clause 6.5 heading insert the word "direction" after portable;
(2) In clause 6.5 heading insert the word "permit" after sign;
(3) In clause 6.5(1) insert "direction" after the word portable;
(4) In clause 6.4(1)(a) insert "direction" after the word portable;
(5) In clause 6.4(1)(a)(ii) insert "directions to" after the word to;
(6) In clause 6.4(1)(a)(iii) delete "business activity" and insert "place";
(7) In clause 6.4(1)(a)(iv) delete "in any position other than immediately in front of the building or the business to which the sign relates and be located not";
(8) In clause 6.4(1)(a)(v) delete "500" and insert "600";
(9) In clause 6.4(1)(a)(v) insert "the face of" after the word to;
(10) In clause 6.4(1)(a)(v) delete "the" and insert "a" after the word using;
(11) In clause 6.4(1)(a)(v) insert "if it relates to a business or event" at the start of the sentence;
(12) In clause 6.4(1)(a)(v) insert "or event";
(13) In clause 6.4(1)(b) insert "direction";
(14) In clause 6.4(2) insert "direction".

47. Clause 6.6 amended

(1) In the heading of clause 6.6 insert "permit" after the word sign;
(2) In clause 6.6(1) delete "a thoroughfare" and insert "local government property";
(3) In clause 6.6(1)(a) insert "of thoroughfares";
(4) In clause 6.6(1)(c) delete "a thoroughfare" and insert "local government property";
(5) In clause 6.6(1)(b) delete "thoroughfare" and insert "local government property".

48. Division 4 inserted

Insert –

"Division 4 – Other obligations of a permit holder"

49. Clause 6.7 amended
(1) In clause 6.7(a) delete "advertising".
(2) In clause 6.7(b) delete "advertising".
(3) In clause 6.7(c) delete "a thoroughfare" and replace with "local government property".
(4) In clause 6.7(d) delete "display an advertising" and insert "where a";
(5) In clause 6.7(d) insert "display that sign";
(6) In clause 6.7(e) insert "at all times";
(7) In clause 6.7 delete "footpath at all times" and insert "local government property".

50. Clause 6.8 amended
Delete "an advertising sign" and insert "a sign to be".

51. Clause 6.9 amended
(1) 6.9 delete "an advertising sign to" and insert "a sign to";
(2) delete "footpath" and insert "local government property".

52. Clause 6.10 amended
(1) delete words "advertising" and "item";
(2) delete "footpath" and replace with "local government property".

53. Clause 6.11 amended
(1) delete "footpath" and replace with "local government property";
(2) delete words "advertising" and "or item".

54. Clause 8.1 amended
In clause 8.1(2) insert "prior to any work commencing, unless otherwise agreed by the local government" after the word clause.

55. Clause 8.2 amended
(1) In clause 8.2(1)(a) insert "that clause" after the word in;
(2) In clause 8.2(1)(a) insert "the notice (as the case may be); or";
(3) In clause 8.2(1)(b) insert "to complete the restoration or reinstatement works" after the word approval;
(4) In clause 8.2(1) insert a new sentence after word undone "Any costs relating to the work carried out by the local government exceeding the bond paid by the applicant is a debt owing to the local government."
(5) In clause 8.2(3) insert "by it" after the word incurred.

56. Part 9 division 2 amended
(1) Delete Part 9 division 2 – Verge Treatments
(2) Insert –

"Division 2 – Verge treatments

9.4 Verge treatment
The owner or occupier of land adjacent to any verge may only treat the verge in front of such land in accordance with the City's policy in respect to verge treatments, planting and beautifications of a verge, as amended from time to time.

9.5 Enforcement

The local government may give notice in writing to the owner or occupier of land adjacent to a verge who has installed or maintained a treatment on the verge in front of such land, requiring that owner or occupier, within the time specified in the notice, to make good any breach of this Division, or to remove all or any part of a verge treatment that does not comply with this Division."

67. Part 9 amended

(1) Rename clause 9.11, 9.12, 9.13, 9.14 as 9.6, 9.7, 9.8, and 9.9 respectively;

(2) In clause 9.9(1) insert "an internal driveway or constructed parking amenity on the" after the word a.

58. Clause 10.1 amended

(1) In clause 10.1(b) delete "a lawn or a garden" and replace with "local government property";

(2) In clause 10.1(g) delete "damage" and insert "prune";

(3) Delete clause 10(1)(e).

59. Clause 10.2 amended

(1) In clause 10.2(1) delete "a person shall not, without" and replace with "the local government may grant";

(2) In clause 10.2(1) insert "for the following activities" at the end of the sentence;

(3) In clause 10.2(1)(i) delete "permissible verge treatment" and insert "verge treatment in accordance with any requirements specified in this local law or in the local governments policy";

(4) In clause 10.2(2) delete "exempt a person from compliance with a subclause (1) or" and insert "grant";

(5) In clause 10.2(2) delete "application of that person" and insert "permit in 10.2(1) above subject to conditions."

60. Clause 11.3 amended

(1) In the heading insert "remove" after the word to;

(2) Insert "either remove" after the word to.

61. Clause 11.5 amended

Insert at the end of the sentence ";- and within the time frame stipulated in the notice. If the person does not comply with the notice to the satisfaction of the local government the person commits an offence."

62. Clause 13.2 amended

(1) In heading insert "or a community facility" after word property;

(2) In clause 13.2(1) insert "or manager" after word person;

(3) In clause 13.2(1)(a) insert "or manager" after word person.

63. Clause 13.4 amended

Local Government Property Amendment Local Law 2019
(1) delete clause 13.4 and insert –

*13.4 Public liability insurance policy

(1) Where, as a condition of a permit, the permit holder is required to obtain and maintain a public liability insurance policy, the permit holder shall –

(a) Effect and maintain a policy of insurance in the name of the permit holder, and the local government (if required by the local government in respect to any injury to any person or damage to any property which may occur in connection with the use of the local government property by the permit holder,

(b) ensure that any policy of insurance referred to in (a) indemnifies the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the local government property by the permit holder;

(c) Effect and maintain the policy of insurance referred to in (a) for the duration of the permit;

(d) immediately notify the local government if the policy of insurance cover lapses, in which case the permit may be cancelled by the local government in accordance with clause 3.11;

(e) provide the local government with a certificate of currency confirming that public liability insurance cover is in place at any time requested by the local government;

(f) ensure that, as a minimum, the permit holder’s public liability insurance policy provides coverage of $10 million (ten million dollars), or such other amount as the local government considers appropriate to the risk and liability involved. At the discretion of the local government, minimum value of coverage required may be increased at the policy renewal date;

(g) ensure that the public liability insurer of the permit holder is a reputable insurer licensed to conduct insurance business in Australia in accordance with the guidelines issued by the Australian Prudential Regulatory Authority (APRA).

(2) A permit holder who refuses to or cannot provide a current certificate of insurance at least 14 days prior to the commencement of any activity, action or thing performed or erected in accordance with the permit, as required in accordance with subclause (1) commits an offence.

(3) A permit holder must provide the local government with a copy of their certificate of insurance currency at any time requested by the local government, including at the permit application stage.”

64. Clause 14.3 amended

In heading insert “notices” after word infringements.

65. Part 14 division 2 amended

Delete heading “Division 2 Evidence in legal proceedings”

66. Schedule 1 Prescribed Offences amended

Local Government Property Amendment Local Law 2019
(1) In clause 3.5(2) delete "as varied" and insert "for works on local government property", and delete "100" and insert "500".

(2) Renumber clause 3.12(1) to 3.14(1).

(3) Insert clause –
"3.14(2) Failure to obtain a permit to carry out works on local government property 500"

(4) Insert clauses –
"3.14(3) Failure to obtain a permit to use local government property or a community facility for a commercial purpose 500"

(5) Renumber clause 3.14(1) to 3.16(1);

(6) Renumber clause 3.15 to 3.17;

(7) Insert clause 5.3(m):
"5.3(m) Using a mobile phone, camera or other recording device in a change room in a pool premises, library or other community facility 500"

(8) Insert clause 5.15:
"5.15 Erecting a permanent structure within a thoroughfare or road reserve. 250"

(9) In clause 6.2(1) insert "sign or" after word placing and delete words "or affixing any advertisement".

(10) Insert clause 6.1B(1):
"6.1B(1) Displaying advertising sign on local government property without a permit. 250"

(11) Renumber clause 6.2(3) to 6.3.

(12) Renumber clause 6.4(2) to 6.5(2) and insert "direction" after word portable.

(13) Renumber clause 6.5(2) to 6.6(2);

(14) Delete clause 6.1B(1).

(15) Renumber clause 6.6(a) to 6.7(a);

(16) Renumber clause 6.6(b) to 6.7(b);

(17) Renumber clause 6.6(c) to 6.7(c);

(18) Renumber clause 6.6(d) to 6.7(d);

(19) Renumber clause 6.6(e) to 6.7(e);

(20) Renumber clause 6.7 to 6.8;

(21) Renumber clause 6.8 to 6.9 and delete "or" after the word sweeping and insert "or other unauthorised works" at the end of the sentence;

(22) Renumber clause 6.9 to 6.10;

(23) Renumber clause 6.10 to 6.11;

(24) Insert clause 8.8(2):
Failure to pay a required bond or security

In clause 9.1 delete “200” and replace with “500”.

In clause 9.2(1)(a) delete “200” and replace with “500”.

In clause 9.2(1)(b) delete “200” and replace with “500”.

In clause 9.2(1)(c) delete “50” and replace with “100”.

In clause 9.2(2)(a) delete “200” and replace with “500”.

Delete clauses 9.6(a), 9.6(b), 9.6(c), 9.8, 9.9(a), 9.9(b), 9.9(c), 9.9(d) and 9.9(e).

Insert clause 9.4:

Failure to install or maintain verge in accordance with the relevant City policy, as amended from time to time

Renumber clause 9.13(1) to 9.8(1).

Renumber clause 9.14(2) to 9.9(2).

In clause 10.1(g) insert “which includes a tree on a verge, thoroughfare or local government property,” after word tree, and delete “300” and replace with “5,000”.

Delete clause 10(1)(e).

In clause 11.1 delete “250” and replace with “750”.

Insert clause 13.4(2):

Failure to hold or provide a current certificate of currency to an authorised person when requested.

Schedule 2 Determinations

In clause 1.3 delete “Nick Catania, JP” and replace with “Emma Cole” and delete “John Giorgio, JP” and insert “David MacLeannn”
Policy No. 3.10.4
Street Entertainment

PURPOSE
The purpose of this policy is as follows:

- To support and encourage street entertainment to enhance the vibrancy, vitality and ambience of the City;
- To provide the framework to ensure street entertainment is fostered in a well-managed manner, whilst maintaining the well-being, comfort and safety of the public and performers; and
- To identify locations that are suitable as Pitch Locations within the Permit Free Entertainer Zones in accordance with the City's Trading in Public Places Local Law 2008.

POLICY STATEMENT
These guidelines have been compiled with a view to nurturing a street performance culture in the Town Centres within the City of Vincent. Street entertainment is a means of creating social interaction amongst visitors and residents, adding vibrancy and interest to public spaces and creating opportunity for performers and the public to enjoy public streets and spaces.

These guidelines will provide the framework to assist performers, businesses and residents in understanding the rules for street entertainment within the City of Vincent.

These guidelines are to be read in conjunction with the City's Trading in Public Places Local Law 2008, as amended from time to time.

SCOPE
This policy applies to street entertainers within the City of Vincent.

POLICY OWNER
- Policy and Place
- Ranger Services

ACTIVITIES CONSIDERED TO BE STREET ENTERTAINMENT
A street entertainer is someone who is actively providing a performance in a public place in exchange for a voluntary donation.

Types of street entertainment may include:

- Performing with an instrument or multiple instruments;
- Live performance including but not limited to: singing, dancing, mime, clowning, juggling, puppetry, comedy, magic or living statue act;
- Performing a circle act; and
- Creating visual art (excluding aerosol art).
The following activities are not considered to be street entertainment:

- Fundraising events or promotions;
- Political rallying;
- Tarot card reading, palmistry or fortune telling;
- Massage, chiropractic treatment or other physical manipulation;
- Temporary tattoo applications;
- Vendors of any kind; and
- Begging.

DETERMINATION OF PITCH LOCATIONS WITHIN THE PERMIT FREE ENTERTAINER ZONES

Permit Free Entertainer Zones are determined by the CEO and are displayed on the City’s website. Within the Permit Free Entertainer Zones, street entertainers are only permitted to perform within the identified Pitch Locations which will be delineated by a small sticker on the pavement and state the words 'Street Entertainer Zone'.

Pitch Locations will be chosen by the City’s Officers using the following criteria:

- The location has enough space for a performer to set up without compromising pedestrian accessibility;
- The location has enough space for a performer to set up without compromising a currently approved alfresco area;
- The location ensures that doorways to shops and buildings are kept clear at all times;
- The location is a reasonable distance from any other Pitch Locations; and
- The location is a highly pedestrianised area and would be seen as a suitable location by a street entertainer.

GENERAL CONDITIONS APPLICABLE TO STREET ENTERTAINMENT

General guidelines and conditions for street entertainment within the City of Vincent include the following:

1. A performer must meet the minimum standards as indicated in Appendix 1.

2. Street entertainers performing outside of the Permit Free Entertainer Zones must use locations that do not:
   - Unduly interfere with pedestrian or vehicle access or public amenities;
   - Cause undue obstruction to trader or delivery vehicles;
   - Obstruct entrances and exits to shops and buildings;
   - Interfere with an entertainment or activity approved by the City of Vincent; and
   - Distract from other street entertainer's performances. A reasonable distance should be maintained from other street entertainers.

3. Street entertainers performing in the Permit Free Entertainer Zones must perform at prescribed Pitch Locations as demarcated on the ground.

4. A person under the age of 14 years should not perform in any part of a performance:
• During school hours;
• Between 7pm and 6am; and
• Unless accompanied by an adult at all times.

5. A street entertainer who is performing pavement or visual art:

• Must use chalk unless working on paper card;
• Cannot use spray paint unless it has been approved by the City of Vincent; and
• Must return the location, including the pavement surface, to its former condition.

6. Street entertainers may not advertise goods for sale or associate themselves with such advertising in conjunction with their performance.

7. The use of amplification during a performance:

• Can only be battery operated; and
• Is not permitted between the hours of 10pm and 7am.

8. The sound levels from a street entertainment performance shall at no time disrupt business trading, affect workplace performance or detract from public amenity. If an authorised person requests that the volume of the performance be reduced, the street entertainer must turn the volume down to an acceptable level immediately.

9. Street entertainers must keep their site safe and clean while performing.

PROHIBITED ACTIVITIES

A street entertainer shall not in a public place:

• Perform any act that endangers the safety of the public;
• Perform any act of cruelty to an animal;
• Act in an offensive or obscene manner;
• Create a nuisance or harass, annoy or disturb any person, trader or resident;
• Perform any activity or act which damages public property; or
• Solicit money for any purpose.

BREACH OF CONDITIONS AND GUIDELINES

An authorised person may ask street entertainers to cease their performance immediately should they not be complying with the requirements of the City’s Trading in Public Places Local Law 2008 or this policy.

If a street entertainer is found to have breached the conditions of the Trading in Public Places Local Law 2008 or this policy, these breaches will be dealt with under the appropriate penalties within the Trading in Public Places Local Law 2008.

SAFETY

Street entertaining activities should at all times prioritise public safety and the accessibility of public space for all people. The amenity of an area must not be compromised by noise, excessive amplification, tripping hazards, anti-social behaviour or dangerous activities. Street
entertainers must ensure that neither themselves, nor their audience, pedestrians or the general public are put at risk at any time during their performance. Street entertainers must accept responsibility for any direct impact that their performance may have on any other City services and activities.

**CREATION / REVIEW**

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# APPENDIX 1: MINIMUM STANDARDS

<table>
<thead>
<tr>
<th>Type of Performer</th>
<th>Performance area delineation</th>
<th>Fire Blanket &amp; Extinguisher</th>
<th>Insurance</th>
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<tr>
<td>Solo Musicians &amp; Musical Groups</td>
<td>N/A</td>
<td>N/A</td>
<td>Recommended</td>
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<tr>
<td>Circus Acts i.e. acrobats, cyclists and jugglers</td>
<td>Boundary Required (soft)</td>
<td>N/A</td>
<td>Professional Indemnity Insurance Certificate Required</td>
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<tr>
<td>Fire Acts</td>
<td>Boundary Required (soft)</td>
<td>Yes</td>
<td>Professional Indemnity Insurance Certificate Required</td>
</tr>
<tr>
<td>Statue &amp; Mime Artists</td>
<td>N/A</td>
<td>N/A</td>
<td>Recommended</td>
</tr>
<tr>
<td>Balloon Artists and Face Painters</td>
<td>N/A</td>
<td>N/A</td>
<td>Recommended</td>
</tr>
<tr>
<td>Chalk Artist/s</td>
<td>N/A</td>
<td>N/A</td>
<td>Recommended</td>
</tr>
<tr>
<td>Other Acts Using Dangerous Materials or Implements</td>
<td>Boundary Required (soft)</td>
<td>N/A</td>
<td>Professional Indemnity Insurance Certificate Required</td>
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LOCAL GOVERNMENT ACT 1995

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TRADING IN PUBLIC PLACES LOCAL LAW 2008

Under the powers conferred by the Local Government Act 1995 and under all other powers enabling it, the Council of the City of Vincent resolved on 26 February 2008 to make the following local law.

PART 1 – PRELIMINARY

1.1 Citation

This local law may be cited as the City of Vincent Trading in Public Places Local Law 2008.

1.2 Objective

(1) The objective of this local law is to provide for the regulation, control and management of trading activities, outdoor eating facilities, stalls, displays of goods and items and portable advertising signs and the activities of traders and entertainers in any street or public place within the district by establishing the requirements with which persons must comply in order to undertake those activities.

(2) The effect of this local law is to control trading activities and street entertainment in any street or public place within the district.

1.3 Commencement

This local law comes into operation 14 days after the date of its publication in the Government Gazette.

1.4 Repeal

(1) The following local laws adopted by the City of Vincent are repealed on the day this local law comes into operation:

(a) Local Law Relating to Alfresco Dining, published in the Government Gazette on 30 April 1998;


(c) Local Law Relating to Street Trading, published in the Government Gazette on 22 December 1998; and

(d) Trading in Public Places Amendment Local Law 2015, published in the Government Gazette on 15 January 2015,
1.5 Application

This local law applies throughout the district.

1.6 Definitions

In this local law unless the context requires otherwise:

"Act" means the Local Government Act 1995;

"amend" means replace, substitute, in whole or in part, add to or vary, and the doing of any two or more of such things simultaneously or by the same written law;

"applicant" means a person or a body corporate, who applies for a permit under the local government to trade in a public place or use local government property in accordance with this local law;

"application fee" means the fee payable upon lodgement of an application for a permit and which relates to the lodgement, assessment and determination of the application, but does not include any fee which may be imposed as a condition of approval of an application;

"authorised person" means a person authorised by the local government under section 9.10 of the Act, to perform any of the functions of an authorised person under this local law;

"body corporate" means a legal entity, such as an association, company, government, government agency, institution, partnership, or person that is a corporation created by charter, prescription or legislation;

"carriageway" means the bitumen or paved or made portion of a thoroughfare used or intended for use by vehicles;

"CEO" means the Chief Executive Officer of the local government;

"Competition Principles Agreement" means the Competition Principles Agreement executed by each State and Territory of the Commonwealth and the Commonwealth of Australia on 11 April 1995;

"development approval" means an approval issued under a local planning scheme;

"district" means the district of the local government;

"footpath" means a path set aside for use by pedestrians and cyclists that is on a thoroughfare, and includes all that part of a thoroughfare lying between the edge of the carriageway and the property boundary nearest to that edge on the same side of the thoroughfare;

"goods" shall have the same meaning given to it in section 3.38 of the Act;

"hire" includes offer to hire or expose for hire;

"kerb" includes the edge of a carriageway;

"local government" means the City of Vincent;

"local government property" means anything except a thoroughfare.
CITY OF VINCEN TRADING IN PUBLIC PLACES LOCAL LAW 2008

(a) which belongs to is owned or leased by the local government;
(b) of which the local government is the management body under the Land Administration Act 1997; or
(c) which is an otherwise unvested facility under within the district as defined in section 3.53 of the Act;

"local planning scheme" shall have the same meaning given to it under Part 1 of the Planning and Development Act 2005;

"nuisance" means any activity, thing, condition, circumstance or state of affairs caused or contributed to by a person which is injurious or dangerous to the health of another person of normal susceptibility, or which has a disturbing effect on the state of the physical, mental or social well-being of another person of normal susceptibility;

(b) anything anything a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place; or

(c) anything anything a person does in or on a public place which unreasonably detracts from or interferes with the enjoyment or value of nearby land owned by another person, provided that any thing done in accordance with the law or a legal right or which is consistent with the standard of behaviour in the relevant locality shall not be unreasonable for the purpose of this local law;

"permit" means a permit issued under this local law;

"permit" means written confirmation from the local government of an applicant's right to trade on or use local government property in accordance with this local law, and can include electronic confirmation, and may include a booking/reference number;

"permit holder" means a person who holds a valid permit;

"person" means a natural person and does not include the local government;

"planning approval" means an approval issued under a Town planning scheme;

"private property" means any real property, parcel of land or lot that has a separate certificate of title, which is in private ownership or subject of a lease or agreement with a person enabling its use for private purposes and includes any building or structure thereon;

"public facility" includes any light, power or telephone pole, fire hydrant, drain, sump, tree, sign, traffic light, parking device or meter, shelter, seat, telephone box, letter boxes, public toilet or any work provided by a statutory body or authority, in any street or public place;

"public place" includes any thoroughfare or place which the public are allowed to use, whether the thoroughfare or place is or is not on private property and includes, parklands, squares, reserves, beaches, and other lands set apart for the use and enjoyment of the public, including local government property, but does not include premises on private property from which trading is lawfully conducted under a written law;

"street" means a thoroughfare;

"Town planning scheme" means a Town planning scheme of the local government made under the Planning and Development Act 2005; "thoroughfare" is defined in section 1.4 of
the Act, and means a road or thoroughfare and includes structures or other things relating to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end.

"trading" includes —

(a) the selling or hiring of, the offering for sale or hire of, or the soliciting of orders for goods or services in a public place;

(b) displaying goods in any public place for the purpose of —
   (i) offering them for sale or hire;
   (ii) inviting offers for their sale or hire;
   (iii) soliciting orders for them; or
   (iv) carrying out any other transaction in relation to them; and

(c) the going from place to place, whether or not public places, and —
   (i) offering goods or services for sale or hire;
   (ii) inviting offers or soliciting orders for the sale or the hire of goods or services; or
   (iii) carrying out any other transaction in relation to goods or services.

"valid", in relation to a permit issued under this local law means current and for which all the associated fees have been paid in full;

"vehicle" includes —

(a) every conveyance, not being a train, boat, aircraft or wheelchair, and every object capable of being propelled or drawn on wheels, tracks or by any means;

(b) an animal being driven or ridden; and

(c) a vehicle described in the Road Traffic Act 1974;

"verge" means that part of a thoroughfare between the carriageway and the landprivate property which abuts the thoroughfare, but does not include any footpath or kerb.

1.7 Interpretation

In this local law unless the context requires otherwise a reference to local government property includes a reference to any part of that local government property.

1.8 Fees and charges

All fees and charges under this Local Law shall be determined by the local government from time to time in accordance with sections 6.16 to 6.19 of the Act—, and will be specified in the City's Schedule of Fees and Charges, as amended from time to time.
PART 2 — TRADING IN THOROUGHFARES AND PUBLIC PLACES

Division 1 — Stallholders and Traders

2.1 Definitions

In this Division, unless the context requires otherwise —

“Assistant” means a person who carries out trading on behalf of the permit holder in accordance with the permit issued to the permit holder;

“charitable organisation” means an institution, association, club, society or body whether incorporated or not, the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature and from which any member does not receive any pecuniary profit except where the member is an employee or the profit is an honorarium;

“commercial participant” means any person who is involved in operating a stall or in conducting any trading activity for personal gain or profit;

“newspaper” means any paper containing public news, intelligence or occurrences, or any remarks or observations therein printed for sale and published periodically, or in parts or numbers, at intervals not exceeding seven days between the publication of any two such papers, parts or numbers;

“stall” means a moveable or temporary fixed structure, stand or table in, on or from which goods, wares, merchandise or services are displayed or sold or hired or offered for sale or hire;

“stallholder” means a person in charge of a stall;

“stallholder’s permit” means a permit issued to a stallholder;

“trader” means a person who carries on trading; and

“trader’s permit” means a permit issued to a trader.

2.2 Stallholder’s permit

(1) A person shall not conduct a stall on a public place unless that person is —

(a) the holder of a valid stallholder’s permit; or

(b) an assistant specified in a valid stallholder’s permit.

(2) Every application for a stallholder’s permit shall —

(a) state the full name and address of the applicant;

(b) specify the proposed number of assistants to be engaged by the applicant in conducting the stall, as well as their names and addresses if already engaged;

(c) specify the proposed location of the stall;
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(d) specify the period of time for which the permit is sought, together with the proposed days and hours of operation;

(e) specify the proposed goods or services to be sold or hired or offered for sale or hire from the stall; and

(f) be accompanied by an accurate plan and description of:

(i) the proposed stall; and

(ii) the proposed location of the proposed stall and the area in a radius of approximately 10 metres around that location, showing on a scale of approximately 1:100 the location of all carriageways, footpaths, verges, street furniture, bins, light poles, parking signs, traffic lights, other impediments to pedestrian traffic and premises abutting any verge or footpath.

2.3 Trader’s permit

(1) A person shall not carry on trading unless that person is –

(a) the holder of a valid trader’s permit; or

(b) an assistant specified in a valid trader’s permit.

(2) A trader’s permit is not required for activities subject to another permit issued under this local law, including a goods permit under Division 4 of Part 2 and a portable advertising sign permit issued under Division 5 of Part 2.

(3) Every application for a trader’s permit shall –

(a) state the full name and address of the applicant;

(b) specify the proposed number of assistants, if any, to be engaged by the applicant in trading, as well as their names and addresses if already engaged;

(c) specify the location or locations in which the applicant proposes to trade;

(d) specify the period of time for which the permit is sought, together with the proposed days and hours of trading;

(e) specify the proposed goods or services which will be traded; and

(f) be accompanied by an accurate plan and description of any proposed structure or vehicle which may be used by the applicant in trading.

(4) The conditions subject to which the local government may approve an application for a trader’s permit include that the permit holder is permitted to remain at a particular location for as long as there is a customer making a purchase, but if there is no customer making a purchase the permit holder must move on from that location within a reasonable time of the last purchase having been made.
2.4 No permit required to sell newspapers

Notwithstanding any other provision of this local law, a person who sells, or offers for sale, a newspaper is not required to obtain a permit for that purpose.

2.5 Matters to be considered in determining application

In determining an application for a permit for the purpose of this Division, the local government may consider in addition to any other matter it considers relevant, whether or not:

(a) the stall or trading would –

   (i) obstruct the visibility or clear sightlines of any person at an intersection on a thoroughfare; or

   (ii) impede pedestrian access; and

(b) the stall or any proposed structure or vehicle which may be used by a trader may obstruct or impede the use of the public place for the purpose for which it was designed.

2.6 Conditions of permit

(1) If the local government approves an application for a permit under this Division subject to conditions, those conditions may include –

   (a) the place, the part of the district, or the thoroughfare to which the permit applies;

   (b) the days and hours during which a permit holder may conduct a stall or trade;

   (c) the number, type, form and construction, as the case may be, of any stand, table, structure or vehicle which may be used in conducting a stall or in trading;

   (d) the goods or services in respect of which a permit holder may conduct a stall or trade;

   (e) the number of persons and the names of persons permitted to conduct a stall or trade;

   (f) the requirement for personal attendance at the stall or the place of trading by the permit holder and the nomination of assistants, nominees or substitutes for the permit holder;

   (g) whether and under what terms the permit is transferable;

   (h) any prohibitions or restrictions concerning the –

      (i) causing or making of any noise or disturbance which is likely to be a nuisance to persons in the vicinity of the permit holder;

      (ii) the use of amplifiers, sound equipment and sound instruments;
CITY OF VINCENT TRADING IN PUBLIC PLACES LOCAL LAW 2008

(iii) the use of signs; and

(iv) the use of any lighting apparatus or device;

(i) the manner in which the permit holder's name and other details of a valid permit are to be displayed;

(j) the care, maintenance and cleansing of the stall or any structure used for trading and the place of the stall or any structure;

(k) the vacating of the place of a stall or trading when the stall is not being conducted or trading is not being carried on;

(l) the acquisition by the stallholder or trader of public liability insurance;

(m) the lodgement of a sum or bond of a value determined by the local government to secure compliance with the terms and conditions of the permit and the forfeiture of that sum or bond on non-compliance;

(n) the period for which the permit is valid; and

(o) the designation of any place or places where trading is wholly or from time to time prohibited by the local government.

(2) Where a permit holder by reason of illness, accident or other sufficient cause is unable to comply with this local law or the conditions of the permit, the local government may at the request of that permit holder authorise another person to be a nominee of the permit holder for a specified period, and this local law and the conditions of the permit shall apply to the nominee as if he or she was the permit holder.

2.7 Exemptions from requirement to pay fee

(1) The local government may waive any fee required to be paid by an applicant for a stallholder's permit or a trader's permit on making an application for or on the issue of a permit, or may return any such fee which has been paid, if the stall is conducted or the trading is carried on –

(a) on a portion of a public place adjoining the normal place of business of the applicant; or

(b) by a charitable organisation that does not sublet space to, or involve commercial participants in the conduct of a stall or trading, and any assistants that may be specified in the permit are members of that charitable organisation.

(2) The local government may exempt a person or a class of persons, whether or not in relation to a specified public place, from the requirements of this Division.

2.8 Conduct of stallholders and traders

(1) A stallholder while conducting a stall or a trader while trading shall –

(a) comply with the terms and conditions of her or his permit;
(b) display her or his permit to do so in a conspicuous place on the stall, vehicle or temporary structure or if there is no stall, vehicle or temporary structure, carry the permit with her or him while conducting a stall or trading;

(c) not display a permit unless it is a valid permit;

(d) when selling goods by weight, carry and use for that purpose, scales tested and certified in accordance with the provisions of the Trade Measurement Act 2006; and

(e) in the case of a stallholder:

   (i) maintain the stall, vehicle or structure in a safe and serviceable condition; and

   (ii) ensure that the area of the stall, vehicle or structure is kept in a clean and tidy condition.

(2) A stallholder or trader shall be solely responsible for all and any costs associated with the removal, alteration, repair, reinstatement or reconstruction of the thoroughfare or public place arising from the conduct of the stall or the carrying on of the trading and the local government may recover such costs from the permit holder in a Court of competent jurisdiction as a debt owing to it.

(3) A stallholder or trader shall not –

   (a) deposit or store any box or basket containing goods on any part of a thoroughfare so as to obstruct the movement of pedestrians or vehicles;

   (b) act in an offensive manner or cause a nuisance;

   (c) use or cause to be used any apparatus or device including any flap or shelf whereby the dimensions of a stall, vehicle or structure are increased beyond those specified in the permit;

   (d) in the case of a trader, carry on trading from a public place, unless there is adequate parking for customers' vehicles reasonably close to the place of trading;

   (e) sell or provide goods or services other than those specified in the permit;

   (f) cry out or shout about, or permit any other person to cry out or shout about, any goods or services in any public place; or

   (g) use, or permit to be used, any loud hailer, microphone, amplifier or other apparatus for making or transmitting sound in any public place, unless approved by the local government.
2.9 Definitions

In this Division, unless the context requires otherwise –

"entertainer’s permit" means a permit issued to a person who wishes to perform in a public place;

"perform" includes to play a musical instrument, sing, mime, dance, give an acrobatic or aerobic display or entertain, but does not include public speaking;

"permit free entertainer zone" means an allocated area where an entertainer can perform without the need for a permit;

"permit holder" means the holder of a valid entertainer’s permit;

"permitted area" means the area or areas, specified in an entertainer’s permit, in which the permit holder may perform;

"permitted time" means the time or times, specified in an entertainer’s permit, during which the permit holder may perform;

"pitch location" means a prescribed location within the permit free entertainer zones where a performer or performance group may perform; and

"solicit" in relation to money, means actively seeking or calling for a donation from another person, but does not include a non verbal invitation by a permit holder to place a donation in a receptacle within the permitted area. –and–

2.10 Permit free entertainer zone

(1) A permit to perform is not required within the permit free entertainer zone;

(2) Permit free entertainer zones are determined by the CEO;

(3) Performers or performance groups may only perform at prescribed pitch locations in the permit free entertainer zones as delineated by the local government by a marker on the ground; and

(4) The local government can designate any public place as a pitch location within the permit free entertainer zones.

2.110 Entertainer’s permit required to perform

(1) A person shall not perform in a public place outside of the permit free entertainer zone without a valid entertainer’s permit.

(2) Every application for an entertainer’s permit shall –

(a) state the full name and address of the applicant;

(b) specify the nature of the proposed performance;
(c) specify whether any amplifiers, sound equipment or sound instruments are to be used in the proposed performance; and

(d) specify the number of people involved in the proposed performance, including the name and date of birth of anyone proposed to be involved in the performance who is under 14 years of age.

(3) A person under the age of 14 years is not to perform, unless authorised by the local government:
(a) during school hours on school days; or
(b) between 7.00pm one day and 6.00am the following day.

2.124 Variation of permitted area and permitted time

(1) The local government or an authorised person may by notice in writing to a permit holder vary –

(a) the permitted area;

(b) the permitted time; or

(c) both the permitted area and the permitted time, shown on an entertainer’s permit.

(2) The local government or an authorised person may direct a permit holder to move from one permitted area to another permitted area, if more than one area is specified in a permit.

2.132 Duration of permit

An entertainer’s permit is valid for the period of 3 months after the date on which it is issued specified in the permit unless it is sooner cancelled under this local law in accordance with clause 2.14.

2.143 Cancellation of permit

The local government may cancel an entertainer’s permit if in the opinion of an authorised person –

(a) the volume of sound caused by the permit holder in connection with the performance adversely affects the enjoyment, convenience or comfort of other persons in a public place; or

(b) the performance otherwise constitutes a nuisance.

2.154 Obligations of performers permit holder

(1) Performers or performance groups in the permit free entertainer zones A permit holder shall not perform in a public place otherwise than in accordance with the terms and conditions of her or his entertainers permit the associated Policy as amended from time to time.

(2) A permit holder shall not perform in a public place otherwise than in accordance with the terms and conditions of his or her entertainers permit and the associated Policy as amended from time to time.
2.165 Definitions

In this Division, unless the context requires otherwise –

"Food Act" means the Food Act 2008;

"food business" has the meaning given to it in section 10 of the Food Act 2008;

"furniture" means chairs, tables, waiters’ stations, planter boxes, umbrellas, screens, barriers, awnings and any other similar structure or equipment;

"Health Act" means the Health Act 1911;

"licensed premises" has the meaning given to it in section 3(1) of the Liquor Control Act 1988;

"outdoor eating area" means an outdoor eating facility or establishment on any part of a public place in which furniture is provided for the purpose of the supply of food or drink to the public or the consumption of food or drink by the public, but does not include such a facility or establishment on private land; and

"permit holder" means the person to whom a permit has been issued to establish or conduct an outdoor eating area.

2.176 Permit required to conduct an outdoor eating area permit

(1) A person shall not establish or conduct an outdoor eating area without a valid permit.

2.177 Matters to be considered in determining application

In determining an application for the rights of a permit for the purpose of clause 3.5, the local government may consider in addition to any other matter it considers relevant, whether or not –

(2) (i) (a) the holder under an outdoor eating area is permit are subject to this local law.
2.18  Requirements for an outdoor eating area

An outdoor eating area must –

(a) be conducted in conjunction with and as an extension of food premises or licensed premises, abutting the outdoor eating area which are registered as a food business under the Food Act, and whether the applicant is the person conducting such food premises or licensed premises;

(b) any abutting food premises are registered as an eating-house in accordance with the Health Act;

(c) effect and maintain all necessary approvals governing the operation of the outdoor eating area;

(d) the use of the abutting food premises or licensed premises as such is permitted under the City planning scheme;

(e) the outdoor eating area will comply with any local law made under section 172 of the Health Act or any other relevant local law of the local government;

(f) users of the outdoor eating area will have access to proper and sufficient sanitary and ablutionary conveniences for users of the outdoor eating area;

(g) the outdoor eating area would –

(i) obstruct the visibility or clear sight lines of any person at an intersection of thoroughfares; or

(ii) impede pedestrian access; or

(h) contain furniture which may obstruct the use of the public place for the purpose for which it was designed, and

the abutting food premises or licensed premises provide sufficient car parking bays for customers of the outdoor eating area, and in this respect the car parking requirements of the City planning scheme may be used as a guide.

2.198  Obligations of permit holder

(1) The permit holder for an outdoor eating area shall –

(a) comply with the terms and conditions of the permit to establish and conduct the outdoor eating area;

(b) ensure that the outdoor eating area is conducted at all times in accordance with the provisions of this local law and any local law made under section 172 of the Health Act or other Act relevant to the outdoor eating area;

(c) ensure that the eating area is kept in a clean and tidy condition at all times.
(d) maintain the furniture in the eating area in a good, clean and serviceable condition at all times;

(e) be solely responsible for all and any costs relating to the reinstatement or reconstruction of any part of the public place arising from the conduct of the outdoor eating area;

(f) immediately on the expiration of or cancellation of a permit to establish or conduct an outdoor eating area, the permit holder shall at his or her cost, reinstate or restore the public place on which the outdoor eating area is established or conducted, to a condition consistent with its condition prior to the commencement of the outdoor eating area and which is to the reasonable satisfaction of the local government; and

(g) be solely responsible for all rates and taxes levied upon the land occupied by the outdoor eating area; and

(h) produce evidence of the outdoor eating area permit whenever requested by an authorised person to do so. Evidence could include the written confirmation (electronic version acceptable) provided by the City or the permit number (if applicable).

(2) Whenever, in the opinion of the local government or an authorised person, any work is required to be carried out to an outdoor eating area, the local government or authorised person may give a notice to the permit holder for the outdoor eating area to carry out that work within the time limits by the notice.

(3) In subclause (2), "work" includes the removal, alteration, repair, reinstatement or reconstruction of any part of a public place arising from or in connection with the setting up or conduct of an outdoor eating area.

2.2.04 Removal of an outdoor eating area unlawfully conducted

Where an outdoor eating area is established or conducted without a permit, or in contravention of a condition of a permit or this local law, any furniture may be removed by a City Ranger or Authorised Officer as an authorised person and impounded in accordance with the Act.

2.2.10 Use of an outdoor eating area by public

(1) A person shall not occupy a chair or otherwise use the furniture in an outdoor eating area the subject of a permit unless the person uses the chair or furniture for the purpose of consuming food or drinks provided by the permit holder of the outdoor eating area.

(2) A person shall leave an outdoor eating area when requested to do so by the permit holder or an authorised person.

2.2.24 Temporary removal of an outdoor eating area may be requested

(1) The permit holder for an outdoor eating area is to temporarily remove the outdoor eating area when requested to do so on reasonable grounds by an authorised person, a member of the Police Service or an emergency service agency in the event of an emergency.

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(2) The permit holder may replace the outdoor eating area removed under subclause (1) as soon as the person who directed her or him to remove it allows it to be replaced.

Division 4 – Display of Goods on a Footpath

2.23 Definitions

In this Division, unless the context otherwise requires:

“permit holder” means the person to whom a goods permit has been issued;

“goods permit” means a permit to display goods; and

“goods” has the meaning given to it in the Act.

2.23 Permit period

The local government may grant approval for the purposes of display of goods under this local law means goods for one year sale and or three years, whichever the applicant chooses on the application for a goods hire as part of the permit holder’s business.

2.24 Goods permit

(1) A person shall not display goods on a footpath unless that person is the holder of a valid goods permit.

(2) The Every application for rights of a permit holder under a goods display permit shall are subject to this local law (a) state the full name and address of the applicant.

2.25 Requirements for goods display

A goods display must not –

specify the proposed permitted area of the goods;

be accompanied by an accurate plan and description of:

the proposed location of the goods and the area in a radius of approximately 10 metres around that location showing on a scale of approximately 1:100 the location of all

other impediments to pedestrian traffic and premises abutting any verge or footpath; and

provide a colour photograph or similar representation of the goods.

2.25 Matters to be considered in determining application

In determining an application for a permit for the purpose of this Division, the local government may consider in addition to any other matter it considers relevant, whether or not —

(a) the goods would —

obstruct the visibility or clear sight lines of any person at an intersection of thoroughfares; or
2.26 Obligations of permit holder

The permit holder shall –

(a) comply with the terms and conditions of the permit to establish and conduct the goods display;

(b) maintain the goods and the goods display in a safe condition at all times;

(b) display the permit number provided by the local government in a conspicuous place on or near the goods or goods display and (c) produce evidence of the goods permit whenever requested by an authorised person to do so; produce the goods permit to that person; Evidence could include the written confirmation (electronic version acceptable) provided by the City or the permit number (if applicable);

(d) ensure that the goods are display is of a stable design and is not readily moved by the wind, and does not cause any hazard or danger to any person using the thoroughfare;

(de) only display goods on a footpath which immediately abuts and not extending more than 1 metre from the building, which is occupied by the owner of the goods, and not more than 1 metre from that building or in a location approved by the local government and specified in the permit; and

(e) ensure the free passage of persons using the footpath on which the goods display is positioned.

2.27 Safety of persons

A person shall not cause or permit goods to be displayed in such a condition, which in the opinion of an authorised person, causes or is likely to cause injury or danger to any person or damage to the clothing or possessions of any person.

2.28 Removal of goods for works

A permit holder shall ensure that goods are removed from any footpath to permit the footpath to be swept or to permit any other authorised work to be carried out when directed to do so by an authorised person.

2.29 Removal of goods

A person shall remove goods which does not comply with the requirements of this local law, from any footpath when directed to do so by an authorised person.

2.30 Unlawful placement of goods

(1) A person who places, causes or permits to be placed on any footpath any goods display which does not comply with the requirements of this local law, commits an offence.
A person who places, causes or permits to be placed on any footpath any goods display which obstructs or may obstruct the use of the footpath commits an offence, unless the person proves they had lawful authority to so place the goods display.

**Division 5 – Portable Advertising Signs on Thoroughfares**

**2.31 Definitions**

In this Division unless the context otherwise requires –

"A" frame sign” means a folding sign which is hinged at the top to provide a stable structure when open;

"permit holder" means the person to whom a portable advertising sign permit is issued;

"portable advertising sign" means a free standing sign and includes a ground based sign, a sandwich board and an 'A' frame sign that is used or intended to be used for the purpose of advertising any premises, services, business, function, event, product or thing;

"portable advertising permit" means a permit to display a portable advertising sign;

“sign” means a notice, poster, flag, mark, word, letter, model, placard, board, structure, device or representation.

**2.32 Portable advertising sign permit**

(1) A person shall not erect or place a portable advertising sign on a thoroughfare unless that person is the holder of a valid portable advertising sign permit;

(2) The rights of a permit holder under a portable advertising sign permit are subject to this local law.

**2.33 Requirements for portable advertising signs**

A portable advertising sign must –

(a) be consistent with, and be erected or placed in accordance with any other written law regulating the erection or placement of portable advertising signs within the district;

(b) be consistent with the dimensions in clause 2.34 of this local law;

(c) relate to the business described on the portable advertising sign permit;

(d) not be erected or placed on a footpath in front of a building if there is another portable advertising sign already erected or placed in front of that building relating to that business;

(e) only be displayed on a footpath which directly abuts a building occupied by the permit holder, and not more than 1 metre from the building, or in another location approved by the local government and specified in the permit;

(f) not create a hazard to persons using a thoroughfare;

(g) be secure and of stable design and not readily moved by the wind;
(h) be maintained in a good, safe and serviceable condition;

(i) not obstruct the visibility or clear sightlines of:

(ii) any person at an intersection of thoroughfares; or

(ii) any vehicle;

(j) not impede pedestrian access on the thoroughfare; and

(k) not obstruct or impede the use of the footpath for the purpose of which it is used; and

2.34  Dimensions for portable advertising signs

The permit holder shall ensure that the portable advertising sign:

(a) does not exceed 1,000 millimetres in height; and

(b) does not exceed an area of 0.8 square metres on any side.

2.35  Obligations of a permit holder

The permit holder shall –

(a) ensure that the portable advertising sign complies with the requirements in clauses 2.33 and 2.34 of this local law

(b) ensure that the portable advertising sign is removed each day at the close of the business to which it relates and is not erected again until the business next opens for trading;

(c) only display the portable advertising sign on a footpath in the location approved by the local government and specified in the permit;

(d) comply with any conditions imposed on the portable advertising sign permit; and

(e) produce evidence of the portable advertising sign permit whenever requested by an authorised person to do so. Evidence could include the written confirmation (electronic version acceptable) provided by the City or the permit number (if applicable).

2.36  Safety of persons

A person shall not cause or permit a portable advertising sign to be erected or displayed in such a condition where, in the opinion of an authorised person, causes or is likely to cause injury or danger to any person or damage to the clothing or possessions of any person.

2.37  Removal of portable advertising sign for works

A permit holder shall ensure that a portable advertising sign is removed from any footpath to permit the footpath to be swept or to permit any other authorised work to be carried out when directed to do so by an authorised person.

2.38  Removal of portable advertising sign which does not comply
A person shall remove any portable advertising sign which does not comply with the requirements of this local law from any footpath when directed to do so by an authorised person.

**2.39 Unlawful placement of portable advertising signs**

A person who places, causes, or permits to be placed on any thoroughfare any portable advertising sign except in accordance with this local law commits an offence.

**PART 3 - PERMITS**

3.1 Application of part

This Part applies to an application for a permit under this local law and to permits issued under this local law.

3.2 Application for permit

1. Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).

2. An application for a permit under this local law shall –

   (a) be in the form determined by the local government;

   (b) be signed by the applicant;

   (b) provide the information required by the form, which may include a plan, specifications or photographs, and

   (d) be forwarded to the CEO of the local government or the specified person at the local government together with any fee imposed and determined by the local government under and specified in accordance with sections 6.18 to 6.19 the City’s Schedule of the Act Fees and Charges, as amended from time to time.

3. The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

4. The local government may require an applicant to give local public notice of the application for a permit.

5. The local government may refuse to consider an application for a permit –

   (a) which does not in accordance comply with the requirements in subclause (2).

   (b) which, in the case of:

      (i) an application for a stallholder’s permit, is not in accordance with clause 2.2(2); or

      (ii) an application for a trader’s permit, is not in accordance with clause 2.3(2); or

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(iii) an application for an entertainer's permit, is not in accordance with 2.4011(2)-or-
(iv) an application for a sign permit, is not in accordance with clause 2.24(2); 
(c) which is not accompanied by the plans and specifications and the application fee;
(d) which is not properly completed; or
(ed) where any required plan, specification or photograph does not in the opinion of the CEO or an authorised person, contain sufficient information or is not sufficiently clear to enable the local government to properly consider the application.

3.3 Relevant considerations in determining application for permit

(1) Where a clause of this local law refers to matters which the local government is to have regard to in determining an application for a permit, the local government shall have regard to those matters prior to making a decision on an application for a permit under clause 3.5 and, in addition, may have regard to the following matters:

(a) the desirability of the proposed activity;
(b) the location of the proposed activity; and

(c) the principles set out in the Competition Principles Agreement; and

(d) such other matters as the local government may consider to be relevant in the circumstances of the case.

3.4 Grounds on which an application may be refused

The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds –

(a) that within the preceding 5 years the applicant has committed a breach of any provision of this local law, or of any other written law or condition of lease or license relevant to the activity in respect of which the permit is sought;
(b) that the applicant in the opinion of the local government is not a fit and proper person to hold a permit;
(c) that –

(i) the applicant is an undischarged bankrupt or is in liquidation;
(ii) the applicant has entered into any composition or arrangement with creditors; or
(iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property; or.
(d) the local government deems the permit application to be for an activity which is not appropriate for the local government property or thoroughfare which the permit is sought in respect to,

(e) such other grounds as the local government may consider to be relevant in the circumstances of the case.

3.5 Decision on application for permit

(1) The local government may –

(a) approve an application for a permit unconditionally or subject to any conditions, including but not limited to those conditions in clause 3.6; or

(b) refuse to approve an application for a permit, including but not limited to those grounds specified in clause 3.4.

(2) If the local government approves an application for a permit, it is to issue to the applicant a permit with written confirmation in the form determined by the local government, which could be electronic.

(3) If the local government refuses to approve an application for a permit, it is to give written notice (which includes electronic) of that refusal to the applicant. It is not necessary for the local government to provide reason for the refusal.

(4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).

(5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

3.6 Conditions which may be imposed on a permit

The without limiting the generality of clause 3.5(1)(a), the local government may approve an application for a permit subject to conditions relating to –

(a) the payment of a fee, charges and bonds, as specified in the City's Schedule of Fees and Charges, as amended from time to time, or as otherwise determined by the local government, at the local government's sole discretion;

(b) the duration and commencement of the permit;

(c) the commencement of the permit being contingent on the happening of an event;

(d) the rectification, remedying or restoration of a situation or circumstance reasonably related to the application;

(e) the approval of another application for a permit which may be required by the local government under any written law;

(f) the area of the district to which the permit applies;
(g) where a permit is issued for an activity which will or may cause damage to a public place, the payment of a deposit or bond against such damage;

(h) the obtaining of public liability insurance in an amount and on terms reasonably required by the local government as set out in clause 5.4;

(i) the provision of an indemnity from the permit holder providing a written undertaking to the local government indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the public place by the permit holder;

(j) compliance with a standard or a policy of the local government adopted by the local government;

(j) the safe storage, handling, preparation, display and sale of food; and

(k) the safe display or erection of furniture, goods or other things related to an activity.

3.7 Compliance with permit conditions

(1) Where an application for a permit has been approved subject to conditions, or where a permit is to be taken to be subject to conditions under this local law, the permit holder shall comply with each of those conditions.

(2) If the local government varies the terms or conditions of a permit, the permit holder shall comply with those terms or conditions as varied.

3.8 Amendment of permit conditions

(1) A permit holder may apply in writing to the local government to amend any of the terms or conditions of the permit.

(2) The local government may, in respect of an application under sub-clause (1) –

(a) amend the permit, either in accordance with the application or otherwise as it sees fit; or

(b) refuse to amend the permit.

(3) The local government may, at any time, amend any of the terms or conditions of a permit, subject to providing the permit holder with written notice of the reasons for the amendment.

(4) If the local government amends a permit under this clause, it is to notify the permit holder in writing of the amendment as soon as practicable after the amendment is made and, unless otherwise specified in the amendment, the amended term or condition, or both, of the permit apply from the date of notification and the amended conditions(s) shall apply from the date of notification, unless otherwise specified in the amendment.

(5) If the local government amends a permit otherwise than in accordance with an application from the permit holder, it is, as soon as practicable after the decision to amend is made, to give to the permit holder written notice of, and written reasons for, its decision to amend the permit.
3.9 Duration of permit

A permit is valid for one year from the date on which it is issued, the period specified in the permit unless it is –

(a) otherwise stated in this local law or in the permit; or

(b) cancelled under in accordance with clause 3.13.

3.10 Renewal of permit

(1) A permit holder may apply to the local government in writing prior to expiry of a permit for the renewal of the permit.

(2) The provisions of –

(a) this Part; and

(b) any other provision of this local law relevant to the permit which is to be renewed,

shall apply to an application for the renewal of a permit, to the extent that it is applicable for a permit

mutatis mutandis renewal.

3.11 Transfer of permit

(1) An application for the transfer of a valid permit is to –

(a) be made in writing;

(b) be signed by the permit holder and the proposed transferee of the permit;

(c) provide such information as the local government may require to enable the application to be determined; and

(d) be forwarded to the CEO local government together with any fee imposed and determined by the local government under and in accordance with sections 6.16 to 6.19 of the Act.

(2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.

(3) Where the local government approves an application for the transfer of a permit, the transfer may be affected by — it will provide written confirmation to the former permit holder and the transferee.
(a) an endorsement on the permit signed by the CEO or an authorised person; or

(b) issuing to the transferee a permit in the form determined by the local government.

(4) Where the local government approves an application for the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

3.12 Production of permit

A permit holder is required to produce evidence of a permit to an authorised person immediately upon being required to do so by that authorised person. Evidence could include the written confirmation (electronic version acceptable) provided by the City or the permit number (if applicable).

3.13 Cancellation of permit

(1) Subject to clause 8.1, a permit may be cancelled by the local government on any one or more of the following grounds –

(a) the permit holder has not complied with a –

(i) condition of the permit; or

(ii) provision of this local or any other written law which may relate relating to the activity regulated by the permit;

(b) the permit holder is convicted of an offence against this local law;

(c) the permit holder fails to maintain any required public liability insurance or ceases to indemnify the local government against damages or in connection with loss or damage in connection with an activity conducted by the permit holder under the permit;

(d) if it is relevant to the activity regulated by the permit –

(i) the permit holder has become bankrupt, or gone into liquidation;

(ii) the permit holder has entered into any composition or arrangement with creditors;

(iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the permit holder’s undertakings or property;

(g) if the permit holder’s application is subsequently found to be incomplete, insufficient or not containing a required document;

(h) if the permit holder’s application is subsequently found to contain incorrect or falsified information and/or documents;

(i) if the City reasonably considers that the activity permitted by the permit may create a public health, safety or amenity issue;
(j) if valid development approval is required and not held for the abutting premises at which the business relating to the activity authorised by the permit is conducted or for the outdoor eating area; and

(k) another permit for an outdoor eating area, goods display or portable advertising sign has been granted, and remains in effect, in relation to the building or business premises related to the permit.

(2) On the cancellation of a permit the permit holder—

(a) shall return the permit as soon as practicable to the local government; and will provide the permit holder with written notice that the permit has been cancelled –

(3) On receiving notice that the permit has been cancelled in accordance with sub clause (2):

(a) the permit holder must immediately cease using the local government property or thoroughfare unless the notice from the local government provides otherwise; and

(b) is to be taken to have forfeited - any fees paid by the permit holder in respect of the permit. are forfeited and will not be refunded by the local government.

3.14 Suspension of permit holder's rights and privileges

(1) The rights and privileges granted to a permit holder on the issue of a permit, shall be automatically suspended, where the public liability insurance required as a condition of a permit, lapses or is cancelled or is no longer current.

(2) The rights and privileges granted to a permit holder on the issue of a permit, may be suspended by the local government by notice in writing to the permit holder for the purpose of and during the carrying out of any works by or on behalf of the State, or an agency or instrumentality of the Crown, or the local government, in or adjacent to the area the subject of the permit.

(3) The rights and privileges granted to a permit holder on the issue of a permit may be suspended by the local government where –

(a) the permit holder's application is subsequently found to be incomplete, insufficient or not containing a required document;

(b) the permit holder's application is subsequently found to contain incorrect or falsified information and/or documents; or

(c) the City considers the activity permitted by the permit may create a public health, safety or amenity issue.

until the defect in the permit holder's application is rectified to the satisfaction of the local government and/or the local government considers that the activity may be conducted in a manner which does not create a public health, safety or amenity issue.

3.15 Planning approval Other approvals

The requirement for a permit under this local law, is additional to the requirement, if any, for a planning any other approvals, including but not limited to development approval.
PART 4 — BOND OR SECURITY

4.1 Security for restoration and reinstatement

(1) For the purpose of ensuring that an outdoor eating area is properly restored or reinstated under clause 2.48.19(1)(f), on the expiry or cancellation of a permit, the local government may require that the applicant or permit holder —

(a) as a condition of a permit; or

(b) before the issue of a permit; or

(c) before the renewal of a permit,

give to the local government a bond, bank guarantee or other security, of a kind and in a form acceptable to the local government, in or for a sum determined by the local government.

(2) A bond required under sub-clause (1) is to be paid into an account established by the local government for the purposes of this clause.

4.2 Use by the local government of bond or security

(1) If a permit holder fails to carry out or complete the restoration or reinstatement works required by clause 2.48.19(1)(f), the permit conditions or by a notice served by the local government —

(a) within the time specified in that clause or those conditions; or the notice (as the case may be); or

(b) where no such time has been specified, a reasonable period of time from the expiration or cancellation of the permit to establish or conduct the outdoor eating area; or complete the restoration or reinstatement works; or

(c) within 14 days or such other time as specified in the notice given by the local government to the permit holder,

then the local government may carry out or cause to be carried out the required restoration or reinstatement work or so much of that work as remains undone.

(2) The permit holder shall pay to the local government on demand all administrative, legal, contractor and other costs, estimated or incurred by the local government, to restore or reinstate the public place or which the local government may be required to pay under this clause.

(3) The local government may apply the proceeds of any bond or call upon any bank guarantee or other security provided by the permit holder under clause 4.1 to meet the costs incurred by it under this clause.

(4) The liability of a permit holder to pay the local government’s costs under this clause is not limited to the amount, if any, secured under clause 4.1.
5.1 Notice requiring works to be done

(1) Where a permit holder has breached any term or condition of her or his permit or a provision of this local law, the local government may require works to be done by the permit holder to rectify that breach and for that purpose may give a notice to the permit holder —

(a) identifying the breach;

(b) requiring the permit holder to rectify the breach or do specified works within a specified time so as to remedy the breach; and

(c) advising that where the permit holder fails to comply with the requirements of the notice within the time specified, the local government may do the required work at the expense of the permit holder.

(2) Where, in the opinion of an authorised person, it is necessary to change the location, arrangement or operation of an outdoor eating area so as to maintain public safety, facilitate public works to the footpath or public place, or to protect the amenity of adjacent premises, the authorised person may give a notice to the permit holder —

(a) notifying the permit holder of the details of the change in location, arrangement or operation of the outdoor eating area;

(b) requiring the permit holder to effect, whether by works or otherwise, the change in location, arrangement or operation of the outdoor eating area; and

(c) advising that where the permit holder fails to comply with the requirements of the notice within the time specified, the local government may do the required work at the expense of the permit holder.

(3) Where the permit holder fails to comply with the requirements of a notice issued under subclause (1) or (2), the local government may, by its employees, agents or contractors, carry out all works and do all things necessary to comply with the requirements of the notice.

(4) The local government may recover the expenses incurred in carrying out the works in accordance with subclause (3):

(a) where a bond, bank guarantee or other security has been given under clause 4.1, by applying the proceeds of any bond or calling upon any bank guarantee or other security to meet those expenses; or

(b) from the permit holder as a debt due to the local government, in a court of competent jurisdiction.

5.2 Notice to advise permit holder of planned or emergency works

(1) The local government shall give 14 days notice of any planned works to be undertaken by the local government, that will require closure, part closure or access to an outdoor eating area which is the subject of a valid permit.

(2) Where the local government is to carry out emergency works in a public place where there is an outdoor eating area, portable advertising sign or stall which is the subject
of a valid permit, there is no requirement to give notice of the works to the permit holder, other than that which is considered reasonable under the circumstances.

(3) A notice referred to in sub-clauses (1) and (2) shall be given in accordance with the Act.

5.3 Works on public property

A person shall not carry out any works of a structural nature, within a thoroughfare or public place without first obtaining written permission from the local government, in accordance with regulation 17 of the Local Government (Uniform Local Provisions) Regulations 1996.

5.4 Public liability insurance and indemnity policy

(1) Where, as a condition of a permit, the permit holder is required to obtain and maintain a public liability insurance policy, the permit holder shall —

(a) effect and maintain a policy of insurance in the name of the permit holder and the local government (if required by the local government) in respect of any injury to any person or any damage to any property which may occur in connection with the use of the local government property by the permit holder;

(b) ensure that any policy of insurance referred to in (a) indemnifies the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the local government property by the permit holder;

(c) effect and maintain the policy of insurance referred to in (a) for the duration of the permit;

(d) immediately notify the local government if the policy of insurance cover lapses, in which case the permit may be cancelled by the local government in accordance with clause 3.11;

(e) provide the local government with a certificate of currency confirming that public liability insurance cover is in place at any time requested by the local government;

(f) ensure that, as a minimum, the permit holder’s public liability insurance policy provides coverage of $10 million (ten million dollars), or such other amount as the local government considers appropriate to the risk and liability involved in the activity authorised by the permit. At the discretion of the local government minimum value of coverage required may be increased at the policy renewal date;

(g) ensure that the public liability insurer of the permit holder is a reputable insurer licensed to conduct insurance business in Australia in accordance with the guidelines issued by the Australian Prudential Regulatory Authority (APRA).

(2) A permit holder who refuses to or cannot provide a current certificate of insurance at least 14 days prior to the commencement of any activity, action or thing performed or erected in accordance with the permit, as required in accordance with subclause (1) commits an offence.

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(3) A permit holder must provide the local government with a copy of their certificate of insurance currency at any time requested by the local government, including at the permit application stage.

(1) Where, as a condition of a permit, a permit holder is required to obtain and maintain a public liability insurance policy, the permit holder shall—

(a) (a) obtain and maintain the required public liability insurance cover during the entire time that the permit is in place, which must provide cover for liabilities arising out of the activity authorised by the permit and which must be taken out in the name of, or extend to, the liabilities of the permit holder;

(b) if required by the local government, enter into an agreement with the local government to provide and maintain the required public liability insurance cover during the entire time that the permit is in place;

(b) take out a public liability insurance policy in the name of the permit holder, covering the permit holder's legal liabilities in respect of the permit holder's usual business activities including the provision of an outdoor eating area (alfresco dining) on footpaths or other trading places which may or may not be under the ownership, care, custody and control of the local government;

(c) advise the local government should the permit holder cancel or modify or fail to renew the public liability insurance cover during the period of the licence permit, in which case the permit may be cancelled by the local government in accordance with clause 3.13;

(d) provide the local government with a Certificate of Currency confirming that the public liability insurance cover is in place as per the requirements of Clause 5.4(f) prior to issuing of the permit at any time requested by the local government;

(e) ensure that, as a minimum, the permit holder's public liability insurance policy has a limit provides coverage of liability of $10 million (fifteen million dollars), or such other amount as the local government considers appropriate to the risk and liability involved in the activity authorised by the permit. At the discretion of the local government, the limit minimum value of liability coverage required may be increased at the policy renewal date;

(f) ensure that the public liability insurer of the permit holder is a reputable insurer licensed to conduct insurance business in Australia in accordance with the guidelines issued by the Australian Prudential Regulatory Authority (APRA).

(2) A permit holder who refuses to or does not comply cannot provide a current certificate of insurance at least 14 days prior to the commencement of any activity, action or thing performed or erected in accordance with the permit, as required in accordance with subclause (1)(e) or (1)(f)) commits an offence.

(3) A permit holder must provide the local government with a copy of their certificate of insurance currency at any time requested by the local government, including at the permit application stage.

PART 6 — GENERAL

6.1 Authorised person to be obeyed
A permit holder who is given a lawful direction by an authorised person or a member of the Western Australia Police Service Force, shall comply with that direction.

6.2 Persons may be directed to leave local government property

An authorised person may direct a person to leave local government property where the authorised person reasonably suspects that the person has contravened a provision of any written law.

6.3 Lost goods

No local government employee or any authorised person shall in any way be responsible for any goods or money lost, stolen, damaged or destroyed whilst on any local government property or thoroughfare.

6.4 Liability for damage to local government property or thoroughfare

(1) Where a person unlawfully damages local government property or a thoroughfare, the local government may by notice in writing to that person require that person within the time required in the notice to, at the option of the local government, pay the costs of –

(a) reinstating the property or thoroughfare to the state it was in prior to the occurrence of the damage; or

(b) replacing that property.

(2) On a failure to comply with a notice issued under sub-clause (1), the local government may recover the costs referred to in the notice as a debt due to it in a court of competent jurisdiction.

PART 7- OFFENCES AND PENALTIES

7.1 Offences

(1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

(2) Whenever the local government gives a notice under this local law requiring a person to do any thing, if the person fails to comply with the notice, the person commits an offence.

(3) Any person who commits an offence under this local law shall be liable, upon conviction, to a penalty not less than $250,000 and not exceeding $5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding $500 for each day or part of a day during which the offence has continued.

7.2 Prescribed offences and modified penalties

(1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
(2) The amount appearing in the final column of Schedule 1 directly opposite an offence described in that Schedule is the modified penalty for that offence.

7.3 Forms of Infringement notices and infringement withdrawal notices

For the purposes of this local law –

(a) where a vehicle is involved in the commission of an offence, the form of the infringement notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Local Government (Functions and General) Regulations 1996;

(b) the form of the infringement notice referred to in sections 9.16 and 9.17 of the Act is that of Form 2 in Schedule 1 of the Local Government (Functions and General) Regulations 1996; and

(c) the form of the withdrawal notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Local Government (Functions and General) Regulations 1996.

PART 8 — OBJECTIONS AND APPEALS

8.1 Objections and Appeals

When the local government makes a decision –

(a) under clause 3.5(1); or

(b) as to whether it will renew, vary, or cancel a permit,

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Local Government (Functions and General) Regulations 1996 apply to that decision.
### SCHEDULE 1

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<table>
<thead>
<tr>
<th>Clause No</th>
<th>Description of Offence</th>
<th>Modifiers of Offence</th>
<th>Modified Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.2 (1)</td>
<td>Conducting a stall in a public place without a permit</td>
<td></td>
<td>250</td>
</tr>
<tr>
<td>2.3 (1)</td>
<td>Trading without a permit</td>
<td></td>
<td>250</td>
</tr>
<tr>
<td>2.8(1)(a)</td>
<td>Failure of stallholder or trader to comply with terms or conditions of permit</td>
<td></td>
<td>250</td>
</tr>
<tr>
<td>2.8 (1)(b)</td>
<td>Failure of stallholder or trader to display or carry permit</td>
<td></td>
<td>100</td>
</tr>
<tr>
<td>2.8 (1)(c)</td>
<td>Stallholder or trader not displaying valid permit</td>
<td></td>
<td>100</td>
</tr>
<tr>
<td>2.8 (1)(d)</td>
<td>Stallholder or trader not carrying certified scales when selling goods by weight</td>
<td></td>
<td>100</td>
</tr>
<tr>
<td>2.8 (3)</td>
<td>Stallholder or trader engaged in prohibited conduct</td>
<td></td>
<td>250</td>
</tr>
<tr>
<td>2.4011 (1)</td>
<td>Performing in a public place outside of the permit free entertainer zone without a permit</td>
<td></td>
<td>250</td>
</tr>
<tr>
<td>2.4112 (2)</td>
<td>Failure of performer to move onto another area when directed</td>
<td></td>
<td>100</td>
</tr>
<tr>
<td>2.1415</td>
<td>Failure of performer to comply with obligations</td>
<td></td>
<td>100</td>
</tr>
<tr>
<td>2.1617</td>
<td>Establishment or conduct of outdoor eating area without a permit</td>
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<tr>
<td>2.1819</td>
<td>Failure of permit holder of outdoor eating area to comply with obligations</td>
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<td>250</td>
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<tr>
<td>2.2021 (1)</td>
<td>Use of furniture of outdoor eating area without purchase of food or drink from permit holder</td>
<td></td>
<td>100</td>
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<tr>
<td>2.2021 (2)</td>
<td>Failure to leave outdoor eating area when requested to do so by permit holder</td>
<td></td>
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<tr>
<td>2.24 (1)</td>
<td>Displaying goods on a footpath without a permit</td>
<td></td>
<td>250</td>
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<tr>
<td>2.26 (a)</td>
<td>Failing to maintain goods in a safe and serviceable condition at all times</td>
<td></td>
<td>100 250</td>
</tr>
<tr>
<td>2.26 (b)</td>
<td>Refusing to conspicuously display the permit number on or near the goods display</td>
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<td>50</td>
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<tr>
<td>2.26 (c)</td>
<td>Failure to display goods in accordance with conditions of permit</td>
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<tr>
<td>2.26 (d)</td>
<td>Displaying the goods more than 1 metre from the adjacent building or in a location not approved by the local government</td>
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<tr>
<td>2.26 (e)</td>
<td>Failing to ensure the free passage of persons using the footpath</td>
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</tr>
<tr>
<td>2.27</td>
<td>Permitting goods to be displayed in an unsafe or dangerous manner</td>
<td></td>
<td>250</td>
</tr>
<tr>
<td>2.28</td>
<td>Refusing or failing to remove goods to allow for sweeping or cleaning or any other authorised work</td>
<td></td>
<td>100</td>
</tr>
<tr>
<td>2.29</td>
<td>Refusing or failure to remove goods when requested to do so</td>
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<tr>
<td>2.30 (1)</td>
<td>Placing or permitting goods contrary to the requirements of the local law</td>
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</tr>
<tr>
<td>2.30 (2)</td>
<td>Placing or permitting an item so as to obstruct a footpath without lawful authority</td>
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<tr>
<td>2.32 (1)</td>
<td>Erecting or placing a portable sign on a thoroughfare without a permit</td>
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<td>2.35</td>
<td>Failure of a permit holder to comply with obligations</td>
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<tr>
<td>2.36</td>
<td>Permitting a portable advertising sign to be displayed in an unsafe or dangerous manner</td>
<td></td>
<td>250</td>
</tr>
</tbody>
</table>
CITY OF VINCENT TRADING IN PUBLIC PLACES LOCAL LAW 2008

2.37 Refusing or failing to move a portable advertising sign to allow for sweeping, cleaning or other authorised works
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CITY OF VINCENT TRADING IN PUBLIC PLACES LOCAL LAW 2008

This local law was made by the City of Vincent at an Ordinary Meeting held on the 26th day of February 2008.

the __________________________ day of February __________________________ 2008.

The Common Seal of the City of Vincent was affixed by authority of a resolution of the Council in the presence of:

NICK CATANIA, JP, Mayor

JOHN CAREY

EMMA COLE

MAYOR

JOHN GIORGI, JP, Chief Executive Officer

DAVID MACLENNAN

CHIEF EXECUTIVE OFFICER
## SCHEDULE OF AMENDMENTS

<table>
<thead>
<tr>
<th>Date of Council Resolution</th>
<th>Date of Gazettal</th>
<th>Details of Amendment Local Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>08.07.08</td>
<td>07.10.08</td>
<td>Trading in Public Places Amendment Local Law 2008 Subclause 5.4(1) — amended to be brought in line with the current standard wording for public liability insurance policies.</td>
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<td>10.02.09</td>
<td>27.02.09</td>
<td>Trading in Public Places Amendment Local Law 2009 Division 4 — Display of Goods on a Footpath and Schedule 1, amended to remove inconsistencies and to ensure that the legislation reflects the City’s needs.</td>
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<td>16.12.14</td>
<td>16.01.15</td>
<td>Trading in Public Places Amendment Local Law 2014</td>
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LOCAL GOVERNMENT PROPERTY LOCAL LAW
2008
COUNCIL BRIEFING AGENDA
26 MARCH 2019

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LOCAL GOVERNMENT ACT 1995

CITY OF VINCENT

LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008

Under the powers conferred by the Local Government Act 1995 and under all other powers enabling it, the Council of the City of Vincent resolved on 26 February 2008 to make the following local law.

PART 1 — PRELIMINARY

1.1 Citation

This local law may be cited as the City of Vincent Local Government Property Local Law 2008.

1.2 Objective

(1) The objective of this local law is to provide for the regulation, control and management of activities and facilities on local government property, thoroughfares and public places within the district.

(2) The effect of this local law is to establish the requirements with which any person using or being on local government property, thoroughfares and public places within the district must comply.

1.3 Commencement

This local law comes into operation 14 days after the date of its publication in the Government Gazette.

1.4 Repeal

(1) The following local laws adopted by the City of Vincent —

(a) Local Law Relating to Air-conditioning Units, published in the Government Gazette on 4 November 1997;

(b) Local Law Relating to Beatty Park Leisure Centre, published in the Government Gazette on 30 April 1998;

(c) Local Law Relating to Halls and Centres, published in the Government Gazette on 30 April 1998;


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(g) Local Law Relating to the Removal of Refuse, Rubbish and Disused Materials, published in the Government Gazette on 1 May 1998;

(h) Local Law Relating to Street Lawns and Gardens, published in the Government Gazette on 30 April 1998;

(i) Local Law Relating to Streets and Footpaths, published in the Government Gazette on 14 June 2000; and


are repealed on the day this local law comes into operation.

1.5 Application

(1) This local law applies throughout the district.

(2) Notwithstanding anything to the contrary, unless otherwise provided for in this local law, the local government may —

(a) hire local government property to any person; or

(b) enter into an agreement with any person regarding the use of any local government property.

1.6 Definitions

In this local law unless the context requires otherwise —

“Act” means the Local Government Act 1995;

“amend” means replace, substitute, in whole or in part, add to or vary, and the doing of any two or more of such things simultaneously or by the same written law;

“applicant” means a person or a body corporate who applies for a permit under clause 3.2 to the local government to use local government property, in accordance with this local law;

“authorised person” means a person authorised by the local government under section 9.10 of the Act to perform any of the functions of an authorised person under this local law;

“bathing” means the act of entering a swimming pool, or other water body, to swim or use a bathing appliance and includes the act of emerging therefrom for pleasure;

“bicycle” means a vehicle with two or more wheels that is built to be propelled by human power through a belt, chain or gears (whether or not it has an auxiliary motor);

“boat” means any structure or vessel, capable of being used in navigation, whether motorised or not and made or used to travel or float on or through water or travel under water;

“body corporate” means a legal entity, such as an association, company, government, government agency, institution, partnership, or person that is a corporation created by charter, prescription or legislation;
“carriageway” means the bitumen or paved or made portion of a thoroughfare used or intended for use by vehicles;

“CEO” means the Chief Executive Officer of the local government;

“commencement day” means the day on which this local law comes into operation;

“community facility” means a facility being local government property operated for the benefit of the public, and includes a hall, public swimming pool, library, leisure centre, recreation centre, child care centre, infant-welfare-centre, child health clinic, aged persons centre and the like;

“Council” means the Council of the local government;

“date of publication” means, where local public notice is required to be given of a matter under this local law, the date on which notice of the matter is published in a newspaper circulating generally throughout the district;

“determination” means a determination made under clause 2.1;

“district” means the district of the local government;

“drip line” in relation to a street tree means the area of land under the perimeter of a street tree canopy;

“face of kerb” means the side of the kerb adjacent to the carriageway;

“fence” means any artificially created barrier whether temporary or permanent including post and rails, chain, metal, wire or pipe;

“firework” means a device such as a Catherine wheel, a roman candle, a rocket or the like, in which combustible materials are ignited and produce coloured smoke, flames, and sometimes an explosion or loud noise;

“fireworks display” means a show of a number of fireworks, on occasion set off over a pre-arranged period, for the purpose of providing enjoyment or entertainment to those persons able to view them;

“fishing” means to use any line, lure, rod, pot or other method for the purpose of catching marine life;

“footpath” means a path set aside for use by pedestrians and cyclists that is on a thoroughfare, and includes all that part of a thoroughfare lying between the edge of the carriageway and the property boundary nearest to that edge on the same side of the thoroughfare;

“function” means an event or activity characterised by all or any of the following –

(a) formal organisation and preparation;
(b) its occurrence is generally advertised or notified in writing to particular persons;
(c) organised by or on behalf of a club;
(d) payment of a fee to attend it; and
(e) systematic recurrence in relation to the day, time and place;

"garden" means a verge planted, developed or treated, otherwise than as a lawn, with one or more plants;

"kerb" includes the edge of a carriageway;

"landscaping feature" means any garden bed, rock, pathway, seating, decoration and lighting or similar feature, installed within a verge;

"lawn" means a verge which is planted only with grass, or with a similar plant, but will include any other plant provided that it has been planted by the local government such as a street tree;

"liquor" has the same meaning as is given to it in section 3 of the Liquor Control Act 1988;

"local government" means the City of Vincent;

"local government property" means anything except a thoroughfare –

(a) which belongs or is owned or leased by the local government;

(b) of which the local government is the management body under the Land Administration Act 1997; or

(c) which is an "otherwise unvested facility" under within the district as defined in section 3.53 of the Act;

"lot" has the meaning given to it in the Planning and Development Act 2005;

"manager" means the person for the time being employed by the local government to control and manage a community facility or other facility which is local government property and includes the person's assistant or deputy;

"nuisance" means –

(a) any activity, thing, condition, circumstance or state of affairs caused or contributed by a person which is injurious or dangerous to the health of another person of normal susceptibility, or which has a disturbing effect on the state of the physical, mental or social well-being of another person of normal susceptibility;

(b) anything a person does or permits or causes to be done which interferes with or is likely to interfere with the enjoyment or safe use by another person of any public place; or

(c) anything a person does in or on a public place which unreasonably detracts from or interferes with the enjoyment or value of nearby land owned by another person, provided that anything done in accordance with the law or a legal right or which is consistent with the standard of behaviour in the relevant locality shall not be unreasonable for the purpose of this local law;

"permit" means a permit issued under this local law;

"permit" means written confirmation from the local government of an applicant's right to use local government property in accordance with this local law, and can include electronic confirmation, and may include a booking/reference number;
"permit holder" means a person who holds a valid permit;

"person" means a natural person and does not include the local government;

"private property" means any real property, parcel of land or lot that has a separate certificate of title, which is in private ownership or subject of a lease or agreement with a person enabling its use for private purposes and includes any building or structure thereon;

"public place" includes any thoroughfare or place which the public are allowed to use, whether the thoroughfare or place is or is not on private property and includes, parklands, squares, reserves, beaches, and other lands set apart for the use and enjoyment of the public, including local government property, but does not include premises on private property from which trading is lawfully conducted under a written law;

"Regulations" means the Local Government (Functions and General) Regulations 1996;

"sign" includes a notice, flag, mark, structure or device approved by the local government on which may be shown words, numbers, expressions or symbols;

"street tree" means a tree in a thoroughfare;

"thoroughfare" has the meaning given it is defined in section 1.4 of the Act, and means a road or thoroughfare and includes structures or other things relating to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end;

"trading" includes —

(a) the selling or hiring of, the offering for sale or hire of, or the soliciting of orders for goods or services in a public place;

(b) displaying goods in any public place for the purpose of —

(i) offering them for sale or hire;

(ii) inviting offers for their sale or hire;

(iii) soliciting orders for them; or

(iv) carrying out any other transaction in relation to them; and

(c) the going from place to place, whether or not public places, and —

(i) offering goods or services for sale or hire;

(ii) inviting offers or soliciting orders for the sale or the hire of goods or services; or

(iii) carrying out any other transaction in relation to goods or services,

"valid", in relation to a permit issued under this local law means current, with all relevant conditions met and for which all the associated fees have been paid in full;

"vehicle" includes —
CITY OF VINCENT LOCAL GOVERNMENT PROPERTY LOCAL LAW 2008

(a) every conveyance and every object capable of being propelled or drawn on wheels, tracks or by any means;

(b) an animal being ridden or driven; and

(c) a vehicle described in the Road Traffic Act 1974;

but excludes –

(d) a wheel-chair or any device designed for use by physically impaired persons;

(e) a pram, a stroller or similar device; and

(f) a train, boat or aircraft; and

“verge” means that part of a thoroughfare between the carriageway and the landprivate property which abuts the thoroughfare, but does not include any footpath or kerb.

1.7 Interpretation

In this local law unless the context requires otherwise a reference to local government property includes a reference to any part of that local government property.

1.8 Fees and charges

All fees and charges applicable under this local law shall be determined by the local government from time to time in accordance with sections 6.16 to 6.19 of the Act, and will be specified in the City’s Schedule of Fees & Charges, as amended from time to time.

PART 2 — DETERMINATIONS IN RESPECT OF LOCAL GOVERNMENT PROPERTY

Division 1 — Determinations

2.1 Determinations as to use of local government property

(1) The local government may make a determination in accordance with clause 2.2 –

(a) setting aside specified local government property for the pursuit of all or any of the activities referred to in clause 2.7;

(b) prohibiting a person from pursuing all or any of the activities referred to in clause 2.8 on specified local government property;

(c) as to the matters in clauses 2.7(2) and 2.8(2); and

(d) as to any matter ancillary or necessary to give effect to a determination.

(2) The determinations in Schedule 2 –

(a) are to be taken to have been made in accordance with clause 2.2;

(b) may be amended or revoked in accordance with clause 2.6; and

(c) have effect on the commencement day.
2.2 Procedure for making a determination

(1) The local government is to give local public notice of its intention to make a determination.

(2) The local public notice referred to in subclause (1) is to state that –
   (a) the local government intends to make a determination, the purpose and effect of which is summarised in the notice;
   (b) a copy of the proposed determination may be inspected and obtained from the offices of the local government; and
   (c) submissions in writing about the proposed determination may be lodged with the local government within 21 days after the date of publication.

(3) If no submissions are received in accordance with subclause (2)(c), the Council is to decide to –
   (a) give local public notice that the proposed determination has effect as a determination on and from the date of publication;
   (b) amend the proposed determination, in which case subclause (5) will apply; or
   (c) not continue with the proposed determination.

(4) If submissions are received in accordance with subclause (2)(c), the Council is to –
   (a) consider those submissions; and
   (b) decide –
      (i) whether or not to amend the proposed determination; or
      (ii) not to continue with the proposed determination.

(5) If the Council decides to amend the proposed determination, it is to give local public notice –
   (a) of the effect of the amendments; and
   (b) that the proposed determination has effect as a determination on and from the date of publication.

(6) If the Council decides not to amend the proposed determination, it is to give local public notice that the proposed determination has effect as a determination on and from the date of publication.

(7) A proposed determination is to have effect as a determination on and from the date of publication of the local public notice referred to in subclauses (3), (5) and (6).

(8) A decision under subclause (3) or (4) is not to be delegated by the Council.

2.3 Discretion to erect sign

The local government may erect a sign on any local government property to give notice of the effect of a determination which applies to that property.
2.4 Determination to be complied with

A person shall comply with a determination.

2.5 Register of determinations

(1) The local government is to keep a register of determinations made under clause 2.1, and of any amendments to or revocations of determinations made under clause 2.6.

(2) Sections 5.94 and 5.95 of the Act are to apply to the register referred to in subclause (1) and for that purpose the register is to be taken to be information within section 5.94(u)(i) of the Act.

2.6 Amendment or revocation of a determination

(1) The Council may amend or revoke a determination.

(2) The provisions of clause 2.2 are to apply to an amendment of a determination as if the amendment were a proposed determination.

(3) If the Council revokes a determination, it is to give local public notice of the revocation and the determination is to cease to have effect on the date of publication.

Division 2 – Activities which may be pursued or prohibited under a determination

2.7 Activities which may be pursued on specified local government property

(1) A determination may provide that specified local government property is set aside as an area on which a person may –

(a) bring, ride or drive an animal;

(b) take, ride or drive a vehicle, or a particular class of vehicle;

(c) fly or use a motorised model aeroplane;

(d) use a children’s playground provided that the person is under an age specified in the determination, but the determination is not to apply to a person having the charge of a person under the specified age;

(e) launch, beach or leave a boat;

(f) take or use a boat, or a particular class of boat;

(g) deposit refuse, rubbish or liquid waste, whether or not of particular classes, and whether or not in specified areas of that local government property;

(h) play or practice –

(i) golf or archery;

(ii) pistol or rifle shooting, but subject to the compliance of that person with the Firearms Act 1973; or
(iii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;

(i) ride a bicycle, a skateboard, rollerblades, a sandboard or a similar device; and

(j) wear no clothing.

(2) A determination may specify the extent to which and the manner in which an activity referred to in subclause (1) may be pursued and in particular –

(a) the days and times during which the activity may be pursued;

(b) that an activity may be pursued on a class of local government property, specified local government property or all local government property;

(c) that an activity is to be taken to be prohibited on all local government property other than that specified in the determination;

(d) may limit the activity to a class of vehicles, boats, equipment or things, or may extend it to all vehicles, boats, equipment or things;

(e) may specify that the activity can be pursued by a class of persons or all persons; and

(f) may distinguish between different classes of the activity.

2.8 Activities which may be prohibited on specified local government property

(1) A determination may provide that a person is prohibited from pursuing all or any of the following activities on specified local government property —

(a) smoking on-premises;

(b) riding a bicycle, a skateboard, rollerblades, a sandboard or a similar device;

(c) taking, riding or driving a vehicle on the property or a particular class of vehicle;

(d) riding or driving a vehicle of a particular class or any vehicle above a specified speed;

(e) taking or using a boat, or a particular class of boat;

(f) the playing or practice of —

(i) golf, archery, pistol shooting or rifle shooting; or

(ii) a similar activity, specified in the determination, involving the use of a projectile which, in the opinion of the local government may cause injury or damage to a person or property;

(g) the playing or practice of any ball game which may cause detriment to the property or any fauna on the property; and
(h) the traversing of sand dunes or land which in the opinion of the local government has environmental value warranting such protection, either absolutely or except by paths provided for that purpose.

(2) A determination may specify the extent to which and the manner in which a person is prohibited from pursuing an activity referred to in subclause (1) and, in particular –

(a) the days and times during which the activity is prohibited;

(b) that an activity is prohibited on a class of local government property, specified local government property or all local government property;

(c) that an activity is prohibited in respect of a class of vehicles, boats, equipment or things, or all vehicles, boats, equipment or things;

(d) that an activity is prohibited in respect of a class of persons or all persons; and

(e) may distinguish between different classes of the activity.

(3) In this clause –

“premises” means a building, stadium or similar structure which is local government property, but not an open space such as a park or a playing field.

Division 3 — Transitional

2.9 Signs taken to be determinations

(1) Where a sign erected on local government property has been erected under a by law or local law of the local government repealed by this local law, then it is to be taken to be and have effect as a determination on and from the commencement day, except to the extent that the sign is inconsistent with any provision of this local law or any determination made under clause 2.1.

(2) Clause 2.5 does not apply to a sign referred to in subclause (1).

PART 3 — PERMITS

Division 1 — Preliminary

3.1 Application of Part

(1) This Part does not apply to a person who uses or occupies local government property under a written agreement with the local government, which includes but is not limited to a lease, licence or shared use agreement.

(2) This Part applies to any application for a permit and any permit required under this to use local government property or a thoroughfare.

Division 2 — Applying for a permit

3.2 Application for permit

(1) Where a person is required to obtain a permit under this local law, that person shall apply for the permit in accordance with subclause (2).
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(2) An application for a permit under this local law shall—

(a) be in the form determined by the local government;

(b) be signed by the applicant;

(c) provide the information required by the form, which may include a plan, specifications or photographs; and

(d) be forwarded to the CEO local government or the specified person at the local government together with any fee imposed and determined by the local government under and specified in accordance with sections 6.16 to 6.19 the form or as specified in the City’s Schedule of the Act Fees and Charges.

(3) The local government may require an applicant to provide additional information reasonably related to an application before determining an application for a permit.

(4) The local government may require an applicant to give local public notice of the application for a permit.

(5) The local government may refuse to consider an application for a permit—

(a) which does not in accordance comply with the requirements in subclause (2);

(b) which, in the case of an application for a sign permit, is not in accordance with clause 3.2(2);

(c) which is not accompanied by the plans and specifications and the application fee;

(d) which is not properly completed; or

(ec) where any required plan, specification or photograph does not in the opinion of the CEO or an authorised person, contain sufficient information or is not sufficiently clear to enable the local government to properly consider the application.

3.2 A Relevant considerations in determining application for permit

(1) Where a clause of this local law refers to matters which the local government is to have regard to in determining an application for a permit, the local government shall have regard to those matters prior to making a decision on an application for a permit under clause 3.5 and, in addition, may have regard to the following matters:

(a) the desirability of the proposed activity;

(b) the location of the proposed activity; and

(c) the principles set out in the Competition Principles Agreement; and

(d) such other matters as the local government may consider to be relevant in the circumstances of the case.

3.3 Decision on application for permit
(1) The local government may—
   (a) approve an application for a permit unconditionally or subject to any conditions, including but not limited to those conditions in clause 3.4; or

   (b) refuse to approve an application for a permit on any of the grounds specified in clause 3.3A, or for any other reason determined at the sole discretion of the local government.

(2) If the local government approves an application for a permit, it will provide the applicant with written confirmation in the form determined by the local government, which could be electronic.

(3) If the local government refuses to approve an application for a permit, it is to give written notice (which includes electronic) of that refusal to the applicant. It is not necessary for the local government to provide reasons for the refusal.

(4) Where a clause of this local law refers to conditions which may be imposed on a permit or which are to be taken to be imposed on a permit, the clause does not limit the power of the local government to impose other conditions on the permit under subclause (1)(a).

(5) Where a clause of this local law refers to the grounds on which an application for a permit may be or is to be refused, the clause does not limit the power of the local government to refuse the application for a permit on other grounds under subclause (1)(b).

3.3A Grounds on which an applicant application may be refused

The local government may refuse to approve an application for a permit under this Division on any one or more of the following grounds:

(a) that within the preceding 5 years the applicant has committed a breach of any provision of this local law, or of any other written law or condition of a lease or licence or hire arrangement relevant to the activity in respect of which the permit is sought;

(b) that the applicant, in the opinion of the local government, is not a fit and proper person to hold a permit;

(c) that—
   (i) the applicant is an undischarged bankrupt or is in liquidation;
   (ii) the applicant has entered into any composition or arrangement with creditors; or
   (iii) a manager, an administrator, a trustee, a receiver, or a receiver and manager has been appointed in relation to any part of the applicant's undertakings or property; or

(d) the local government deems the permit application to be for an activity which is not appropriate for the local government property or thoroughfare which the permit is sought in respect to;

(d) such other grounds as the local government may consider to be relevant in the circumstances of the case.
Division 3 — Conditions

3.4 Conditions which may be imposed on a permit

(1) Without limiting the generality of clause 3.3(1)(a), the local government may approve an application for a permit subject to conditions relating to —

(a) the payment of fees and charges;

(b) compliance with a standard or a policy of the local government adopted by the local government;

(c) the duration and commencement of the permit;

(d) the commencement of the permit being contingent on the happening of an event;

(e) the rectification,remedying or restoration of a situation or circumstance reasonably related to the application;

(f) the approval of another application for a permit which may be required by the local government under any written law;

(g) the area of the district to which the permit applies;

(h) where a permit is issued for an activity which will or may cause damage to local government property, the payment of a deposit, bond or secure sum against such damage; and

(i) the obtaining of public liability insurance in an amount and on terms reasonably required by the local government as set out in clause 13.4.

(2) Without limiting clause 3.3(1)(a) and subclause (1), the following paragraphs indicate the type and content of the conditions on which a permit to hire local government property may be issued —

(a) when fees and charges are to be paid;

(b) payment of a deposit, bond or secure sum against possible damage or cleaning expenses or both;

(c) restrictions on the erection of material or external decorations;

(d) rules about the use of furniture, plant and effects;

(e) limitations on the number of persons who may attend any function in or on local government property;

(f) the duration of the hire;

(g) the right of the local government to cancel a booking during the course of an annual or seasonal booking, if the local government sees fit;


(h) a prohibition on the sale, supply or consumption of liquor unless a liquor licence is first obtained for that purpose under the Liquor Control Act 1988;

(i) whether or not the hire is for the exclusive use of the local government property;

(j) the obtaining of a policy of insurance in the names of the hirer and the local government, indemnifying the local government in accordance with clause 13.4 in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer; and

(k) the provision of an indemnity from the hirer, indemnifying the local government in respect of any injury to any person or any damage to any property which may occur in connection with the hire of the local government property by the hirer.

3.5 Compliance with and variation of permit conditions

(1) Where an application for a permit has been approved for an activity defined in clause 3.14(1) subject to conditions, the permit holder shall comply with each of those conditions.

(2) The local government may vary the conditions of a permit, and

2. Where an application for a permit has been approved for an activity defined in clause 3.14(2) subject to conditions, the permit holder shall comply with each of those conditions.

3.5A Amendment of permit conditions

(1) A permit holder may apply in writing to the local government to vary or amend any of the terms or conditions of the permit.

(2) The local government may, in respect of an application under sub-clause (1) –

(a) amend the permit, either in accordance with the application or otherwise as varied, it sees fit; or

(b) refuse to amend the permit.

(3) The local government may, at any time, amend any of the terms or conditions of a permit, subject to providing the permit holder with written notice of the reasons for the amendment.

(4) If the local government amends a permit under this clause, it is to notify the permit holder in writing of the amendment as soon as practicable and the amended condition(s) shall apply from the date of notification, unless otherwise specified in the amendment.

Division 4 — General

3.6 Agreement for Erection of a building

(1) Where a person applies for a permit to erect a building on local government property, the local government may enter into an agreement with the permit holder in respect of the ownership of the materials in the building.
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(2) The person is required to obtain all other necessary approvals to govern the erection of a building, including but not limited to development approval, if applicable, and a permit for use of the local government property.

3.7 Duration of permit

A permit is valid for one year from the date on which it is issued, unless it is –

(a) otherwise stated in this local law or period specified in the permit; or

(b) cancelled under in accordance with clause 3.11.

3.8 Renewal of permit

(1) A permit holder may apply to the local government in writing prior to the expiry of a permit for the renewal of the permit.

(2) The provisions of this Part shall apply to an application for the renewal of a permit mutatis mutandis to the extent that it is applicable for a permit renewal.

3.9 Transfer of permit

(1) An application for the transfer of a valid permit is to –

(a) be made in writing;

(b) be signed by the permit holder and the proposed transferee of the permit;

(c) provide such information as the local government may require to enable the application to be determined; and

(d) be forwarded to the CEO together with any fee imposed and determined by the local government under in accordance with sections 6.16 to 6.19 of the Act.

(2) The local government may approve an application for the transfer of a permit, refuse to approve it or approve it subject to any conditions.

(3) Where the local government approves an application for the transfer of a permit, it will provide written confirmation to the transfer may be effected by an endorsement on the former permit signed by holder and the CEO transferee.

(4) Where the local government approves the transfer of a permit, it is not required to refund any part of any fee paid by the former permit holder.

3.10 Production of permit

A permit holder is to produce evidence of a permit to an authorised person he or his permit immediately upon being required to do so by that authorised person. Evidence could include the written confirmation (electronic version acceptable) provided by the City or the permit number (if applicable).

3.11 Cancellation of permit

(1) Subject to clause 12.1, a permit may be cancelled by the local government if on any one or more of the following grounds –
(a) the permit holder has not complied with a —

(i) (a) —condition of the permit; or

(b) —determination or a provision of this local or any other written law which may relate to the activity regulated by the permit; —

(b) the permit holder is convicted of an offence against this local law;

(c) the permit holder fails to maintain any required public liability insurance or ceases to indemnify the local government against damages in connection with loss or damage in connection with an activity conducted by the permit holder under the permit;

(d) the permit holder has become bankrupt, or gone into liquidation;

(e) the permit holder has entered into any composition or arrangement with creditors;

(f) a manager, an administrator, a trustee, a receiver, or a receiver and manager is appointed in relation to any part of the permit holder’s undertakings or property;

(g) if the permit holder’s application is subsequently found to be incomplete, insufficient or not containing a required document;

(h) if the permit holder’s application is subsequently found to contain incorrect or falsified information and/or documents;

(i) if the City reasonably considers that the activity permitted by the permit may create a public health, safety or amenity issue;

(j) if valid development approval is required and not held for the abutting premises at which the business relating to the activity authorised by the permit is conducted or for the outdoor eating area; and

(k) another permit for an outdoor eating area, goods display or portable advertising sign has been granted, and remains in effect, in relation to the building or business premises related to the permit.

(2) On the cancellation of a permit the permit holder will provide the local government with written notice that the permit has been cancelled.

(a) On receiving notice that the permit has been cancelled in accordance with subclause (2):

(a) the CEO shall return the permit holder must immediately cease using the local government property or the thoroughfare unless the notice from the local government provides otherwise; and

(b) is to be taken to have forfeited any fees paid by the permit holder in respect of the permit are forfeited and will not be refunded by the local government.
3.12 A12 Suspension of permit holder’s rights and privileges

(1) The rights and privileges granted to a permit holder on the issue of a permit, shall be automatically suspended, where the public liability insurance required as a condition of a permit, lapses, is cancelled or is no longer current.

(2) The rights and privileges granted to a permit holder on the issue of a permit, may be suspended by the local government by notice in writing to the permit holder for the purpose of and during the carrying out of any works by or on behalf of the State, or an agency or instrumentality of the Crown, or the local government, in or adjacent to the area the subject of the permit.

(3) The rights and privileges granted to a permit holder on the issue of a permit may be suspended by the local government where—

(a) the permit holder’s application is subsequently found to be incomplete, insufficient or not containing a required document;

(b) the permit holder’s application is subsequently found to contain incorrect or falsified information and/or documents; or

(c) the City considers the activity permitted by the permit may create a public health, safety or amenity issue,

until the defect in the permit holder’s application is rectified to the satisfaction of the local government and/or the local government considers that the activity may be conducted in a manner which does not create a public health, safety or amenity issue.

3.11 B Planning approval

Other approvals

The requirement for a permit under this local law, is additional to the requirement, if any, for a planning any other approvals, including but not limited to development approval.

Division 5 — When a permit is required

3.14 Activities on local government property or thoroughfares needing a permit

(1) A person shall not without a permit—

(a) subject to subclause (3), hire use local government property or a thoroughfare for any purpose which amounts to exclusive use of the whole or a portion of the property for any period of time;

(b) advertise anything by any means on local government property or a thoroughfare, except where the person holds a permit issued under another local law of the local government authorising such advertising in that location;

(c) erect a structure for public amusement or for any performance, whether for gain or otherwise, on local government property or a thoroughfare;

i.e., coach or train, for profit, any person in a pool area or an indoor recreation facility which is local government property.
(d) plant any plant or sow any seeds, or install any other landscaping feature on local government property, unless in accordance with clause 9.4 of this local law;

(e) Carry on any trading on local government property unless the trading is conducted –

(i) with the consent of a person who holds a permit to conduct a function, and where the trading is carried on under and in accordance with the permit; or a permit issued under the City’s Trading in Public Places Local Law;

(ii) by a person who has a licence or permit to carry on trading on local government property under any written law;

(g) unless an employee of the local government in the course of their duties or on an area set aside for that purpose –

(i) drive or ride or take any vehicle on to local government property;

(ii) park or stop any vehicle on local government property; or

(h) conduct a function or public gathering on local government property;

(h) charge any person for entry to local government property, unless the charge is for entry to land on area or a building hired by or leased from the local government, and that hire or lease arrangement provides that a voluntary non-profit organisation fee for entry may be charged;

(j) light a fire on local government property or on a thoroughfare except in a facility provided by the local government for that purpose;

(k) parachute, hang glide, abseil or base jump from or on to local government property; or a thoroughfare;

(l) erect a building or a refuelling site on local government property;

(m) make any excavation on or erect or remove any fence on local government property;

(n) erect or install any structure above or below ground, which is local government property, for the purpose of supplying any water, power, sewer, communication, television or similar service to a person;

(o) deposit any horse, sheep, cattle, goat, camel, ass or mule on local government property;

(p) light or set off any fireworks or conduct a fireworks display on local government property;

(q) operate any broadcasting or public address system or sound amplification equipment or apparatus on local government property;

(r) carry out any works in a thoroughfare or on local government property, including but not limited to –

(i) verge treatments;
(ii) vehicle cross-overs;

(iii) crossing a footpath with a vehicle which is likely to cause, or causes damage to the footpath;

(e) erect, display, post, stick, stamp, stencil, paint or otherwise affix or cause to be erected, displayed, posted, stuck, stamped, stencilled, painted or otherwise affixed any sign, banner, placard, handbill, notice, advertisement, writing or picture whatsoever upon any tree, plant, building, structure, fitting or soil being local government property or on any other local government property, except where the person holds a permit issued under another local law of the local government authorising such an activity in that location; and

(f) carry out filming or shoot or take a recording on local government property or within a thoroughfare where:

(i) any part exclusive use of that film a portion of the local government property or recording may be broadcast if the thoroughfare is required;

(s) construct anything or distributed or sold; and

(ii) it involves the substantial setting up of associated equipment locate any infrastructure on local government property or a thoroughfare, including but not limited to paving, planter boxes and outdoor seating for reward or for the purpose of sale.

(2) A person shall not without a permit carry out works in a thoroughfare or on local government property, including but not limited to:

(a) verge treatments, unless the verge treatment is in accordance with clause 9.4 of this local law; [MB12]

(b) vehicle crossovers;

(c) crossing a footpath with a vehicle which is likely to cause, or causes damage to the footpath;

(d) Locating construction materials on a verge or thoroughfare;

(e) prior approval undertaking construction activities adjacent to a verge or thoroughfare which results in the use of the CEO or in thoroughfare. [MB13]

(2)(3) A person shall not without a permit use local government property or a community facility for a for profit purpose, including but not limited to:

(a) group fitness classes;

(b) life coaching or counselling;

(c) meetings or seminars; or

(d) guided walks or tours. [MB14]

(4) The local government may, at the local government's sole discretion, exempt a person from compliance with subclause subclauses (1), (2) or (3) on the application of that person by providing notice in writing to that person. [MB15]
The local government may exempt specified local government property or a class of local government property from the application of subclause (1)(a).

3.1315 Permit required to camp outside a facility

(1) In this clause —

"facility" has the same meaning as is given to it in section 5(1) of the Caravan Parks and Camping Grounds Act 1995.

(2) A person shall not without a permit —

(a) Camp on, lodge at or occupy any structure at night for the purpose of sleeping on local government property;

(b) Erect any tent, camp, hut or similar structure on local government property other than a beach shade or windbreak erected for use during the hours of daylight and which is dismantled during those hours on the same day, or

(c) Camp on or occupy any vehicle at night for the purpose of sleeping in a public place.

(3) The maximum period for which the local government may approve an application for a permit in respect of paragraph (a) or (b) of subclause (2) is that provided in regulation 11(2)(a) of the Caravan Parks and Camping Grounds Regulations 1997.

(4) This clause does not apply to a facility operated by the local government.

3.1416 Permit required for possession and consumption of liquor

(1) A person, on local government property, shall not consume any liquor or have in their possession or under their control any liquor, unless —

(a) that is permitted under the Liquor Control Act 1988; and or

(b) a permit has been obtained for that purpose; or

(2) Subclause (1) does not apply where —

(a) the liquor is in a sealed container; or

(b) the liquor is in small quantities, as determined by the CEO and is being brought to or consumed in the course of a bona fide picnic or gathering;

(c) consumption is in accordance with the relevant local government policy, as amended from time to time, and does not, in the reasonable opinion of the City, result in any anti-social behaviour.

Division 6 — Responsibilities of permit holder

3.1517 Responsibilities of permit holder

A holder of a permit shall in respect of local government property to which the permit relates —
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(a) ensure that an authorised person has unobstructed access to the local government property for the purpose of inspecting the property or enforcing any provision of this local law;

(b) leave the local government property in a clean and tidy condition after its use;

(c) ensure that the local government property is fully locked or secured after its use where it can be so locked or secured;

(d) report any damage or defacement of the local government property to the local government; and

(e) prevent the consumption of any liquor on the local government property unless the permit allows it and a licence has been obtained under the Liquor Control Act 1988 for that purpose.

PART 4 — BEHAVIOUR ON LOCAL GOVERNMENT PROPERTY

Division 1 — Behaviour on and interference with local government property

4.1 Personal behaviour

A person shall not in or on any local government property behave in a manner which —

(a) is likely to cause injury to, or to interrupt, disturb or interfere with the enjoyment of, a person who might use the property;

(b) causes injury to, or interrupts, disturbs or interferes with the enjoyment of, a person using the property; or

(c) may be considered disorderly or offensive by a person on the property.

4.2 Only specified gender to use entry of toilet block or change room

(1) Where a sign on a toilet block or change room specified that a particular toilet block or change room is to be used by —

(a) females, then a person of the male gender over the age of 6 years shall not use that toilet block or change room; or

(b) males, then a person of the female gender over the age of 6 years shall not use the toilet block or change room.

(2) A person over the age of 6 years shall not on any local government property or public place —

(a) loiter outside or act in an unacceptable manner, in any portion of a toilet block or change room; or

(b) enter, or attempt to enter a cubicle or compartment of a toilet block or change room which is already occupied or in use.
4.3 Proper and adequate clothing

(1) A person over the age of 6 years shall not on any local government property or public place appear in public unless decently clothed.

(2) Where an authorised person considers that a person on any local government property or public place appearing in public is not decently clothed, the authorised person may direct that person to put on clothing so as to be decently clothed, and that person shall comply with the direction immediately.

(3) In this clause, “decently clothed” means the wearing of proper and adequate clothing for the occasion, so as to prevent indecent exposure.

4.4 Behaviour detrimental to property

(1) A person shall not behave in or on any local government property in a way which is or might be detrimental to the property.

(2) In subclause (1) –

“detrimental to the property” includes –

(a) removing any thing from local government property such as a sign, rock, plant or seat provided for the use of any person;

(b) destroying, defacing or damaging any thing on the local government property, such as a sign, plant or tree or a seat provided for the use of any person; and

(c) climbing on or over local government property.

4.5 Taking or injuring any fauna

(1) A person shall not, on or above any local government property, unless that person is authorised under a written law to do so –

(a) take, injure or kill or attempt to take, injure or kill any fauna; or

(b) take on to, set or use or attempt to take on to, set or use any animal trap, bird trap, fish trap, net or similar device.

(2) In this clause –

“animal” means any living thing that is not a human being or plant; and

“fauna” means any animal indigenous to or which periodically migrates to any State or Territory of the Commonwealth or the territorial waters of the Commonwealth and includes in relation to any such animal –

(a) any class of animal or individual member;

(b) the eggs or larvae; or

(c) the carcass, skin, plumage or fur.
4.6 Intoxicated persons not to enter local government property

A person shall not enter or remain on any local government property while under the influence of liquor, unless pursuant to a permit issued under clause 3.14, or a prohibited drug or substance.

4.7 No prohibited drugs or substances

A person shall not take a prohibited drug or substance on to, or consume or use a prohibited drug or substance on any local government property.

Division 2 – Signs

4.8 Signs

(1) A local government may erect a sign on local government property specifying any conditions of use which apply to that property.

(2) A person shall comply with a sign erected under subclause (1).

(3) A condition of use specified on a sign erected under subclause (1) is –
   (a) not to be inconsistent with any provision of this local law or any determination; and
   (b) to be for the purpose of giving notice of the effect of a provision of this local law.

PART 5 – MATTERS RELATING TO PARTICULAR LOCAL GOVERNMENT PROPERTY

Division 1 – Community facilities

5.1 Definitions

In this Division –

"administration centre" means the local government’s administration centre which is currently located on Crown Land Lot 502, being Reserve 50345 and having an address of 244 Vincent Street, Leederville;

"change room" means the room or change room means the room or area designated for a public place such as a pool premises, and includes any bathroom or toilet at the public place;

"library" means the place or premises provided by the local government for the purpose of borrowing books and local history, and includes the library and local history centre located on a portion of Crown Land Lot 501, being Reserve 39009 and having an address of 99 Loftus Street, Leederville; and
“pool premises” means the place or premises provided by the local government for the purpose of swimming or bathing, and known as includes Beatty Park Leisure Centre constructed, which is located on part of the land being Perth Location Crown Land Lot 1618, and being Reserve Number 884, Vesting Order Number 10803/99 and having an address of 220 Vincent Street, North Perth, and includes all buildings, fences, gardens, car parks, structures, fittings, fixtures, machinery, chattels, furniture and equipment forming part of the place or premises or used in connection with it.

5.2 Direction of manager or authorised person to be observed

(1) The manager or an authorised person may refuse admission to, may direct to leave or may remove or cause to be removed from the administration centre, library or pool premises, a person who –

(a) in her or his opinion is –

(i) under the age of 12 years and who is unaccompanied by a responsible person 16 years or older; or

(ii) Under the age of 5 years and who is unaccompanied in the water by a responsible person 16 years or older, or

(iii) suffering from any contagious, infectious or cutaneous disease or complaint; or

(iv) in an unclean condition; or

(v) under the influence of liquor or a prohibited mind altering drug or substance;

(b) is to be refused admission under and in accordance with a decision of the local government for breaching any clause of this local law.

(2) A person shall, on being requested by the manager or an authorised person to leave the administration centre, library or pool premises, subject to subclause (1), do so immediately, quietly and peaceably.

(3) A person who fails to comply with a request under subclause (2) may be removed from the administration centre, library or pool premises, by the manager, an authorised person or a Police Officer.

5.3 Responsibilities of users of a community facility

A person while in the administration centre, library, pool premises or a community facility shall not –

(a) smoke, consume foodstuffs or drinks in any specific area in which smoking or food consumption is prohibited;

(b) climb up or upon any roof, fence, wall or partition on the pool premises or a community facility or other structure not intended for climbing;

(c) whilst enter the premises if suffering from a contagious, infectious or cutaneous disease or whilst in an unclean condition, enter or use or attempt to enter or use the pool premises or a community facility;

(d) use soap or shampoo in any part of the pool premises other than in a change-room;
(e) use any detergent or any substance or oil in any pool or spa on the pool premises, whereby the water may be discoloured or contaminated or rendered turbid or, in the opinion of the Manager or authorised person, in anyway unfit;

(f) foul or pollute the water in any shower, pool or spa in the pool premises;

(g) bring into any part of the pool premises or place thereon any chemical substance, liquid or powder;

(h) bring into any part of the pool premises any glass containers;

(i) smoke tobacco or any other substance in or about a community facility;

(j) deliberately waste or wastefully use fresh or potable water in a community facility;

(k) spit or expectorate in any part of a community facility, other than in a water closet; and

(l) enter a pool or spa on the pool premises in a dirty or unclean condition; and

(m) Using a mobile phone, camera or other similar recording device in a change room at a pool premises, library or other community facility.

Division 2 — Fishing and boat launching

5.4 Definition

In this Division —

“river” means the Swan River as referred to in the Swan and Canning Rivers Management Act 2006.

5.5 Boat launching

(1) A person shall not launch a boat into the river other than at a boat launching ramp designed, constructed and approved for that purpose, or from the river where this activity is permitted and designated by signs.

(2) A person shall not launch a personal water craft into the river other than at a boat launching ramp designed, constructed and approved for the purpose.

5.6 Fishing

(1) A person shall not fish on or from any local government property where fishing is prohibited or restricted and the prohibition or restriction is designated by signs.

(2) A person shall not on any local government property whether fishing is permitted or not —

(a) clean fish or cut bait such that it may cause a nuisance to river users; or

(b) leave or deposit fish offal or bait on land or in the river.
Division 3 — Fenced or closed property

5.7 No entry to fenced or closed local government property

A person shall not enter local government property which has been fenced off or closed to the public by a sign or otherwise, unless that person is authorised to do so by the local government.

Division 4 — Air conditioning units over thoroughfares

5.8 Definition

In this Division —

“air conditioning unit” means any machine, device, equipment, plant or part thereof which constitutes or is part of any mechanical system of ventilation or air conditioning; and

“thoroughfare” has the meaning in section 1.4 of the Act and includes a pedestrian way that is local government property.

5.9 Siting and design of air conditioning units

(1) A person shall not install an air conditioning unit on or over a thoroughfare without the approval of the local government, which is at the discretion of the City.

(2) No local government provides approval in subclause (1) above, the air conditioning unit shall — not:

   (a) project over any part of a thoroughfare unless provision is made, to the satisfaction of the CEO or an authorised person, for the collection of water discharged from such unit and for its disposal into the stormwater drainage system provided that where such unit is installed above a verandah, balcony or awning no such provision shall be necessary;

   (b) project over any part of a thoroughfare unless the bottom of such unit is not less than 2,750 millimetres above such thoroughfare;

   (c) project more than 300 millimetres over any part of a thoroughfare not more than 10 metres in width;

   (d) project more than 450 millimetres over any part of a thoroughfare more than 10 metres in width.

(3) No air conditioning unit which exhausts foul or vitiated air over or into a thoroughfare shall be installed under a verandah, balcony or awning which projects over any part of a thoroughfare.

Division 5 — Awnings, balconies and verandahs over thoroughfares

5.10 Definitions

In this Division —

“awning” means a roof-like covering to shelter persons or protect parts of a building from the effects of sun or rain, which extends or can be made to extend over any part of a thoroughfare;
"balcony" means an open or covered platform attached to an upper part of a building, projecting from or recessed into the face of a wall and protected by a railing or balustrade and accessible from an adjacent room;

"permanent structure" means a structure which is affixed to the ground and is considered to form part of the ground, and includes verandah posts and canopy structures;

"road reserve" means crown land which the local government has care, control and management of pursuant to section 55(2) of the Land Administration Act 1997.

"thoroughfare" has the meaning in section 1.4 of the Act and includes a pedestrian way that is local government property, and

"verandah" means a roofed structure attached to a building with the outer edge supported on posts, and covered either by the main roof or a separate, lower roof, of which any part extends over any part of a thoroughfare.

5.11 Approval to erect or maintain an awning, balcony or verandah

A person shall not erect or maintain an awning, balcony or verandah on a thoroughfare unless it complies with the approval of the local government dimensions and design requirements as set out in clauses 5.12 and 5.13.

5.12 Dimensions of awnings, balconies and verandahs

A person shall not erect an awning, balcony or verandah over a thoroughfare unless it complies with the following dimension requirements:

(a) a minimum clearance of 2,750 millimetres above the thoroughfare;

(b) a maximum fascia depth of 300 millimetres; and

(c) a minimum distance of 5000 millimetres from the face of the kerb.

5.13 Design of awnings, balconies and verandahs

A person shall not erect an awning, balcony or verandah over a thoroughfare unless it complies with the following design requirements:

(a) the design, colour and materials shall be compatible with the aesthetics and character of the thoroughfare, in the opinion of the local government;

(b) the height and width shall be uniform with other verandahs and awnings over the thoroughfare;

(c) the form shall be cantilevered or suspended, unless otherwise approved by the local government; and

(d) the design shall not allow water to be retained on the structure or allow water to fall onto the thoroughfare.

5.14 Maintenance and public safety

The owner and occupier for the time being of any building to which any awning, balcony or verandah is attached shall keep the awning, balcony or verandah clean, painted, watertight and in a sound and safe structural condition and in good and substantial repair.
5.15 **Permanent structures within a thoroughfare or road reserve**

A person shall not erect or maintain a permanent structure within a road reserve or thoroughfare without the prior written approval of the local government, and subject to the person obtaining any other approvals required, including development approval.

**PART 6 - ADVERTISING SIGNS ON THOROUGHFARES**

**Division 1 — Preliminary**

6.1 **Definitions**

In this Part, unless the context otherwise requires —

- **advertisement** means the use or intention of use for the purpose of advertising any premises, services, business, function, event, product or thing;

- **advertising sign** means a free-standing sign, which may or may not be permanently attached to a structure or fixed to the ground, and includes a ground based sign, a sandwich board sign and an "A"-frame sign, that is—

  - (a) used or intended to be used for the purpose of advertising any premises, services, business, function, event, product or thing; and

  - (b) not a portable advertising sign under the local governments Trading in Public Places Local Law 2008.

- **A" frame sign"** means a folding sign which is hinged at the top to provide a stable structure when open;

- **direction sign** means a sign which indicates the direction of another place, activity or event, but does not include any such sign erected or affixed by the local government or the Commissioner of Main Roads;

- **election sign** means a sign which advertises any aspect of a forthcoming Federal, State or Local Government election;

- **permit holder** means the person to whom a sign permit has been issued;

- **portable direction sign** means a portable free standing direction sign;

- **portable sign** means a portable free standing advertising sign;

- **sign** includes a notice, poster, flag, mark, word, letter, model, placard, board, structure, device or representation and includes advertising signs, portable direction signs and election signs;

- **sign permit** means a permit to display a sign.
**Division 2 — Permits**

6.1A Permit period for advertising sign

The local government may grant approval for the erection or display of an advertising sign for one year or three years, whichever the applicant chooses, on the duration of the application for a sign permit specified in the permit.

6.1B Sign Advertising sign permit

(1) A person shall not display an advertising sign on a footpath, local government property unless that person is the holder of a valid sign permit.

(2) Every application for a sign permit shall—

(a) state the full name and address of the applicant;

(b) specify the proposed permitted area of the advertising sign;

(c) be accompanied by an accurate plan and description of—

(i) the proposed location of the proposed advertising sign and the area in a radius of approximately 10 metres around that location showing on a scale of approximately 1:100 the location of all carriageways, footpaths, verges, street furniture, bins, light poles, parking signs, traffic lights, other impediments to pedestrian traffic and premises abutting any verge or footpath,

(ii) a colour photograph or similar representation of the advertising sign."

**Division 2 — Permit**

6.2 Permit required for advertising signs and portable direction sign

(1) A person shall not, without a permit—

(a) erect or place an advertising or portable direction sign on a thoroughfare; or local government property.

(b) post any bill or paint, place or affix any advertisement on a thoroughfare.

(2) Notwithstanding subclause (1), a permit is not required in respect of a portable direction sign which does not exceed 500mm in height or 0.5m² in area, provided the sign is placed or erected on a thoroughfare on an infrequent or occasional basis only to direct attention to a place, activity or event during the hours of that activity or event.

(6.3) Nature and position of an advertising sign or portable direction sign

Notwithstanding subclause (1), any provision of this local law, a person shall not erect or place an advertising sign or portable direction sign —
(a) over any footpath where the resulting vertical clearance between the sign and the footpath is less than 2,700 millimetres;

(b) on or within 6000 millimetres from the face of the kerb;

(c) in any other location where, in the opinion of the local government or an authorised person, the sign is likely to obstruct lines of sight along a thoroughfare or cause danger to any person using the thoroughfare; or

(d) on any natural feature, including a rock or tree, on a thoroughfare, or on any bridge or the structural approaches to a bridge.

6.34 Matters to be considered in determining application for a permit

In determining an application for a permit for the purpose of clauses 3.3 and 6.2(1), an advertising sign or a portable direction sign, the local government is to have regard to—

(a) any other written law regulating the erection or placement of advertising signs or advertisements within the district;

(b) the dimensions of the advertising signs or advertisements;

(c) other advertising signs already approved or erected in the vicinity of the proposed location of the advertising signs or advertisements;

(d) whether or not the advertising signs or advertisements will create a hazard to persons using a thoroughfare;

(e) the amount of the public liability insurance cover, if any, to be obtained by the applicant;

(f) whether the advertising sign would—

   (i) obstruct the visibility or clear sight lines of any person at an intersection of thoroughfares; or

   (ii) impede pedestrian access; and

(g) whether the advertising sign, may obstruct or impede the use of the footpath for the purpose for which it was designed.

Division 3 – Conditions on permit

6.45 Conditions on portable direction sign permit

(1) If the local government approves an application for a permit for a portable direction sign, the application is to be taken to be approved subject to the following conditions—

   (a) the portable direction sign shall—

       (i) not exceed 1,000 millimetres in height;

       (ii) not exceed an area of 0.8 square metres on any side;
(iii) relate only to directions to the business activity place described on the permit;

(iv) not be placed in any position other than immediately in front of the building or the business to which the sign relates and be located not closer than 6000 millimetres to the face of the kerb or further than 1200 millimetres from the kerb so as to ensure the free passage of persons using the footpath;

(v) if it relates to a business or event, be removed each day at the close of the business or event to which it relates and not be erected again until the business or event next opens for trading;

(vi) be secured in position in accordance with any requirements of the local government;

(vii) be placed so as not to obstruct or impede the reasonable use of a thoroughfare or access to a place by any person or the sight line of any vehicle drivers; and

(viii) be maintained in good condition; and

(b) no more than one portable direction sign shall be erected in relation to the one building or business.

(2) The permit holder of a permit for a portable direction sign shall comply with each of the conditions in subclause (1) in addition to any other conditions imposed on the permit by the local government.

6.56 Conditions on election sign permit

(1) If the local government approves an application for a permit for the erection or placement of an election sign on a thoroughfare local government property, the application is to be taken to be approved subject to the sign –

(a) being erected at least 30 metres from any intersection of thoroughfares;

(b) being free standing and not being affixed to any existing sign, post, power or light pole, or similar structure;

(c) being placed so as not to obstruct or impede the reasonable use of a thoroughfare local government property or access to a place by any person;

(d) being placed so as not to obstruct or impede the vision of a driver of a vehicle entering or leaving a thoroughfare or crossing;

(e) being maintained in good condition;

(f) not being erected until the election to which it relates has been officially announced;

(g) being removed within 24 hours of the close of polls on voting day;

(h) not being placed within 100 metres of any works on the thoroughfare local government property.
(i) being securely installed;

(j) not being an illuminated sign;

(k) not incorporating reflective or fluorescent materials; and

(l) not displaying only part of a message which is to be read with other separate signs in order to obtain the whole message.

(2) The permit holder of a permit for the erection or placement of an election sign shall comply with each of the conditions in subclause (1) in addition to any other conditions imposed on the permit by the local government.

Division 4 – Other obligations of a permit holder

6.67 Obligations of permit holder

The permit holder shall –

(a) maintain the advertising sign in a safe and serviceable condition at all times;

(b) display the permit number provided by the local government in a conspicuous place on the advertising sign and whenever requested by an authorised person to do so, produce the sign permit to that person;

(c) ensure that the sign is of a stable design and is not readily moved by the wind, and does not by the nature of its design or anything else cause any hazard or danger to any person using a thoroughfare local government property;

(d) display an advertising where a sign is to be displayed on a footpath, display that sign in the location approved by the local government and as specified in the permit; and

(e) ensure the free passage at all times of persons using the footpath at all times local government property.

6.78 Safety of persons

A person shall not cause or permit an advertising sign to be erected or displayed in such a condition, which in the opinion of an authorised person, causes or is likely to cause injury or danger to any person or damage to the clothing or possessions of any person.

6.80 Removal of sign for works

A permit holder shall ensure that an advertising sign, is removed from any footpath local government property to permit the footpath local government property to be swept or to permit any other authorised work to be carried out when directed to do so by an authorised person.

6.910 Removal of sign which does not comply

A person shall remove any advertising sign or item which does not comply with the requirements of this local law, from any footpath local government property when directed to do so by an authorised person.
6.1011 Unlawful placement of signs

A person who places, causes or permits to be placed on any footpath/property any advertising sign or item which does not comply with the requirements of this local law, commits an offence.

PART 7 — OBSTRUCTING ANIMALS OR SHOPPING TROLLEYS

Division 1 — Animals

7.1 Leaving animal in a public place

(1) A person shall not leave an animal on a public place so that it obstructs the use of any part of that public place, unless that person has first obtained a permit or is authorised to do so under a written law.

(2) A person will not contravene subclause (1) where the animal is secured or tethered for a period not exceeding 1 hour.

7.2 Prohibitions relating to animals

(1) In subclause (2), "owner" in relation to an animal includes —
   (a) an owner of it;
   (b) a person in possession of it;
   (c) a person who has control of it; and
   (d) a person who ordinarily occupies the premises where the animal is permitted to stay.

(2) An owner of an animal shall not —
   (a) allow the animal to enter or remain for any time on any thoroughfare except for the use of the thoroughfare as a thoroughfare and unless it is led, ridden or driven;
   (b) allow an animal which has a contagious or infectious disease to be led, ridden or driven in a public place; or
   (c) train or race the animal on a thoroughfare.

(3) An owner of a horse shall not lead, ride or drive a horse on a thoroughfare in a built-up area, unless that person does so under a permit or under the authority of a written law.

Division 2 — Shopping trolleys

7.3 Definitions

In this Part —

"retailer" means a proprietor of a shop which provides shopping trolleys for the use of customers of the shop;
“shopping trolley” means a container or receptacle on wheels provided by a retailer for the transport of goods.

7.4 Name of owner of shopping trolley

A retailer shall clearly mark its name or trading name on any shopping trolley made available for the use of customers and which may be left in a public place by the customer.

7.5 Shopping trolleys in public places

(1) A person shall not leave a shopping trolley in a public place or on local government property, other than in an area set aside for the storage of shopping trolleys.

(2) A shopping trolley left in a public place or on local government property is not obstructing unless it is left for a period exceeding three (3) hours.

PART 8 — BOND OR SECURITY

8.1 Security for restoration and reinstatement

(1) The local government may require an applicant to pay a bond, bank guarantee or security of a kind and to a value determined by the local government as a condition of an approval or permit and payable before the issue of an approval or permit, or where a land owner proposes to develop, amalgamate or subdivide the land for the purpose of ensuring that —

(a) hired local government property, including fixtures and fittings can be cleaned, replaced or repaired;

(b) a footpath or local government property damaged, removed or destroyed during the construction of any building on an adjacent lot, can be repaired or reinstated;

(c) a footpath or local government property damaged, removed or destroyed during the amalgamation or subdivision of adjacent land, can be repaired or reinstated;

(d) conditions of an approval or permit insofar as they relate to local government property or a thoroughfare, are complied with.

(2) A bond or security required under subclause (1) is to be paid into an account established by the local government for the purposes of this clause prior to any work commencing, unless otherwise agreed by the local government.

8.2 Use by local government of bond or security

(1) If a permit or approval holder or adjacent owner or occupier fails to carry out or complete the reinstatement works required by the permit or approval conditions, or by a notice served by the local government, either —

(a) within the time specified in that clause, those conditions, or the notice (as the case may be); or
(b) where no such time has been specified, a reasonable time from the expiration of the permit or approval to complete the restoration or reinstatement works; or

(c) within 14 days or such time as specified in the notice given by the local government,

then, the local government may carry out or cause to be carried out, the required restoration and reinstatement works or as much work as remains undone. Any costs relating to the work carried out by the local government exceeding the bond paid by the applicant is a debt owing to the local government.

(2) The permit or approval holder, owner or occupier shall pay to the local government on demand all administrative, legal, contractor and other costs including, but not limited to loss of income, estimated or incurred by the local government to restore and reinstate the site or which the local government may be required to pay under this clause.

(3) The local government may apply the proceeds of any bond, bank guarantee or security obtained under clause 8.1 to meet any costs incurred by it under this clause.

(4) The liability of the applicant, permit or approval holder, adjacent owner or occupier to pay the local government’s costs under this clause is not limited to the amount, if any, secured under clause 8.1.

### PART 9 — WORKS ON OR AFFECTING A THOROUGHFARE

#### Division 1 — Works affecting a thoroughfare

9.1 No damage to thoroughfare

A person shall not damage, without lawful authority, a thoroughfare or anything belonging to or under the care, control or management of the local government that is on a thoroughfare, including but not limited to a footpath, verge or street tree.

9.2 Footpath, verge and street tree protection

(1) The owner, occupier, licensee or contractor who undertakes works on a private property adjacent to a footpath, verge or street tree, shall —

   (a) take all necessary precautions to ensure that the footpath, verge or street tree is not damaged during the course of the works;

   (b) take all necessary action to ensure that the footpath remains in a safe functional state suitable for use by the public; and

   (c) notify the local government of any existing damage to the footpath, verge or street tree prior to the commencement of the works.

(2) A person who carries out any building or other operations or works on private property necessitating the crossing of a footpath with vehicles that may cause damage to the footpath, verge or a street tree, shall ensure that —

   (a) all reasonable precautions are taken to prevent damage to the footpath, verge or street tree during the course of the works; and
9.3 Liability for damage to thoroughfare

(1) Where a person unlawfully damages a thoroughfare or any thing belonging to or under the care, control or management of the local government that is on a thoroughfare, the local government may by notice in writing to that person require that person within the time stated in the notice to pay the costs of —
   
   (a) reinstating the thoroughfare or thing to the state it was in prior to the occurrence of the damage; or
   
   (b) replacing that thing.

(2) On a failure to comply with a notice issued under subclause (3), the local government may recover the costs referred to in the notice as a debt due to it in a court of competent jurisdiction.

**Division 2 — Verge treatments**

9.4 Transitional provision

(1) In this Division —

   “former provisions” means the local law of the local government which permitted certain types of verge treatments, whether with or without the consent of the local government, and which was repealed by this local law.

(2) A verge treatment which —

   (a) was installed prior to the commencement day; and
   
   (b) on the commencement day is a type of verge treatment which was permitted under and complied with the former provisions,

   is to be taken to be a permissible verge treatment for so long as the verge treatment remains of the same type and continues to comply with the former provisions.

9.5 Interpretation

In this Division:
9.6 Verge treatment

(1) The owner or occupier of land adjacent to any thoroughfare verge may only treat the verge in front of such land with a permissible treatment and in any event shall not—

(a) alter the finished level of the verge;

(b) excavate the verge within the drip line of any street tree; or

(c) cover or obstruct any manholes, gullies or inspection pits which are serviced from time to time by the local government.

9.7 Permissible verge treatments

(1) The owner or occupier of land adjacent to a thoroughfare may on the verge in front of such land, install a permissible verge treatment.

(2) The permissible verge treatments are for the purpose of subclause (1) —

(a) the planting and maintenance of a lawn;

(b) the planting and maintenance of a garden provided that—

(i) it is in accordance with the local government's "Verge Treatments, Plantings and Beautification" specifications; City's policy in respect to verge treatments, planting and beautifications of a verge, as amended from time to time,

(ii) clear sight visibility is maintained at all times for a person using the abutting thoroughfare in the vicinity of an intersection or bend in the thoroughfare;

(iii) clear sight visibility is maintained at all times for a person using the driveway on the land adjacent to permissible verge treatment for access to or from the abutting thoroughfare; and

(iv) where there is no footpath, a pedestrian has safe and clear access of a minimum width of 1,500 millimetres along that part of the verge immediately adjacent to the kerb;

(e) the installation of an acceptable material;

(d) the installation over no more than one-third of the area of the verge (excluding any vehicle crossing) to a maximum 7.5 metres of the frontage of the property of an acceptable material in accordance with paragraph (c), and the planting, and maintenance of either a lawn or a garden on the balance of the verge in accordance with paragraph (a) or (b); or
9.8 Only permissible verge treatments to be installed

The owner or occupier of land adjacent to a thoroughfare shall not install or maintain on the verge in front of such land a verge treatment other than a permissible verge treatment.

9.9 Owner's or occupier's responsibility for verge treatments

An owner or occupier of land adjacent to a thoroughfare who installs or maintains a permissible verge treatment on the verge in front of such land shall—

(a) repair and make good any damage to the verge treatment at such owner's or occupier's expense;

(b) keep the verge treatment in good and tidy condition and ensure, where the verge treatment is a garden or lawn, that no obstruction of any sort (physical, sight or other) is caused to any accessway, footpath or thoroughfare;

(c) not place any obstruction on or around any verge treatment;

(d) not water or maintain a verge treatment in such a manner as to cause a nuisance or hazard to any person using a footpath, accessway or thoroughfare;

(e) not extend the verge treatment beyond the verge immediately adjacent to the land owned or occupied, without the written approval of the owner of the adjoining property, immediately adjacent to the verge to be treated.

9.10 Enforcement

The local government may give a notice in writing to the owner or occupier of land adjacent to a thoroughfare verge who has installed or maintained a treatment on the verge in front of such land, requiring that owner or occupier, within the time specified in the notice, to make good any breach of this Division, or to remove all or any part of a verge treatment that does not comply with this Division.

Division 3 — Public works

9.116 Public works on verges

(1) For the purpose of carrying out any works the local government or any authority empowered by law to dig up a thoroughfare or carry out any other works on a thoroughfare, may without notice and without being liable to compensate any person, dig up all or part of a thoroughfare and disturb any verge treatment placed there by an owner or occupier of adjacent land.

(2) Where the local government digs up or carries out any works in a verge which has a verge treatment which complies with Division 2, then the local government shall use its best endeavours to—

(a) replace and restore any reticulation pipes and sprinklers; and

(b) back fill with sand any garden or lawn,

but otherwise shall not be liable to replace or restore any verge treatment and in particular any plant, or other vegetation or any surface or in any event, shall not be liable to any person for any damage or disturbance caused.
9.127 Contribution towards construction of standard vehicle crossings

For the purpose of determining the local government’s contribution towards the construction of a standard vehicle crossing as stipulated in regulation 16 of the Local Government (Uniform Local Provisions) Regulations 1996, a “standard crossing” is a standard vehicle crossing for a residential area.

9.138 Temporary vehicle crossings

(1) Where it is likely that works on a lot will involve vehicles leaving a thoroughfare and entering the lot, the person responsible for the works shall obtain a permit for the construction of a temporary crossing to protect the existing carriageway, kerb, drains and footpath, where –

(a) a crossing does not exist; or

(b) a crossing does exist, but the nature of the vehicles and their loads is such that they are likely to cause damage to the crossing.

(2) The “person responsible for the works” in subclause (1) is to be taken to be –

(a) the builder named on the building licence issued under the Local Government (Miscellaneous Provisions) Act 1960, if one has been issued in relation to the works; or

(b) the registered proprietor of the lot, if no building licence has been issued under the Local Government (Miscellaneous Provisions) Act 1960 in relation to the works.

(3) If the local government approves an application for a permit for the purpose of subclause (1), the permit is taken to be issued on the condition that until such time as the temporary crossing is removed, the permit holder shall keep the temporary crossing in good repair and in such a condition so as not to create any danger or obstruction to persons using the thoroughfare.

9.149 Removal of redundant vehicle crossings

(1) Where works on a lot will result in a crossing no longer giving access to a driveway or constructed parking amenity on the lot, the crossing is to be removed and the kerb, drain, footpath, verge and any other part of the thoroughfare affected by the removal are to be reinstated to the satisfaction of the local government.

(2) The local government may give written notice to the owner or occupier of a lot requiring her or him to –

(a) remove any part or all of a crossing which does not give access to the lot; and

(b) reinstate the kerb, drain, footpath, verge and any other part of the thoroughfare, which may be affected by the removal,

within the period of time stated in the notice, and the owner or occupier of the lot shall comply with that notice.
10.1 General prohibitions

A person shall not—

(a) plant any tree or plant which exceeds or which may exceed 500 millimetres in height on a thoroughfare so that the plant is within 10 metres from the truncation point of an intersection;

(b) damage a lawn or a garden or remove a plant or part of a plant from a lawn or a garden or a local government property unless—

(i) the person is the owner or the occupier of the land abutting that portion of the thoroughfare and the lawn or the garden or the particular plant has not been installed or planted by the local government; or

(ii) the person is acting under the authority of a written law;

(c) place on any footpath any fruit, fruit skins or other substance or fluid (whether vegetable or otherwise, but not water) which may create a hazard for any person using the footpath;

(d) unless at the direction of the local government, damage, remove or interfere with any signpost, direction plate, guidepost, notice, shelter, shed, fence or any structure erected on a thoroughfare by the local government or a person acting under the authority of a written law;

(e) play or participate in any game or sport so as to cause danger to any person or thing or impede the movement of vehicles or persons on a thoroughfare;

(f) within a mall, arcade or verandah of a shopping centre, ride any wheeled recreational device or similar device; or

(g) damage prune or remove any street tree or part thereof without the approval of the local government.

10.2 Activities allowed with a permit

(1) A person shall not, without the local government may grant a permit for the following activities:

(a) dig or otherwise create a trench through or under a kerb or footpath;

(b) subject to Part 9 of this local law, throw, place or deposit any thing on a verge except for removal by the local government under a bulk rubbish collection, and then only during the period of time advertised in connection with that collection by the local government;

(c) cause any obstruction to a vehicle or a person using a thoroughfare as a thoroughfare;

(d) cause any obstruction to a water channel or a water course in a thoroughfare;
(e) throw, place or drain offensive, noxious or dangerous fluid onto a thoroughfare;

(f) damage a thoroughfare;

(g) light any fire or burn any thing on a thoroughfare;

(h) fell any tree onto a thoroughfare;

(i) unless installing a permissible verge treatment—verge treatment in accordance with any requirements specified in this local law or in the local government's policy—

   (i) lay pipes under or provide taps on any verge; or
   (ii) place or install any thing on any part of a thoroughfare, and without limiting the generality of the foregoing, any gravel, stone, flagstone, cement, concrete slabs, blocks, bricks, pebbles, plastic sheeting, kerbing, wood chips, bark or sawdust;

(j) provide, erect, install or use in or on any building, structure or land abutting on a thoroughfare any hoist or other thing for use over the thoroughfare;

(k) on a public place use anything or do anything so as to create a nuisance;

(l) place or cause to be placed on a thoroughfare a bulk rubbish container;

(m) interfere with the soil of, or anything in a thoroughfare or take anything from a thoroughfare; or

(n) place or cause to be placed on a footpath or thoroughfare, a planter box or pots.

(2) The local government may exempt a person from compliance with subclause (1)—on grant the application of that person permit in 10.2(1) above subject to conditions.

PART 11 — NOTICES OF BREACH

11.1 Offence to fail to comply with notice

Whenever the local government serves a notice under this local law requiring a person to do any thing, if a person fails to comply with the notice, that person commits an offence.

11.2 Local government may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 11.1, the local government may by its employees, agents or contractors carry out the works and do all things specified in the notice and may recover from that person, as a debt, the costs incurred in so doing.

11.3 Notice to remove, redirect or repair sprinkler

Where a lawn or a garden is being watered with a sprinkler which is on the lawn or the garden, in a manner which causes or may cause an inconvenience or obstruction to any person using a thoroughfare, the local government or an authorised person may give a notice to the owner or the occupier of the land abutting on the lawn or the garden, requiring
the owner or the occupier or both to **either remove, move or alter the direction of the sprinkler or other watering equipment.**

### 11.4 Hazardous plants

Where a plant or tree in a garden creates or may create a hazard for any person using a thoroughfare, the local government or an authorised person may give a notice to the owner or the occupier of the land abutting on the garden to remove, cut, move or otherwise deal with that plant so as to remove the hazard.

### 11.5 Notice to repair damage to thoroughfare

Where any portion of a thoroughfare, verge or footpath has been damaged, or is in the opinion of an authorised person, dangerous to the public, the local government or an authorised person may by notice to the person who caused the damage or dangerous condition, order the person to repair or replace that portion of the thoroughfare, verge or footpath to the satisfaction of the local government, and within the time frame stipulated in the notice. If the person does not comply with the notice to the satisfaction of the local government the person commits an offence.

### 11.6 Notice to remove thing unlawfully placed on thoroughfare

Where any thing is placed on a thoroughfare in contravention of this local law, the local government may by notice in writing to the owner or the occupier of the land abutting on that portion of the thoroughfare where the thing has been placed, or such other person who may be responsible for the thing being so placed, requiring that person or the owner or occupier, as the case may be, to remove the thing within the time specified in the notice.

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**PART 12 — OBJECTIONS AND REVIEW**

### 12.1 Application of Division 1, Part 9 of the Act

When the local government makes a decision as to whether it will –

(a) grant a person a permit, approval or consent under this local law; or

(b) renew, vary or cancel a permit, approval or consent that a person has under this local law;

the provisions of Division 1 of Part 9 of the Act and regulation 33 of the Regulations apply to that decision.

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**PART 13 — MISCELLANEOUS**

### 13.1 Authorised person to be obeyed

A person on local government property shall obey any lawful direction of a manager or an authorised person.

### 13.2 Persons may be refused admission or directed to leave local government property or a community facility

(1) An authorised person, or manager may refuse admission or direct a person to leave local government property where:
(a) the authorised person or manager reasonably suspects that the person has –

(i) contravened a provision of this local law;

(ii) behaved in a disorderly manner;

(iii) used indecent, offensive, profane or insulting language;

(iv) created or taken part in any disturbance whereby a crowd has gathered;

(v) committed an act of indecency; or

(b) the person has been deemed undesirable by the local government or the authorised person by reason of his or her past conduct.

(2) A person shall, on being requested by the authorised person to do leave the local government property, do so immediately, quietly and peaceably.

(3) A person who fails to comply with a request under subclause (2) may be removed from the local government property by an authorised person or a Police Officer.

13.3 Liability for damage to local government property

(1) Where a person unlawfully damages or causes damage to or detrimentally affects the appearance or nature of any local government property, the local government may by notice in writing to that person require that person within the time required in the notice to, at the option of the local government, pay the costs of –

(a) reinstating the property to the state it was in prior to the occurrence of the damage; or

(b) replacing that property.

(2) On a failure to comply with a notice issued under subclause (1), the local government may recover the costs referred to in the notice as a debt due to it in a court of competent jurisdiction.

13.4 Public liability insurance and indemnity policy

(1) Where, as a condition of a permit, the permit holder is required to obtain and maintain a public liability insurance policy, the permit holder shall –

(a) enter into an agreement with the local government to provide effect and maintain the required public liability insurance cover during the entire time that the license is in place;

(b) take out a public liability insurance policy of insurance in the name of the permit holder, covering the Permit holder’s legal liabilities in respect of the permit holder’s usual business activities;

(c) advise and the local government (if required by the local government should the permit holder cancel) in respect to any injury to any person or modify or fail any damage to renovate any property which may occur in connection with the public liability insurance cover during the period of the license;
(d) provide the local government with a Certificate property by the permit holder;

(b) ensure that any policy of insurance referred to in (a) indemnifies the local government in respect of any injury to any person or any damage to any property which may occur in connection with the use of the local government property by the permit holder;

(c) effect and maintain the policy of insurance referred to in (a) for the duration of the permit;

(d) immediately notify the local government if the policy of insurance cover lapses, in which case the permit may be cancelled by the local government in accordance with clause 3.11;

(e) provide the local government with a certificate of currency confirming that public liability insurance cover is in place as per clause 13.4(1) prior to issuing of the licence, at any time requested by the local government;

(e) ensure that, as a minimum, the permit holder's public liability insurance policy has a limit of liability provides coverage of $10 million (ten million dollars), or such other amount as the local government considers appropriate to the risk and liability involved, in the activity authorised by the permit. At the discretion of the local government, the limit of minimum value of liability coverage required may be increased at the policy renewal date;

(f) ensure that the public liability insurer of the permit holder is a reputable insurer licensed to conduct insurance business in Australia in accordance with the guidelines issued by the Australian Prudential Regulatory Authority (APRA).

(2) A permit or approval holder who refuses to or cannot provide a current certificate of insurance at least 14 days prior to the commencement of any activity, action or thing performed or erected in accordance with the permit, as required in accordance with subclause (1) commits an offence.

(3) A permit holder must provide the local government with a copy of their certificate of insurance currency at any time requested by the local government, including at the permit application stage.

13.5 Payment of applicable fees

Where a fee or charge applies to the entry to, use of or participation in an activity on or in any local government property, a person shall not enter that property without first paying the applicable fee or charge, unless that person has been exempted by the local government from paying that fee or charge.

13.6 No unauthorised entry to function

(1) A person shall not enter local government property on such days or during such times as the property may be set aside for a function for which a charge for admission is authorised, except –

(a) through the proper entrance for that purpose; and

(b) on payment of the fee chargeable for admission at the time.
(2) The local government may exempt a person from compliance with subclause (1)(b).

PART 14 — OFFENCES

Division 1 — Offences and penalties

14.1 Offences and general penalties

(1) Any person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.

(2) Any person who commits an offence under this local law is liable, upon conviction, to a penalty not less than $300 and not exceeding $5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding $500 for each day or part of a day during which the offence has continued.

14.2 Prescribed offences

(1) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.

(2) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

(3) For the purpose of guidance only, before giving an infringement notice to a person in respect of the commission of a prescribed offence, an authorised person should be satisfied that —

(a) commission of the prescribed offence is a relatively minor matter; and

(b) only straightforward issues of law and fact are involved in determining whether the prescribed offence was committed, and the facts in issue are readily ascertainable.

14.3 Infringement notices and infringement withdrawal notices

(1) For the purposes of this local law —

(a) where a vehicle is involved in the commission of an offence, the form of the infringement notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the Regulations;

(b) the form of the infringement notice referred to in sections 9.16 and 9.17 of the Act is that of Form 2 in Schedule 1 of the Regulations; and

(c) the form of the withdrawal notice referred to in section 9.20 of the Act is that of Form 3 in Schedule 1 of the Regulations.

(2) Where an infringement notice is given under section 9.16 of the Act in respect of an alleged offence against clause 2.4, the notice is to contain a description of the alleged offence.

Division 2 — Evidence in legal proceedings
14.4 Evidence of a determination

(1) In any legal proceedings, evidence of a determination may be given by tendering the register referred to in clause 2.5 or a copy of an extract from the register certified as a true copy by the CEO.

(2) It is to be presumed, unless the contrary is proved, that the determination was properly made and that every requirement for it to be made and have effect has been satisfied.

(3) Subclause (2) does not make valid a determination that has not been properly made.
# SCHEDULE 1

## PRESCRIBED OFFENCES

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<tr>
<th>CLAUSE</th>
<th>DESCRIPTION</th>
<th>MODIFIED PENALTY</th>
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</thead>
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<td>100</td>
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<tr>
<td>2.4</td>
<td>Failure to comply with determination</td>
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<tr>
<td>3.5 (1)</td>
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<tr>
<td>3.5 (2)</td>
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<td>400500</td>
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<tr>
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<tr>
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<tr>
<td>3.14 (2)</td>
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<tr>
<td>3.14 (3)</td>
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<tr>
<td>3.1315 (2)</td>
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<tr>
<td>3.1416 (1)</td>
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<tr>
<td>3.1517</td>
<td>Failure of permit holder to comply with responsibilities</td>
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<td>4.1 (c)</td>
<td>Disorderly or offensive conduct, or use of indecent or improper language</td>
<td>100</td>
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<td>4.2 (1)</td>
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<td>100</td>
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<tr>
<td>4.2 (2) (a)</td>
<td>Loiter outside or act in an unacceptable manner in any toilet block or change room</td>
<td>100</td>
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<tr>
<td>4.2 (2) (b)</td>
<td>Enter or attempt to enter an occupied cubicle or compartment</td>
<td>100</td>
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<tr>
<td>4.3 (1)</td>
<td>Failure to wear adequate clothing to secure decency</td>
<td>100</td>
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<tr>
<td>4.3 (2)</td>
<td>Failure to comply with direction of authorised person, to wear adequate clothing</td>
<td>250</td>
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<tr>
<td>4.4 (1)</td>
<td>Behaviour detrimental to property</td>
<td>100</td>
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<tr>
<td>4.5 (1) (a)</td>
<td>Take, injure or kill, or attempt to take, injure or kill any fauna</td>
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<tr>
<td>4.5 (1) (b)</td>
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<td>4.6</td>
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<td>4.7</td>
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<td>100</td>
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<tr>
<td>5.3 (d)</td>
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<td>100</td>
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<tr>
<td>5.3 (e)</td>
<td>Using any detergent or any substance or oil in any pool or spa whereby the water may be discoloured or contaminated or rendered turbid or, in the opinion of the Manager or authorised person, in anyway unfit</td>
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</tr>
<tr>
<td>5.3 (f)</td>
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<td>100</td>
</tr>
<tr>
<td>5.3 (g)</td>
<td>Bringing into any part of the pool area or place thereon any chemical substance, liquid or powder</td>
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</table>
5.3 (h) Bringing into any part of the pool area any glass containers; 100
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community facility;
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<td>7.2(3)(b)</td>
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<td>500</td>
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<tr>
<td>9.1</td>
<td>Damaging a thoroughfare or anything belonging to or under the care</td>
<td>200</td>
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<tr>
<td></td>
<td>and management of the local government that is on the thoroughfare</td>
<td>5000</td>
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<tr>
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<td>Failing to take necessary precautions to ensure footpaths, verges</td>
<td>200</td>
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<td></td>
<td>or trees are not damaged during works</td>
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<td>Failing to ensure footpath remains in a safe and functioning state</td>
<td>200</td>
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<td></td>
<td>suitable for use by the public</td>
<td>5000</td>
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<tr>
<td>9.2(1)(c)</td>
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<td>501</td>
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<td></td>
<td>prior to commencement of works</td>
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<tr>
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<td></td>
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<td>9.9(1)</td>
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<tr>
<td>9.9(2)</td>
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<tr>
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<tr>
<td>9.9(4)</td>
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<tr>
<td></td>
<td>with the relevant City policy, as amended from time to cause a nuisance or</td>
<td>250</td>
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<tr>
<td></td>
<td>a hazard to any person using footpath, accessway or thoroughfare</td>
<td></td>
</tr>
<tr>
<td>9.9(5)</td>
<td>Extending the verge treatment without written approval</td>
<td>200</td>
</tr>
<tr>
<td>9.138(1)</td>
<td>Failing to obtain permit for temporary crossing</td>
<td>200</td>
</tr>
<tr>
<td>9.142(2)</td>
<td>Failing to comply with notice to remove crossing and reinstate kerb</td>
<td>250</td>
</tr>
<tr>
<td>10.1(a)</td>
<td>Planting of tree or plant which exceeds 0.75metres in height on</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td>local government property within 10metres from the truncation of an</td>
<td></td>
</tr>
<tr>
<td></td>
<td>intersection</td>
<td></td>
</tr>
<tr>
<td>10.1(b)</td>
<td>Damaging lawn or garden, or remove any plant without authority to cause</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td>a hazard</td>
<td></td>
</tr>
<tr>
<td>10.1(c)</td>
<td>Placing any fruit, substance or fluid on footpath which may create a</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td>hazard</td>
<td></td>
</tr>
<tr>
<td>10.1(d)</td>
<td>Damaging or interfering with signpost or structure on thoroughfare</td>
<td>200</td>
</tr>
<tr>
<td>10.1(e)</td>
<td>Playing games so as to endanger any person or thing or impede vehicles</td>
<td>200</td>
</tr>
<tr>
<td></td>
<td>or persons on thoroughfare</td>
<td></td>
</tr>
<tr>
<td>10.1(f)</td>
<td>Riding any wheeled recreational device in a mall, arcade or</td>
<td>100</td>
</tr>
<tr>
<td></td>
<td>verandah of a shopping centre</td>
<td></td>
</tr>
<tr>
<td>10.1(g)</td>
<td>Damaging or removing a tree, which includes a tree on a verge,</td>
<td>3000</td>
</tr>
<tr>
<td></td>
<td>thoroughfare or local government property, or part thereof without</td>
<td>5000</td>
</tr>
<tr>
<td></td>
<td>the approval of the local government</td>
<td></td>
</tr>
<tr>
<td>10.2(1)(a)</td>
<td>Digging a trench through a kerb or footpath without a permit</td>
<td>200</td>
</tr>
<tr>
<td></td>
<td>Description</td>
<td>Fine</td>
</tr>
<tr>
<td>---</td>
<td>-----------------------------------------------------------------------------</td>
<td>--------</td>
</tr>
<tr>
<td>10.2 (1)(i)</td>
<td>Throwing or placing anything on a verge without a permit</td>
<td>200</td>
</tr>
<tr>
<td>10.2 (1)(c)</td>
<td>Causing obstruction to vehicle or person on thoroughfare without a permit</td>
<td>200</td>
</tr>
<tr>
<td>10.2 (1)(d)</td>
<td>Causing obstruction to water channel on thoroughfare without a permit</td>
<td>200</td>
</tr>
<tr>
<td>10.2 (1)(e)</td>
<td>Placing or draining offensive fluid on thoroughfare without a permit</td>
<td>200</td>
</tr>
<tr>
<td>10.2 (1)(f)</td>
<td>Damaging a thoroughfare</td>
<td>200</td>
</tr>
<tr>
<td>10.2 (1)(g)</td>
<td>Lighting a fire on a thoroughfare without a permit</td>
<td>200</td>
</tr>
<tr>
<td>10.2 (1)(h)</td>
<td>Felling tree onto thoroughfare without a permit</td>
<td>200</td>
</tr>
<tr>
<td>10.2 (1)(i)</td>
<td>Installing pipes or stone on thoroughfare without a permit</td>
<td>200</td>
</tr>
<tr>
<td>10.2 (1)(j)</td>
<td>Installing a hoist or other thing on a structure or land for use over a thoroughfare without a permit</td>
<td>200</td>
</tr>
<tr>
<td>10.2 (1)(k)</td>
<td>Creating a nuisance on a public place without a permit</td>
<td>200</td>
</tr>
<tr>
<td>10.2 (1)(l)</td>
<td>Placing a bulk rubbish container on a thoroughfare without a permit</td>
<td>100</td>
</tr>
<tr>
<td>10.2 (1)(m)</td>
<td>Interfering with anything on a thoroughfare without a permit</td>
<td>200</td>
</tr>
<tr>
<td>10.2 (1)(n)</td>
<td>Placing a planter box or pot on a footpath or thoroughfare</td>
<td>100</td>
</tr>
<tr>
<td>11.1</td>
<td>Failing to comply with notice given under local law where not specified in Schedule 1</td>
<td>250750</td>
</tr>
<tr>
<td>13.4 (2)</td>
<td>Failure to hold or provide a current certificate of currency to an authorised person when requested</td>
<td>250</td>
</tr>
<tr>
<td>13.5</td>
<td>Failing to pay the applicable fee to enter, use or participate in an activity on local government property</td>
<td>100</td>
</tr>
<tr>
<td>13.6 (1)</td>
<td>Entering local government property or building other than through the proper entrance or without payment of the admission fee</td>
<td>100</td>
</tr>
<tr>
<td>14.1 (1)</td>
<td>Other offences not specified</td>
<td>100</td>
</tr>
</tbody>
</table>
SCHEDULE 2

DETERMINATIONS

The following determinations are to be taken to have been made by the local government under clause 2.1.

PART 1 – PRELIMINARY

1.1 Definitions

In these determinations unless the context requires otherwise—

“local law” means the City of Vincent Local Government Property Local Law 2008.

1.2 Interpretation

Unless the context requires otherwise, where a term is used but not defined in a determination and that term is defined in the local law then the term shall have the meaning given to it in the local law.

1.3 Determinations

As at the date of gazettal of this local law, the local government has not made any determinations.

This local law was made by the City of Vincent at an Ordinary Meeting held on the 26th day of February 2008.

The Common Seal of the City of Vincent was affixed by authority of a resolution of the Council in the presence of —

NICK CATANIA, JPEMMA COLE, Mayor
MAYOR

JOHN GIORGI, JPDAVID MACLENNAN, Chief Executive Officer
CHIEF EXECUTIVE OFFICER
## SCHEDULE OF AMENDMENTS

<table>
<thead>
<tr>
<th>Date of Council Resolution</th>
<th>Date of Gazettal</th>
<th>Details of Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>08.07.08</td>
<td>07.10.08</td>
<td><strong>Title and Schedule 2, Clause 1.1</strong> – delete 2007 and replace it with 2008</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Clause 5.2</strong> – subclause (1) delete “or a community facility” also delete subclauses (1)(c), (1)(d), (4) and (5).</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Clause 13.4</strong> – amended to be brought in line with the current standard wording for public liability insurance policies.</td>
</tr>
<tr>
<td>10.02.09</td>
<td>27.02.09</td>
<td>To amend the process for applications and permits, specify obligations of permit holders and conditions for signs.</td>
</tr>
<tr>
<td><strong>5.02.2019</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
10.1 LATE REPORT: NOTICE OF MOTION - CR TOPELBerg - TENDER OR QUOTATIONS FOR BULK VERGE COLLECTION

TRIM Ref: D19/44169
Attachments: Nil

That Council:

1. REQUESTS that Administration:

   1.1 DOES NOT proceed with a Tender or Quotations for Bulk Verge Collection beyond the existing contract;

   1.2 PROVIDES a report to Council no later than June 2019 with alternative options for bulk waste management and collection in City, including financial modelling; and

   1.3 that the options presented be capable of being implemented in the 2019-20 financial year, subject to council decision

REASON

The current system presents unacceptable issues in terms of:

- unsightly verges throughout the City for approximately two months of the year;
- potential danger to pedestrians & passers-by;
- rubbish being blown into neighbouring properties;
- potential damage to established street trees and verge plantings;
- little "recycling" value in an age of resources such as Gumtree and Buy Nothing;
- issues relating to noise and antisocial behaviour from late-night verge hunters;
- illegal dumping / dumping on other peoples' property;
- post-collection dumping and associated clean-up; and
- the current system likely no longer reflects the best value for the City.

Based on the above, it is requested that the City investigate and report on an improved system for implementation in the coming financial year.

ADMINISTRATION COMMENTS

Project 2 of the City’s Waste Strategy 2018-2023 is the Bulk Hard Waste Service Option Appraisal which is due to be completed by June 2019. The Strategy recognises that the current collection system is not contemporary and results in low environmental performance. There are a number of alternative methods of collecting bulk waste.

Administration supports the intent of the Notice of Motion.