



CITY OF VINCENT

AGENDA

Ordinary Council Meeting

17 October 2017

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

Len Kosova
Chief Executive Officer

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PROCEDURE FOR PUBLIC SPEAKING TIME

The City of Vincent Local Law Relating to Standing Orders prescribes the procedure for persons to ask questions or make public statements relating to a matter affecting the City, either verbally or in writing, at a Council meeting.

Questions or statements made at an Ordinary Council meeting can relate to matters that affect the City. Questions or statements made at a Special Meeting of the Council must only relate to the purpose for which the meeting has been called.

1. Shortly after the commencement of the meeting, the Presiding Member will ask members of the public to come forward to address the Council and to give their name, address and Agenda Item number (if known).
2. Public speaking time will be strictly limited to three (3) minutes per member of the public.
3. Members of the public are encouraged to keep their questions/statements brief to enable everyone who desires to ask a question or make a statement to have the opportunity to do so.
4. Public speaking time is declared closed when there are no further members of the public who wish to speak.
5. Questions/statements are to be directed to the Presiding Member and are to be made politely in good faith and are not to be framed in such a way as to reflect adversely or be defamatory on a Council Member or City Employee.
6. Where the Presiding Member is of the opinion that a member of the public is making a statement at a Council meeting, that does not affect the City, he may ask the person speaking to promptly cease.
7. Questions/statements and any responses will be summarised and included in the Minutes of the Council meeting.
8. Where practicable, responses to questions will be provided at the meeting. Where the information is not available or the question cannot be answered, it will be "*taken on notice*" and a written response will be sent by the Chief Executive Officer to the person asking the question. A copy of the reply will be included in the Agenda of the next Ordinary meeting of the Council.
9. It is not intended that public speaking time should be used as a means to obtain information that would not be made available if it was sought from the City's records under Section 5.94 of the Local Government Act 1995 or the Freedom of Information (FOI) Act 1992. The CEO will advise the member of the public that the information may be sought in accordance with the FOI Act 1992.

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- All Ordinary and Special Council Meetings are electronically recorded except when the Council resolves to go behind closed doors;
- All recordings are retained as part of the City's records in accordance with the General Disposal Authority for Local Government Records produced by the Public Records Office;
- A copy of the recorded proceedings and/or a transcript of a particular section or all of a Council meeting is available in accordance with Policy No. 4.2.4 – Council Meetings – Recording and Web Streaming.
- Ordinary Meetings of Council and Council Briefings are streamed live on the internet in accordance with the City's Policy – 4.2.4 - Council Meetings Recording and Web Streaming. It is another way the City is striving for transparency and accountability in what we do.
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1 DECLARATION OF OPENING / ACKNOWLEDGEMENT OF COUNTRY

"The City of Vincent would like to acknowledge the Traditional Owners of the land, the Whadjuk people of the Noongar nation and pay our respects to Elders past, present and emerging".

2 APOLOGIES / MEMBERS ON LEAVE OF ABSENCE

Cr Susan Gontaszewski on approved leave of absence from 02 September 2017 to 21 October 2017.

3 (A) PUBLIC QUESTION TIME AND RECEIVING OF PUBLIC STATEMENTS**(B) RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

[3.1](#) Response to questions from Mr Dudley Maier taken on notice at the Ordinary Council Meeting held on 19 September 2017.

[3.2](#) Response to questions from Mr Vern Gardam taken on notice at the Ordinary Council Meeting held on 19 September 2017.

4 APPLICATIONS FOR LEAVE OF ABSENCE**5 THE RECEIVING OF PETITIONS, DEPUTATIONS AND PRESENTATIONS****6 CONFIRMATION OF MINUTES**

Ordinary Meeting - 19 September 2017

7 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)**8 DECLARATIONS OF INTEREST**

- 8.1 The Chief Executive Officer, Len Kosova declared a direct financial interest in Item 18.1 – Confidential Report: Chief Executive Officer's Performance Review 2016-17. The nature of his interest is that it relates his performance in the role of Chief Executive Officer, his remuneration and his contract of employment with the City.

9 DEVELOPMENT SERVICES

9.1 SHOP 20, NOS. 148-158 (LOT: 600 D/P: 47025) SCARBOROUGH BEACH ROAD, MOUNT HAWTHORN - CHANGE OF USE FROM CONSULTING ROOMS (NON-MEDICAL: MASSAGE THERAPY) TO ALTERNATIVE MEDICINE CONSULTING ROOMS (UNLISTED USE)

TRIM Ref: D17/122121

Author: Joslin Colli, Coordinator Planning Services

Authoriser: Paola Di Perna, Manager Approval Services

Ward: North

Precinct: 1 – Mount Hawthorn and 2 – Mount Hawthorn Centre

Attachments:

1. Attachment 1 - Consultation and Location Map 
2. Attachment 2 - Development Plans 
3. Attachment 3 - Summary of Submissions 
4. Attachment 4 - Determination Advice Notes 

RECOMMENDATION:

That Council, in accordance with the provisions of the City of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, **APPROVES BY ABSOLUTE MAJORITY** the development application for Change of Use from Consulting Rooms – Non-Medical (Massage Therapy) to Alternative Medicine Consulting Rooms (Unlisted Use) at Shop 20, Nos. 148-158 (Lot: 600; D/P: 47025) Scarborough Beach Road, Mount Hawthorn in accordance with the plans included in Attachment 2, subject to the following conditions, with the associated determination advice notes in Attachment 4:

1. Use of Premises

- 1.1. The development shall be used in accordance with the definition of ‘Alternative - Medicine Consulting Rooms’ as set out under the City’s Policy No. 7.5.22 – Consulting Rooms;
- 1.2. A maximum of three therapist and consulting rooms shall operate from the tenancy at any one time;
- 1.3. The hours of operation for the ‘Alternative Medicine Consulting Rooms’ shall be limited to the following times:
 - 9:00am to 6:00pm Monday to Wednesday and Friday;
 - 9:00am to 9:00pm Thursday;
 - 9:00am to 5:00pm Saturday;
 - 11:00am to 5:00pm Sunday and other public holidays;
 - Closed Christmas Day, Good Friday and Anzac Day.

PURPOSE OF REPORT:

To consider an application for development approval for change of use from Consulting Rooms – Non-Medical (Massage Therapy) to Alternative Medicine Consulting Rooms (Unlisted Use) at Shop 20 Nos. 148-158 Scarborough Beach Road, Mount Hawthorn.

BACKGROUND:

Landowner:	Hyde Park Management Ltd
Applicant:	Yan Liu
Date of Application:	21 July 2016
Zoning:	MRS: Urban TPS1: Zone: District Centre and Special Use – Carpark R-Code: R30 TPS2: Zone: District Centre and Special Use – Carpark R-Code: N/A
Built Form Area:	Town Centre
Existing Land Use:	Consulting Rooms - Non-Medical (Massage Therapy)
Proposed Use Class:	Alternative Medicine Consulting Rooms – Unlisted Use
Lot Area:	12,740m ²
Right of Way (ROW):	Unity Lane is a dedicated lane to the rear of the subject property.
Heritage List:	No

The subject site is located at the intersection of Scarborough Beach Road, Flinders Street and Fairfield Street and occupies 'The Mezz' shopping centre. The portion of the subject site fronting Scarborough Beach Road is zoned District Centre, one portion behind is zoned Special Use – Carpark and a further small portion on the northern area of the site is zoned Residential and coded R30. The adjoining properties fronting Scarborough Beach Road are zoned District Centre and those on the opposite sides of Flinders and Fairfield Streets are zoned Residential and coded R30. A Location Plan is included as **Attachment 1**.

The subject tenancy is located within 'The Mezz' and is only accessible from within the internal shopping centre mall. The use currently trades as "Natural Island Massage Therapy". An initial application for a change of use from shop to Consulting Rooms (Non-Medical – Massage Therapy) was approved under delegated authority on 21 July 2015 for a 12 month period in accordance with Clause 5.4.2 in the City's Policy No. 7.5.22 – Consulting Rooms. The approval also limited the number of consulting rooms to three, and conditioned the following operating hours:

- 9:00am to 6:00pm Monday to Wednesday and Friday;
- 9:00am to 9:00pm Thursday;
- 9:00am to 5:00pm Saturday;
- 11:00am to 5:00pm Sunday; and
- Closed Christmas Day, Good Friday and Anzac Day.

Since this approval was issued the City has received no complaints in relation to the use.

Due to the 12 month time limit imposed on the initial approval an application was lodged on 21 July 2016 to enable the use to continue to operate. Since the development application was lodged the use has continued to operate with no complaints.

DETAILS:

The initial application was assessed as a Consulting Rooms use under the City's Town Planning Scheme No. 1 (TPS1) which is an "AA" use within a 'District Centre' zone. Although the current application was lodged as a renewal to this approval, on assessment it was identified that the use cannot reasonably be determined as falling within the definition of 'Consulting Rooms' in TPS1 which is defined as:

"any building or part thereof used in the practice of a profession by a legally qualified medical practitioner or dentist, or by a physiotherapist, a masseur, a chiropractor, a chiropodist, or a person ordinarily associated with a medical practitioner in the investigation or treatment of physical or mental injuries or ailments but does not include a hospital".

Although there are qualified remedial masseurs that will operate from the premise the business also offers a range of other services including acupuncture, Chinese herbal medicine, aromatherapy, hot stone therapy, ear candling and reflexology which do not align with the definition of Consulting Rooms in TPS1. The services offered also do not relate to the investigation or treatment of physical or mental injuries or ailments, and as a result are not considered to meet the definition of Consulting Rooms under TPS1.

The City's Policy No. 7.5.22 – Consulting Rooms defines 'Non-Medical Consulting Rooms' as:

“any building or part thereof used in the practice of a qualified beauty technician, touch therapist, natural massage therapist or the like”.

The City's Policy No. 7.5.22 – Consulting Rooms defines 'Alternative Medicine Consulting Rooms' as:

“any building or part thereof used in the practice of an alternative medicine profession by a qualified homeopath, an acupuncturist, a Chinese medicine herbalist, an iridologist, a professional associated with a weight loss clinic, or the like or a person ordinarily associated with an alternative medicine practitioner in the investigation or treatment of physical or mental injuries or ailments but does not include a hospital, health club, gymnasium or treatment that involves massage or treatment of a non-alternative medicine nature.”

The definition then lists the registrations that consultants practicing in Alternative Medicine Consulting Rooms should have which includes “Remedial Massage Therapy”.

The services of acupuncture, aromatherapy, Chinese herbal medicine and remedial massage therapy offered at the site are specifically mentioned under the “Alternative Medicine Consulting Rooms” definition of the City's Policy No. 7.5.22. Despite the previous approval as a consulting room under TPS1 the use is now considered to fall within the definition of Alternative Medicine Consulting Room under Policy No. 7.5.22 – Consulting Rooms which is an 'Unlisted Use' in TPS1.

The application proposes no physical changes to the building. There are no signs proposed on the external facades of the shopping centre.

Summary Assessment

The table below summarises the planning assessment of the proposal against the provisions of the City of Vincent Town Planning Scheme No. 1 (TPS1), the City's Policy No. 7.5.22 – Consulting Rooms and the City's Policy No. 7.7.1 – Parking and Access (Parking and Access Policy). In each instance where the proposal requires the discretion of Council, the relevant planning elements are discussed in the Detailed Assessment section following from this table.

Planning Element	Use Permissibility/ Deemed-to-Comply	Requires the Discretion of Council
Land Use		✓
Parking and Access	✓	

Detailed Assessment

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

Land Use	
Deemed-to-Comply Standard	Proposal
Town Planning Scheme No. 1	
“P” Permitted Use	“Unlisted Use” (Alternative Medicine Consulting Rooms)

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

CONSULTATION/ADVERTISING:

The application was advertised for a period of 14 days in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015*, from 15 September to 28 September 2016. The method of advertising included 97 letters being mailed to all owners and occupiers within close proximity to the subject site, as shown on **Attachment 1**, in accordance with the City's Policy No. 4.1.5 – Community Consultation.

One submission was received querying whether the requirement to renew the approval was a requirement of the City or the management or landowner of the shopping centre. A summary of this submission and Administration's response is included as **Attachment 3**.

Design Advisory Committee (DAC):

Referred to DAC: No

LEGAL/POLICY:

- *Planning and Development Act 2005*;
- *Planning and Development (Local Planning Schemes) Regulations 2015*;
- City of Vincent Town Planning Scheme No. 1;
- Policy No. 4.1.5 – Community Consultation.
- Policy No. 7.5.22 – Consulting Rooms; and
- Policy No. 7.7.1 – Parking and Access

The applicant will have the right to have Council's decision reviewed by the State Administrative Tribunal (SAT) in accordance with Part 14 of the *Planning and Development Act 2005*.

Delegation to Determine Applications:

The previous approval for the Consulting Rooms (Non-Medical – Massage Therapy) land use was determined under delegated authority. As this is no longer considered the appropriate land use for the proposal, this matter is now being referred to Council for determination as the application now proposes an Unlisted Use which requires an Absolute Majority Decision of Council under Clause 39(2)(b) of TPS1.

RISK MANAGEMENT IMPLICATIONS:

It is Administration's view that there are minimal risks to Council and the City's business function when Council exercises its discretionary power to determine a planning application.

STRATEGIC IMPLICATIONS:

The City's Strategic Plan 2013-2023 states:

"Natural and Built Environment

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

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:Land Use

The subject site is zoned District Centre and is not contemplated to change should the Draft Local Planning Scheme No. 2 be finalised. The predominant use cannot reasonably be determined as falling within the definition of 'Consulting Rooms' in TPS 1 and is therefore considered an 'Unlisted Use'. The services offered at the business are considered to meet all of the requirements of the City's Policy No. 7.5.22 – Consulting Rooms relating to Alternative Medicine Consulting Rooms. In accordance with the requirements of Policy No. 7.5.22, the applicant has submitted their qualifications and registrations to professional associations.

The proposed use is considered to be compatible and complimentary with the other commercial uses at the shopping centre. The use on the subject lot has been in operation for over two years and during this time the

City has not received any complaints regarding the development. The operations of the business during this time demonstrate its legitimacy. The operating hours of the business are consistent with the shopping centre's broader opening hours and prescribed retail trading hours.

The proposed use was previously granted an approval with a 12 month approval in accordance with Clause 5.4.2 of Policy No. 7.5.22 – Consulting Rooms. As the use is now considered an Alternative Medicine Consulting Room this Clause no longer applies and no further time limit on the approval is recommended. In this instance, the use is considered compatible with the surrounding locality and it is recommended that Council approves the proposal subject to conditions.

9.2 NO. 404 (LOT: 3; STR: 12113) NEWCASTLE STREET, WEST PERTH - CHANGE OF USE FROM WAREHOUSE TO UNLISTED USE (MOTOR VEHICLE REPAIR SHOP) (RETROSPECTIVE)

TRIM Ref: D17/75415
Author: Steve Laming, Urban Planner
Authoriser: Paola Di Perna, Manager Approval Services
Ward: South
Precinct: 13 – Beaufort

Attachments: 1. Attachment 1 - Consultation and Location Map [⇒](#) 
2. Attachment 2 - Development Plans [⇒](#) 
3. Attachment 3 - Summary of Submissions [⇒](#) 
4. Attachment 4 - Determination Advice Notes [⇒](#) 

RECOMMENDATION:

That Council in accordance with the provisions of the City of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES BY AN ABSOLUTE MAJORITY the application for a change of use from Warehouse to Unlisted Use (Motor Vehicle Repair Shop) (Retrospective) at No. 404 (Lot: 3; D/P: 12113) Newcastle Street, West Perth in accordance with the plans provided as Attachment 2 subject to the following conditions, with the associated determination advice notes in Attachment 4:

1. Use of Premises

- 1.1. The Motor Vehicle Repair Shop shall be limited to a maximum of one person operating from the premises at any time;
- 1.2. The Motor Vehicle Repair Shop shall be limited to a maximum of three (3) working bays;
- 1.3. The operating hours of the Motor Vehicle Repair Shop shall be limited as follows:
 - Monday to Friday: 8:00am – 5:00pm;
 - Saturday: 9:00am to 2:00pm; and
 - Sunday and Public Holidays: CLOSED;

2. External Fixtures

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

3. Management Plan

- 3.1. Within 28 days of the issue date of this approval, a Management Plan shall be lodged with and approved by the City that includes but is not limited to the following in accordance with all conditions of the approval:
 - Hours of operation;
 - Types of activities carried out on-site;
 - Noise attenuation and emissions control measures;
 - Deliveries;
 - Waste collection;
 - Number of working bays; and
 - Parking;

- 3.2. Use of the premises shall be carried out in accordance with the approved Management Plan or any Plan approved by the City thereafter and all requirements of the Management Plan shall be implemented to the satisfaction of the City; and
- 3.3. The Management Plan shall be reviewed every 12 months, with any changes identified during this review or by the City, being incorporated into an updated Management Plan approved by the City as part of the review;

4. Parking

- 4.1 A minimum of three (3) car bays shall be provided on-site for the exclusive use of the Motor Vehicle Repair Shop; and
- 4.2 The car parking areas that form part of this application shall be sealed, drained, paved and line marked in accordance with the approved plans and the requirements of Australian Standard AS2890.1 and shall be maintained by the owner/operator at all times to the City's satisfaction.

PURPOSE OF REPORT:

To consider an application for retrospective development approval for a proposed Change of Use from Warehouse to Unlisted Use (Motor Vehicle Repair Shop) (Retrospective) at No. 404 Newcastle Street, West Perth.

BACKGROUND:

Landowner:	Mathinna Nominees Pty Ltd and Kadelynda Nominees Pty Ltd
Applicant:	P Reeves
Date of Application:	2 May 2016
Zoning:	MRS: Urban TPS1: Zone: Commercial TPS2: Zone: Commercial
Built Form Area:	Activity Corridor
Existing Land Use:	Warehouse - "P"
Proposed Use Class:	Unlisted Use – Motor Vehicle Repair Shop
Lot Area:	3,045m ²
Right of Way (ROW):	Not applicable
Heritage List:	No

The subject site is located on Newcastle Street approximately midway between Harwood Place and Fitzgerald Street. The location of the subject site is shown on the plan included as **Attachment 1**. The site is zoned Urban under the Metropolitan Region Scheme and 'Commercial' under the City's Town Planning Scheme No.1. The site consists of six strata units being Nos. 400, 402, 404, 406, 408 and 410 Newcastle Street, West Perth, which are occupied by a range of commercial uses. The subject strata unit is located at the rear of the site. The development plans are included as **Attachment 2**.

The commercial uses currently operating from the six strata units on the subject site consist of the following:

- No. 400 Newcastle Street – Warehouse/office;
- No. 402 Newcastle Street – Use not confirmed (currently being investigated by the City);
- No. 404 Newcastle Street – Motor vehicle repair shop (subject tenancy);
- No. 406 Newcastle Street – Warehouse/office;
- No. 408 Newcastle Street – Use not confirmed; and
- No. 410 Newcastle Street – Use not confirmed (currently being investigated by the City).

The adjoining site to the east at Nos. 394-398 Newcastle Street, West Perth is zoned 'Commercial' and is vacant, however is currently being used for car parking. The adjoining western properties at Nos. 10-26 Harwood Place, West Perth and the adjoining northern property at No. 141 Fitzgerald Street, West Perth are zoned Residential/Commercial and coded R80 and are occupied by grouped dwellings and a number of detached multiple dwelling developments respectively.

The application states that the subject motor vehicle repair shop at No. 404 Newcastle Street has been operated by the applicant since 2003 when the business was purchased from the previous owner, who had been operating the business from the premises since 2001. The subject business provides motor vehicle repair services, with a focus on exhaust repairs, exhaust modifications and brake repairs.

The applicant provides all services as a sole operator and there are no other staff operating from the premises. Within the Motor Vehicle Repair Shop there are three working bays. In the car parking area directly adjacent to the subject building are four car parking bays allocated for the exclusive use of the Motor Vehicle Repair Shop and two common property visitor bays. The working bays and car parking areas are illustrated on the development plans included as **Attachment 2**.

The maximum number of vehicles serviced per day specified in the application is eight vehicles.

The hours of operation specified in the applicant's submission are as follows:

- Monday to Thursday: 8:00am – 4:30pm;
- Friday: 8:00am – 4:00pm;
- Saturday: by appointment only; and
- Sunday and Public Holidays: CLOSED.

In 2009 a neighbouring resident complained to the City alleging that waste collection was occurring at the subject property at 5:00am on weekdays. The City contacted the applicant and the waste collection contractor and advised that waste collection was not to occur prior to 7:00am on weekdays in accordance with the *Environmental Protection (Noise) Regulations 1997*. No further complaints were received on the matter.

In 2014 the City received a complaint from a different neighbouring resident alleging that loud vehicles were coming to and from the subject lot between the hours of midnight and 5:00am. At this time it was not determined which of the tenancies that this complaint was in relation to. In March 2016 the City received complaints from two neighbouring residents in relation to noise and pollution from the strata tenancies at Nos. 404, 408 and 410 Newcastle Street impacting the adjoining residential properties.

Following an investigation by the City, it was found that there is no current approval for the motor vehicle repair shop to operate from the subject site at No. 404 Newcastle Street. The applicant subsequently lodged the current application to seek retrospective approval for the change of use to address the noise and pollution issues. The complaints relating to the other tenancies are continuing to be investigated by the City.

DETAILS:

Summary Assessment

The table below summarises the planning assessment of the proposal against the provisions of the City of Vincent Town Planning Scheme No. 1 (TPS1) and the City's Policy No. 7.7.1 – Parking and Access. In each instance where the proposal requires the discretion of Council, the relevant planning element is discussed in the Detailed Assessment section following from this table.

Planning Element	Use Permissibility/ Deemed-to-Comply	Requires the Discretion of Council
Land Use		✓
Parking & Access	✓	

Detailed Assessment

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

Land Use	
Deemed-to-Comply Standard	Proposal
Town Planning Scheme No. 1 "P" Use	Unlisted Use (Motor Vehicle Repair Shop)

The above elements of the proposal that do not meet the specified deemed-to-comply standards are discussed in the Comment section that follows.

CONSULTATION/ADVERTISING:

Consultation was undertaken for a period of 14 days in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015*, from 11 May 2017 to 24 May 2017. A total of 143 letters were sent to owners and occupiers in proximity to the subject site, as shown in **Attachment 1**.

A total of four submissions were received comprising two objections, one letter of support and one general concern being received. The six key issues in the objections are summarised as follows:

- The proposed Motor Vehicle Repair Shop is not compatible with the surrounding residential development;
- Concerns that noise from the subject property impacts on the neighbouring residential properties;
- Emissions from the vehicles being serviced in the motor vehicle repair shop have a significant health impact on the adjoining residents;
- The use operates outside of the hours specified in the applicant's submission;
- The business is not a sole operator as stated in the applicant's submission and a number of mechanics operate from the premises; and
- The residential units adjoining the rear of the subject site were constructed in 1999, well before the subject business was established and its change of use would have been objected to if the proper permission had been sought when it began operating.

The main issues raised in the submissions are discussed in the Comment section that follows. A summary of the submissions received and Administration's response to each is contained in **Attachment 3**.

Design Advisory Committee (DAC):

Referred to DAC: No

LEGAL/POLICY:

- *Planning and Development Act 2005*;
- *Planning and Development (Local Planning Schemes) Regulations 2015*;
- *Environmental Protection (Noise) Regulations 1997*;
- City of Vincent Town Planning Scheme No. 1;
- Policy No. 4.1.5 – Community Consultation; and
- Policy No. 7.7.1 – Parking and Access.

Delegation to Determine Applications:

This matter is being referred to Council as the application proposes an Unlisted Use which requires an Absolute Majority Decision of Council under Clause 39(2)(b) of TPS 1.

RISK MANAGEMENT IMPLICATIONS:

It is Administration's view that there are minimal risks to Council and the City's business function when Council exercises its discretionary power to determine a planning application.

STRATEGIC IMPLICATIONS:

The City's Strategic Plan 2013-2023 states:

"Natural and Built Environment

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

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil

COMMENTS:Land Use

The subject premises is located in the Commercial zone and is directly adjacent to land zoned Residential Commercial with a residential coding of R80. The surrounding properties include a mix of commercial and residential uses, including grouped and multiple dwellings. The zoning of the subject and adjoining sites are not contemplated to change should the City's draft Town Planning Scheme No. 2 (TPS 2) be finalised.

The proposed land use of Motor Vehicle Repair Shop is not specifically mentioned in TPS 1 and cannot reasonably be determined as falling within the interpretation of one of the Use Class Categories of TPS 1. The use is considered an 'Unlisted Use' under TPS 1 and Council is required to consider if the use is consistent with the objectives and purposes of the Commercial zone, following community consultation.

During consultation, the objectors raised concerns that the applicant is not the sole operator and that a number of mechanics regularly operate from the premises. Following the consultation period, the City's officers attended the property and found that the three working bays and vehicle servicing equipment in the workshop could not be used for a high daily turnover of vehicle servicing or repairs. It is also specified in the application that the business has always operated on a small scale, as a sole operator, servicing a maximum of only eight vehicles per day with defined operating hours during weekdays and on Saturdays. A condition limiting the hours of operation and limiting the approval to one person operating at any given time would further address these concerns.

Other concerns raised during consultation relate to the potential for issues relating to noise and pollution which are discussed in detail in the following section and are considered to be able to be managed through a stringent Operational Management Plan to ensure that there is no impact on the neighbouring residents.

The proposed Motor Vehicle Repair Shop is considered to be compatible with both the existing and future commercial and residential uses in the immediate area. The limited number of working bays, small scale of the development and ability to manage the operational requirements of the use through a stringent Management Plan are considered to address any perceived impacts of the development on the amenity of the area. The application is supported on this basis and the land use is considered to be broadly consistent with the intent of the Commercial zone on the site and the Residential Commercial zone on adjacent lots.

Noise & Emissions

The subject lot has been the subject of a number of noise complaints since 2009. Whilst the noise complaint raised in 2009 was investigated and resolved by the City, the complaints raised in 2014 and 2016 are in relation to ongoing noise management issues at the subject lot. These noise issues are intended to be resolved in relation to this development through this development application.

When the City investigated the noise complaints in 2016, where it was alleged that the applicant was operating from early in the morning until late at night on Saturdays and Sundays, the applicant claimed that he was working on personal vehicles during these times.

During the community consultation period, two submissions commented that noise from vehicles being revved, high pressure equipment, power tools and the general nature of activity of the motor vehicle repair shop have had an ongoing adverse impact on the neighbouring residential properties. The impact is exacerbated by sound ricocheting between the other buildings on the subject site and the subject business operating on evenings and weekends. The objectors also commented that emissions from the vehicles being serviced on the site have had a negative health impact on the adjoining residents.

Under the Schedule 1 of the *Environmental Protection (Noise) Regulations 1997* (Noise Regulations) the use of Motor Vehicle Repair Station is classified as an 'Industrial and Utility Premises'. The adjoining residential land is classified as a 'highly sensitive area' as it contains areas for human habitation. It is difficult to precisely ascertain which use is generating noise due to the cumulative effects of the various activities on the subject lot, the surrounding commercial area and the sites location in close proximity to Newcastle Street and Fitzgerald Street.

The hours of operation specified in the applicant's submission are as follows:

- Monday to Thursday: 8:00am – 4:30pm;
- Friday: 8:00am – 4:00pm;
- Saturday: by appointment only; and
- Sunday and Public Holidays: CLOSED.

Table 1 of Regulation 8 in the Noise Regulations sets out the assigned noise levels for all premises and in this instance would allow the subject premises to operate between 7:00am and 7:00pm. However, due to the issues raised in the submissions which specifically raise concern in relation to the extent of noise during evenings and weekends it is recommended that reduced hours of operation are applied in this instance. It is recommended that specific hours of operation apply on Saturdays between 9am and 2pm and that the weekday hours of operation be aligned more broadly to general business hours beyond what the applicant has requested.

The use on site predominantly involves vehicle servicing specialising in exhaust repairs, modifications and brake repairs. These activities are not considered to be particularly noxious and given the small scale of the use as a sole operator it is considered appropriate for the detailed requirements of the emission control measures to be contained in the Management Plan. The measures discussed with the applicant include the potential to close the rear door to reduce the impact of any emissions on the residential properties to the rear, however any other specific measures will be identified through the Management Plan and will depend on the nature of any emissions.

To address the submissions raised in relation to noise and emissions from the use the City has recommended the inclusion of condition three for the preparation of a Management Plan. The Management Plan will identify the types of activities proposed on the site, the types of emissions and noise that are generated from these activities and provide the specific emission and noise control measures in response to these activities, as well as address other operational matters for the use.

At this time an Acoustic Report in accordance with the City's Policy No. 7.5.21 – Sound Attenuation is not required given the use is small scale and because the City has the ability to monitor the use and request that one be undertaken when the Management Plan is reviewed after 12 months should any concerns arise.

Conclusion

The Motor Vehicle Repair Shop is considered appropriate in the 'Commercial' zone adjacent to the 'Residential Commercial R80' zone on the basis that noise and emissions are controlled through a Management Plan. Administration recommends that the application is approved subject to conditions.

9.3	NOS. 452 - 460 (LOT: 1; D/P: 613) WILLIAM STREET, PERTH - CHANGE OF USE FROM SHOP TO TAVERN
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TRIM Ref: D17/104022
 Author: Steve Laming, Urban Planner
 Authoriser: Paola Di Perna, Manager Approval Services
 Ward: South
 Precinct: 13 – Beaufort

Attachments:

1. Attachment 1 - Consultation and Location Map [⇨](#) 
2. Attachment 2 - Development Plans [⇨](#) 
3. Attachment 3 - Summary of Submissions [⇨](#) 
4. Attachment 4 - Applicant's Response to Submissions [⇨](#) 
5. Attachment 5 - Management Plan [⇨](#) 
6. Attachment 6 - Car Parking Assessment [⇨](#) 
7. Attachment 7 - Determination Advice Notes [⇨](#) 

RECOMMENDATION:

That Council in accordance with the provisions of the City of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES the application for a change of use from Shop to Tavern at Nos. 452-460 (Lot: 1; D/P: 613) William Street, Perth, in accordance with the plans provided as Attachment 2 subject to the following conditions, with the associated determination advice notes in Attachment 7:

1. Use of Premises

The use shall be limited to:

- 1.1. A maximum of 22 customers shall be permitted within the indoor area at any given time;
- 1.2. A maximum of 28 customers shall be permitted within the outdoor alfresco area at any given time; and
- 1.3. The area shown as 'WINE STORE & BAR' on the approved ground floor plan shall only be used for the purpose of the proposed Tavern. The area shown as 'STORAGE AREA' on the approved first floor plan shall only be used for storage of goods associated with the Tavern on the ground floor;

2. Active Frontage

The development shall maintain an active and interactive relationship and uninterrupted views between the use of the development and William Street during the hours of the development's operation to the satisfaction of the City. Darkened, obscured, mirror or tinted glass or the like is prohibited. Curtains, blinds and other internal or external treatments that obscure the view of the 'WINE STORE & BAR', as shown on the approved ground floor plan, from William Street are not permitted to be used during the hours of the development's operation;

3. External Fixtures

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

4. Hours of Operation

The hours of operation shall be limited to the hours of

- Tuesday to Saturday and Sundays prior to public holidays: 7:00am to midnight;
- Ordinary Sundays and Public Holidays: 7:00am to 10:00pm; and
- Monday: CLOSED;

5. Acoustic Report

5.1. An Acoustic Report, in accordance with the City's Policy No. 7.5.21 - Sound Attenuation and State Planning Policy 5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning, shall be lodged with and approved by the City prior to the commencement of the development.

5.2. All of the recommended measures included in the approved Acoustic Report shall be implemented as part of the development, to the satisfaction of the City prior to the use or occupation of the development and maintained thereafter to the satisfaction of the City at the expense of the owners/occupiers.

6. Management Plan

6.1. An updated Management Plan in accordance with the City's Policy No. 7.5.7 - Licenced Premises shall be submitted to, and approved by the City prior to the development commencing. The updated Management Plan shall address the following matters and shall be in accordance with all conditions of this approval:

- Any recommendations detailed in the Acoustic Report (as per Condition 5 above)
- Floor plans of the premises;
- The maximum number of patrons;
- Hours of operation;
- Noise Management Plan;
- Patron and anti-social behaviour;
- Entertainment and Music; and
- Time and frequency of waste collection and deliveries at the premises

6.2. Use of the premises shall be carried out in accordance with the approved Management Plan or any Plan approved by the City thereafter and all requirements of the Management Plan shall be implemented to the satisfaction of the City;

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

7. Cash-in-Lieu

A cash-in-lieu contribution shall be paid to the City for the shortfall of 4.14 car bays, based on the cost of \$5,400 per bay as set out in the City's 2017/2018 Schedule of Fees and Charges being a contribution of \$22,356 prior to the commencement of development or by entering into a written agreement to the City to pay the cash-in-lieu over an agreed period up to five years; and

8. Heritage

8.1. The existing front double doors shall be retained in place; and

8.2. The original fabric to the bay windows shall be retained where it is extant.

PURPOSE OF REPORT:

To consider an application for development approval for a change of use from Shop to Tavern at Nos. 452 – 460 William Street, Perth.

BACKGROUND:

Landowner:	A Yozzi & F A Yozzi
Applicant:	S J Winfield
Date of Application:	16 June 2017
Zoning:	MRS: Urban, Other Regional Road Reservation TPS1: Zone: Commercial TPS2: Zone: District Centre
Built Form Area:	Town Centre
Existing Land Use:	Shop – “P”
Proposed Use Class:	Tavern – “SA”
Lot Area:	531m ²
Right of Way (ROW):	Not Applicable
Heritage List:	Management Category A, State Registered Place

The subject site is located on the corner of William Street and Brisbane Street and is within the William Street Town Centre. The site is zoned ‘Commercial’ and is currently occupied by five strata tenancies being Nos. 452, 454, 456, 458 and 460 William Street. The location of the subject site is included as **Attachment 1**.

The locality consists of a mix of residential and commercial properties, with the predominate uses in the vicinity being commercial. The adjoining properties to the south, west, east and north-west of the subject site are zoned ‘Commercial’ and are currently occupied by a mix of eating houses, shops, hair dressers, offices and recreational facilities. The properties on the north-western side of Brisbane Street are zoned Residential with a residential density code of R80. The property on the corner of Brisbane and Wade Streets is currently occupied by a hair and beauty salon, and the other properties along Brisbane Street are single houses. The nearest residential property on Brisbane Street is located approximately 35 metres from the subject site.

The existing buildings on the subject site are on the City’s Heritage List as Management Category A (Conservation Essential). The building was constructed in 1915 with shops on the ground floor and residences above for the shop tenants and their families. The two-storey corner building is a landmark structure in a prominent location and includes a cantilevered awning to the ground floor shops, with a high parapet brick and ornate stucco façade to the upper levels. The parapet steps down along William Street and features circular and hanging festoons in the alternate triangular and curved pediments and ball finials. There are no building works proposed to the external fabric of the building as part of the proposal. It is understood that the subject tenancy has been used as a shop since it was constructed in 1915 and the City’s records do not indicate that any other use has occupied or been approved for this tenancy.

The applicant is seeking approval to change the use of the strata tenancy at No. 458 William Street from a Shop to a Tavern. The proposal has been assessed as a Tavern as it is considered to fall within this use under the City’s Town Planning Scheme No. 1 as the primary use is for the consumption of beverages with majority of the floor area being identified for patron use and seating. The use also aligns with the Department of Local Government, Sport and Cultural Industries (DLGSCI) Tavern liquor licence and the applicant intends to seek this license type which permits the retail sale and on-site consumption of alcoholic beverages.

The applicant proposes for the Tavern to operate as a small retail wine store and bar that is focused on natural and minimal intervention wine and showcases Western Australian produce. The applicant expects the retail component will equate for 70 per cent of the sales with the dine-in/bar component equating for 30 per cent of sales.

The dine-in/bar component will offer meals and will incorporate an indoor area of 20 square metres and use 24 square metres of the area within the footpath reserve directly in front of the subject premises for alfresco seating. The indoor area will include a communal table and bar area. The proposal also includes an awning and under awning sign on the William Street elevation, which will display the name of the Tavern, ‘Wines of While’. The proposed development plans are included as **Attachment 2**.

The proposed maximum number of persons on-site at any one time is 50 customers and 4 staff. The proposed maximum number of customers in the indoor area at any time is 22 customers and the maximum number of customers in the alfresco area at any time is 28 customers.

The proposed hours of operation are as follows:

- Tuesday to Saturday: 7:00am – midnight;
- Sunday: 7:00am - 10:00pm; and
- Monday: CLOSED.

The applicant in their submission states that they seek approval to operate from 7:00am in order to provide a breakfast service should there be a consumer demand for the service, however the intended hours of operation are as follows:

- Tuesday to Saturday: 11:00am – midnight;
- Sunday: 11:00am - 10:00pm; and
- Monday: CLOSED.

DETAILS:

The table below summarises the planning assessment of the proposal against the provisions of the City of Vincent Town Planning Scheme No. 1 (TPS1) and the City's policies. In each instance where the proposal requires the discretion of Council, the relevant planning element is discussed in the Detailed Assessment section following from this table.

Planning Element	Use Permissibility/ Deemed-to-Comply	Requires the Discretion of Council
Land Use		✓
Parking and Access		✓
Signs and Advertising	✓	

Detailed Assessment

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

Land Use	
Deemed-to-Comply Standard	Proposal
Town Planning Scheme No. 1 'P' permitted land use	'SA' land use
Parking and Access	
Deemed-to-Comply Standard	Proposal
Local Planning Policy No. 7.7.1 Parking and Access 5 (4.14) car parking spaces	No parking proposed

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:

Consultation was undertaken for a period of 21 days in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015*, from 3 July 2017 to 23 July 2017. The method of consultation being a sign on site, a notice in the local newspaper 'The Voice', and letters being mailed to all owners and occupiers as shown on **Attachment 1**, in accordance with the City's Policy No. 4.1.5 – Community Consultation.

A total of 18 submissions were received in relation to the proposal comprising of six objections, eleven in support and one with general concerns. The main concerns raised in the submissions are summarised as follows:

- The proposal does not include the provision of any on-site car parking, which will result in staff and patrons having to utilise on-street parking on William Street and surrounding streets at the detriment of residents and other businesses; and
- The proposed hours of operation are excessive.

The main issues raised in the submissions are discussed in the Comment section below. A summary of the submissions received and Administration's response to each is contained in **Attachment 3**. The applicant has provided a response to the submissions in **Attachment 4**.

State Heritage Office

As the existing buildings on the subject land are on the City's Heritage List as a management Category A and is a State Registered Place, the application was referred to the State Heritage Office (SHO) for comment. The SHO supports the proposal subject to conditions and Administration recommends the conditions are imposed.

Design Advisory Committee (DAC):

Referred to DAC: No

LEGAL/POLICY:

- *Planning and Development Act 2005*;
- *Planning and Development (Local Planning Schemes) Regulations 2015*;
- City of Vincent Town Planning Scheme No. 1;
- Policy No. 4.1.5 – Community Consultation;
- Policy No. 7.5.2 – Signs and Advertising;
- Policy No. 7.5.7 – Licenced Premises;
- Policy No. 7.5.21 – Sound Attenuation;
- Policy No. 7.6.1 – Development Guidelines for Heritage and Adjacent Properties; and
- Policy No. 7.7.1 – Parking and Access.

The applicant will have the right to have Council's decision reviewed by the State Administrative Tribunal (SAT) in accordance with Part 14 of the *Planning and Development Act 2005*.

Delegation to Determine Applications:

This matter is being referred to Council for determination as the application proposes a Tavern which is a Category 1 use in the City's Delegated Authority Register 2016/17 and requires a decision of Council.

RISK MANAGEMENT IMPLICATIONS:

It is Administration's view that there are minimal risks to Council and the City's business function when Council exercises its discretionary power to determine a planning application.

STRATEGIC IMPLICATIONS:

The City's Strategic Plan 2013-2023 states:

"Natural and Built Environment

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

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:Land Use

The subject premises is located in a 'Commercial' zone within the William Street Town Centre, which consists of a mix of eating houses, shops, offices, small bars, recreational facilities, a place of public worship and multiple dwellings. A Tavern is a "SA" use in the Commercial zone in the City's Town Planning Scheme No. 1 (TPS 1) Zone Table. The City's TPS 1 does not provide any objectives for a Commercial zone.

The City's TPS 1 provides the following definition of Tavern:

"Means any building wherein the primary use is the consumption of beverages and may include an eating house or facilities for entertainment and to which a license may have been granted under the provisions of the Liquor Licensing Act 1988".

Although the proposal has been assessed as a Tavern to align with the DLGSCI's Tavern liquor licence, which permits the retail sale and on-site consumption of alcoholic beverages, the use is small scale and will not function like a large tavern with high patron numbers and loud entertainment. The use will have the appearance and atmosphere of a small wine store and bar.

The subject site and adjoining Commercial zoned land on William Street is proposed to be rezoned to District Centre under draft Town Planning Scheme No. 2 (TPS 2), to align with the Western Australian Planning Commission's Activity Centre hierarchy. The adjoining north-western land that is currently zoned Residential with a residential density code of R80 on the opposite side of Brisbane Street is proposed to be rezoned to Residential Commercial with a residential density code of R80 under draft TPS 2.

A 'Tavern' is proposed to be included as an "A" use in the District Centre zone in the City's draft TPS 2, which means that the use is not permitted unless the City has exercised its discretion by granting planning approval after giving special notice.

Given that there are a number of licenced venues currently operating within the William Street Town Centre and the surrounding locality, it is considered that the proposed Tavern use is consistent with the existing Commercial zone and compatible with the intent of the District Centre zone and the Residential/Commercial zone under TPS 2.

Hours of Operation

The applicant seeks approval to operate between the hours of 7:00am to midnight Tuesday to Saturday and 7:00am to 10:00pm on Sunday in order to provide a breakfast service if consumer demand permits, however the intended trading hours are 11:00am to midnight Tuesday to Saturday and 11:00am to 10:00pm on Sunday.

There are currently two other late night licenced Taverns in proximity to the subject site:

- The 399 Bar located approximately 130 metres south of the subject site on William Street currently operates from 4:00pm to midnight Monday to Saturday and 4:00pm to 10:00pm on Sunday; and
- The Fuse Bar, which is located within The Hotel Northbridge approximately 250 metres west of the subject site, currently operates from 12:00pm – 11:00pm Monday to Thursday and Sunday, and 12:00pm to midnight Friday and Saturday.

There are a number of eating houses in proximity to the subject site that operate until as late as 10:00pm during the week and until 10:30pm on weekends.

During the community consultation period one submitter questioned the need for the premises to be open until midnight in the middle of the week given the site's proximity to residential dwellings. The City's Policy No. 7.5.7 – Licenced Premises provides standards for indoor and outdoor areas based on the zoning of the land.

There is land zoned Residential R80 located directly adjacent to the subject site, on the opposite side of Brisbane Street with a number of residential dwellings fronting Brisbane Street. In addition, there is a Residential Commercial zone situated approximately 25 metres from the eastern boundary of the subject site, on the same side of Brisbane Street where there are single and strata dwellings.

In their response to these concerns, the applicant has stated that noise management strategies will be applied to mitigate noise impacts on neighbouring residential properties, including no music being played in the alfresco area.

Given that there are already two licenced venues in proximity to the subject site operating until as late as midnight, the applicant's proposed trading hours are reasonable and appropriate given the subject site's location in a 'Commercial' zone within the William Street Town Centre. However, the applicant has not provided an acoustic report with their submission, which would identify actions or measures that could be included in an ongoing noise management plan for the subject property to mitigate any noise impacts on neighbouring residential properties. This is also a requirement of Clause 3.9 in the City's Licensed Premises Policy and as a result a condition is recommended requiring the submission and approval of an acoustic report to demonstrate that the operations of the use and attenuation measures will mitigate noise consistent with the Noise Regulations.

Parking

In accordance with the City's Policy No. 7.1.1 – Parking and Access, the proposal requires a total of 4.14 bays, rounded up to five, car parking spaces to be provided on-site, taking into account adjustment factors and existing car parking bay shortfalls for the tenancy as provided in the Policy. The parking assessment included as Attachment 6, identifies that an existing 1.3 car parking bay shortfall for the existing shop, calculated in accordance with Clause 1.4 of the Policy, can be applied. There is no existing car parking facilities located on the subject site for any of the strata tenancies and there is no ability to provide parking due to the location and size of the existing buildings.

In their submission the applicant has acknowledged the lack of on-site parking, and seeks Council's discretion to apply a 50 percent reduction to the cash-in-lieu requirement for the car parking shortfall on the basis that the development is small scale, is within walking distance to the target clientele and has a limited budget. The applicant has also requested that if a cash-in-lieu payment is required, that the payment be made over a five year payment plan. The applicant has not provided a car parking survey to demonstrate that there is sufficient capacity in the on-street and public car parking in the locality to cater for the likely demand for parking generated from this development.

During the community consultation period a number of submitters expressed concern at the lack of on-site car parking, and commented that street parking in the locality is already at a premium.

The City has received complaints in relation to the following parking issues in the locality:

- On-street parking is always full on Wade Street, which is a cul-de-sac located approximately 30 metres north of the subject site on the opposite side of Brisbane Street, due to non-resident vehicles parking in the street for extended periods; and
- On-street parking in the locality is heavily congested on Fridays between 12:00pm and 2:00pm due to people attending the Mosque at No. 427 William Street, Perth, which is located approximately 30 metres south of the subject site on the opposite side of William Street.

The City's Parking and Access Policy states that Council may, at its discretion, waive the car parking requirements for change of use applications to provide additional on-site car parking, including waiving cash-in-lieu requirements in the following instance:

- where the application does not involve the reduction of existing on-site car parking bays as part of the application;*
- where the application does not involve any building works that contribute to additional floor area that would be subject to parking requirements; and*
- where a current planning approval required payment of cash-in-lieu but that approval has not been acted upon in any way including payment of cash-in-lieu in part or in full."*

The City's Parking and Access Policy also states that the above provisions do not apply to any change of use applications for a Tavern.

Administration has considered the applicant's request and justification for a reduced cash-in-lieu payment and provides the following evaluation:

- The proposed development will not provide any on site bays and is likely to generate additional demand for parking in the locality. Given that there is a general need for more parking in the William Street Town Centre, the proposed use will increase parking demand in the area, and the development does not provide any on-site parking, it is reasonable that the City require a cash-in-lieu payment to contribute towards the provision and/or upgrading of existing and future car parking facilities in the locality.
- Although the proposed development is relatively small scale and is likely to have some clientele within walking distance, it is still considered that it would generate additional demand for parking in the immediate area. Although the applicant has acknowledged that the development has a limited budget, reducing the cash-in-lieu amount required to be paid would set an undesirable precedent and is not supported by the City in this instance and in accordance with the City's Parking and Access Policy. It is recommended that Council require the applicant to provide a cash-in-lieu payment for the required six parking bays.
- The City acknowledges that the requirement for the payment of cash-in-lieu can impact new businesses and supports the request to pay the cash-in-lieu over a five year payment plan. This is reflected in the relevant recommended condition and advice note.

Management Plan

As part of the application, the applicant provided a Management Plan with their submission which details how the Tavern's House Policy and Code of Conduct will be implemented to control responsible service of alcohol, which is required as part of a liquor licence application the DLGSCI. The applicant's House Policy, Code of Conduct, and Management Plan is included as Attachment 5.

The City's Policy No. 7.5.7 – Licenced Premises requires all applications for licenced Taverns to be supported by a Management Plan that includes the following:

- *Floor plans of the premises;*
- *Noise control and management;*
- *The maximum number of patrons;*
- *Hours of operation;*
- *Patron and anti-social behaviour;*
- *Traffic;*
- *Car Parking;*
- *Rubbish collection and disposal and litter associated with the development; and*
- *Any other appropriate matters, as required by the City's Chief Executive Officer."*

It is recommended that a condition is imposed requiring an updated Management Plan be submitted to, and approved by the City prior to the submission of a Building Permit application, which addresses the following matters in accordance with all recommended conditions of this approval:

- Floor plans of the premises;
- The maximum number of patrons;
- Acoustic Report and Noise Management Plan;
- Hours of operation;
- Patron and anti-social behaviour;
- Deliveries; and
- Waste management.

Administration recommends that the proposal be approved subject to conditions.

9.4	NOS. 1-16/17 (LOTS: 1-16; STR: 59813) HARWOOD PLACE, WEST PERTH - CHANGE OF USE FROM MULTIPLE DWELLINGS TO SERVICED APARTMENTS (AMENDMENT TO APPROVAL)
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TRIM Ref: D17/115525

Author: Steve Laming, Urban Planner

Authoriser: Paola Di Perna, Manager Approval Services

Ward: South

Precinct: 13 – Beaufort

Attachments:

1. Attachment 1 - Consultation and Location Map [⇒](#) 
2. Attachment 2 - Previous Development Approval Granted 3 May 2016 [⇒](#) 
3. Attachment 3 - Existing Approved Management Plan - May 2016 [⇒](#) 
4. Attachment 4 - Proposed Updated Management Plan - September 2017 [⇒](#) 
5. Attachment 5 - Summary of Submissions [⇒](#) 
6. Attachment 6 - Applicant's Justification Report and Response to Submissions [⇒](#) 
7. Attachment 7 - Recommended Condition 4 & 5 Track Change [⇒](#) 

RECOMMENDATION:

That Council in accordance with the provisions of the City of Vincent Town Planning Scheme No. 1 and the Metropolitan Region Scheme, APPROVES the application to amend the conditions for development approval 5.2015.568.1 granted on 3 May 2016 for a Change of Use from Multiple Dwellings to Serviced Apartments at Nos. 1-16/17 (Lots: 1-16; STR: 59813) Harwood Place, West Perth subject to the following:

1. All conditions and advice notes detailed on development approval 5.2015.568.1 granted on 3 May 2016 included as Attachment 2 continue to apply to this approval, except as follows:
 - 1.1. Condition 4 of the development approval is as follows:
 - "4. *The serviced apartments shall include within the entrance, foyer or lobby of the premises a reception desk which shall be attended by staff during scheduled guest check-ins and check-outs*";
 - 1.2. Condition 5 of the development approval is deleted and replaced as follows:
 - "5. *Within 28 days of the issue date of this approval the Management Plan included as Attachment 4 shall be amended, submitted to, and approved by the City, to include the following:*
 - *All guests/residents of the Serviced Apartments are subject to a one strike policy, whereby should any unacceptable noise/disturbance/anti-social behaviour be reported and verified by staff, the offending guests/residents shall be required to leave the premises immediately and shall be banned from occupying the premises in the future. This information shall be documented and registered with the City of Vincent;*
 - *24 hour contact details of the Serviced Apartments owners, licensed operator and the relevant security company, to be provided to all owners/occupiers of the adjoining residential properties on Harwood Place and made available at all times on the serviced apartment's website;*
 - *The two car parking bays accessed from Harwood Place shall be labelled as 'pick up/drop off' bays for use by on-demand transport or buses and shall not be used by guests;*
 - *A Code of Conduct detailing the expected behaviour of guests/residents in order to minimise any impact on adjoining residents;*
 - *No more than six guests/residents shall be permitted in any Serviced*

- *Apartment at any one time;*
 - *Minimum three night stay for all guests of the serviced apartments;*
 - *Each serviced apartment shall be provided with one dedicated parking bay to encourage patrons and/or visitors to use the onsite parking facilities; and*
 - *A record of complaints and enquiries logged, and the applicant's response, is to be provided as requested or on a 6 monthly basis to the City of Vincent.*
- 5.1 *The Management Plan shall be reviewed every 12 months, with any changes identified during this review or by the City, being incorporated into an updated Management Plan approved by the City as part of the review."*

PURPOSE OF REPORT:

The application seeks a review of Conditions 4 and 5 of the previous approval (5.2015.568.1) granted on 3 May 2016 for Change of Use from Multiple Dwellings to Serviced Apartments at Nos. 1-16/17 Harwood Place, West Perth in accordance with Clause 77(1)(b) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

BACKGROUND:

Landowner:	Boldform Pty Ltd
Applicant:	Urbanista Town Planning
Date of Application:	16 January 2016
Zoning:	MRS: Urban TPS1: Zone: Residential Commercial R Code: R80 TPS2: Zone: Residential Commercial R Code: R80
Built Form Area:	Mixed Use
Existing Land Use:	Serviced Apartments
Proposed Use Class:	Serviced Apartments - "SA" Use
Lot Area:	759m ²
Right of Way (ROW):	Not Applicable
Heritage List:	Not Applicable

The subject site is located at the end of the cul-de-sac on the western side of Harwood Place. The site is zoned Residential Commercial with a residential density coding of R80. The location of the subject site is included as **Attachment 1**.

The locality consists of a mix of residential and commercial properties. The adjoining properties on the western and eastern sides of Harwood Place at the southern end of the street are zoned Commercial and are occupied by showroom, warehouse, shop and office uses. The land abutting the southern boundary of the subject site is a car parking area to the adjoining commercial property at No. 430 Newcastle Street, West Perth.

On the eastern side of Harwood Place there are nine heritage listed grouped dwellings, which are also zoned Residential Commercial with a residential density coding of R80, and are occupied as residences. Abutting the northern boundary of the subject site is a car parking area to the adjoining multiple dwelling development at Nos. 15-19 Carr Street, West Perth.

The north-western adjoining site at Nos. 27-29 Carr Street, West Perth is currently under construction and will be accommodating the new West Perth Fire Station.

Between 2013 and 2016 the subject site operated as serviced apartments without the approval of the City. On 3 May 2016 Council approved an application for a retrospective Change of Use from Multiple Dwellings to Serviced Apartments for the site. The approval notice and approved plans are included as **Attachment 2**.

An investigation by the City found that the development has complied with all conditions of the approval, with the exception of Condition 4 and Condition 1.2.1.

Condition 4 of the approval required the serviced apartments to include a reception desk as follows:

"4. The serviced apartments shall include within the entrance, foyer or lobby of the premises a reception desk which shall be attended by staff at all times".

Since the approval was granted by Council on 3 May 2016 the City has received two complaints alleging that the serviced apartments did not have a reception desk that was attended at all times as required by Condition 4 of the development approval. The City investigated these complaints and it was found that a small table and two chairs is provided however it is not attended at all times and is only attended during scheduled guest check-in and check-out. The current application proposes to amend this condition to allow the reception area to be attended by a staff member by appointment only for scheduled guest check in and out rather than at all times.

Condition 1.2.1 requires the serviced apartments to operate in accordance with the amended Management Plan. The approved Management Plan states that the minimum night stay is three nights, however as part of the assessment of this application the City identified that the applicant had proposed a change to a minimum two night stay. This is currently reflected on the Zappeion Apartments website so the development is currently in breach of the Management Plan.

Condition 5 of the current approval required the applicant to provide the City with an updated Management Plan for the serviced apartments as follows:

"5. Within 28 days, the Management Plan shall be amended to include the following information to the satisfaction of the City:

- 5.1 All guests/residents of the Serviced Apartments are subject to a one strike policy, whereby should any unacceptable noise/disturbance/anti-social behaviour be reported and verified by staff, the offending guests/residents shall be required to leave the premises immediately and shall be banned from occupying the premises in the future. This information shall be documented and registered with the City of Vincent;*
- 5.2 24 hour contact details of the Serviced Apartments owners, licensed operator and the relevant security company, to be provided to all owners/occupiers of the adjoining residential properties on Harwood Place;*
- 5.3 The two existing onsite visitor car parking bays accessed from Harwood Place shall be reallocated as 'pick up/drop off' bays for use by on-demand transport or buses and shall not be used by guests;*
- 5.4 A Code of Conduct detailing the expected behaviour of guests/residents in order to minimise any impact on adjoining residents; and*
- 5.5 No more than six guests/residents shall be permitted in any Serviced Apartment at any one time".*

On 25 May 2016 the City received an updated Management Plan to the satisfaction of the City (included as Attachment 3).

The current application proposes an amendment to the Management Plan required by Condition 5, as follows:

- Renaming of 'Verandah Apartments' to 'Zappeion Apartments' due to change of management company;
- Reception hours to be aligned with the reconsideration of Condition 4, as outlined above;
- Updated security details to clarify that there is 24-hour CCTV cameras within and around the building and security patrols; and
- Reduction of three night minimum stay to two nights.

A copy of the applicant's justification for the amendments is included as Attachment 6 and a copy of the proposed Management Plan is included as Attachment 4. It is understood that the premises has been under new management since approximately September 2016.

DETAILS:**Summary Assessment**

The table below summarises the planning assessment of the proposal against the provisions of the City of Vincent Town Planning Scheme No. 1 (TPS1) and the City's Policy No. 7.4.5 – Temporary Accommodation.

Planning Element	Use Permissibility/ Deemed-to-Comply	Requires the Discretion of Council
Temporary Accommodation	✓	

CONSULTATION/ADVERTISING:

The application was advertised for a period of 14 days in accordance with the *Planning and Development (Local Planning Scheme) Regulations 2015*, from 13 March 2017 – 26 March 2017. The method of advertising included 76 letters being mailed to all owners and occupiers within close proximity to the subject site, as shown on Attachment 1, in accordance with the City's Policy No. 4.1.5 – Community Consultation.

A total of 20 submissions were received, including eighteen objections, one support and one with general concerns. The main concerns raised by the objections are as follows:

- Concerns that without a 24/7 reception desk management is not able to adequately respond to and resolve complaints after a disturbance occurs;
- Concerns regarding noise and antisocial behaviour associated with the use and its impact on amenity within the locality; and
- Concerns regarding the accommodation operators charging occupants for on-site parking.

A summary of the submissions received and Administration's response to each concern raised is contained within Attachment 5. The applicant's justification for the proposal and its response to the neighbour concerns raised during consultation is included in Attachment 6.

Design Advisory Committee (DAC):

Referred to DAC: No

LEGAL/POLICY:

- *Planning and Development Act 2005*;
- *Planning and Development (Local Planning Schemes) Regulations 2015*;
- City of Vincent Town Planning Scheme No. 1;
- Policy No. 4.1.5 – Community Consultation; and
- Policy No. 7.4.5 – Temporary Accommodation.

The request to amend the aforementioned condition of development approval is made in accordance with Clause 77(1)(b) of Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, which enables an application to be made requesting the local government amend or delete any condition to which a development approval is subject to.

The applicant will have the right to have Council's decision reviewed by the State Administrative Tribunal (SAT) in accordance with Part 14 of the *Planning and Development Act 2005*.

Policy No. 7.4.5 – Temporary Accommodation

City's Policy No. 7.4.5 – Temporary Accommodation, which requires a reception desk to be staffed during check-in and check-out times as follows:

"2.5.1 ... Applications for Serviced Apartments shall include within the entrance, foyer or lobby a reception desk which shall be attended by staff at all times when apartment check-ins and check-out can occur."

Delegation to Determine Applications:

This matter is being referred to Council as the application proposes to modify conditions of a previous approval determined by Council.

RISK MANAGEMENT IMPLICATIONS:

It is Administration's view that there are minimal risks to Council and the City's business function when Council exercises its discretionary power to determine a planning application.

STRATEGIC IMPLICATIONS:

The City's Strategic Plan 2013-2023 states:

"Natural and Built Environment

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

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:Reception

The application seeks to amend the condition relating to the reception hours, with consideration for the reception to be attended by a staff member by appointment only for scheduled guest check ins and outs rather than at all times.

Since approval was granted by Council on 3 May 2016, the City has received two complaints alleging that the serviced apartments did not have a reception desk that was attended at all times as required by Condition 4 of the approval. Following the complaints the City investigated this matter which resulted in the lodgement of this application.

During the consultation period concerns were raised that a reception desk that is attended at all times is necessary to allow operators/management to respond to and resolve complaints immediately once a disturbance occurs, provides increased security at the premises, and is a deterrent to patrons/guests of the serviced apartments from activities that may impact the adjoining residential properties and businesses. Concerns were also raised that noise and anti-social behaviour from patrons/guests at the serviced apartments have had an adverse impact on the businesses and the amenity of the residential properties.

The proposed modification to the reception operating hours complies with the City's Policy No. 7.4.5 – Temporary Accommodation, which requires a reception desk to be attended during check-in and check-out times. Administration considers that a reception that is attended at all times, as required by Condition 4 of the previous approval, is onerous for serviced apartments, given that guest check ins and outs are not as frequent as that at a hotel, where a 24/7 reception is commonplace.

It is considered appropriate to deal with the concerns raised in the submissions through the complaints management procedure set out in Section 6.0 of the Management Plan rather than having a person in attendance at all times. It is recommended that an additional part to Condition 5 be included which requires a record of complaints to the operators be submitted to the City as requested or on a six monthly basis so that the City can ensure that this procedure is being followed. Administration supports the proposal to modify Condition 4 to require the reception desk to be attended during scheduled guest check ins and outs only.

Noise and Anti-Social Behaviour

Since approval was granted by Council on 3 May 2016, the City has received one complaint related to loud music from the subject site on a Friday night. With regards to the noise complaint received, on the night of the disturbance the City's Officers contacted the complainant by phone, who advised that there were people on a balcony at the serviced apartments playing music loudly, and alleged that this type of disturbance was a regular occurrence at the serviced apartments. During the phone call the complainant advised the City's Officers that the noise had subsided and therefore there was no need for their attendance. The City's Officers advised the complainant that they could attend Harwood Place to provide a visual presence in the street to deter any further disturbances on the night, however that anti-social noise was a Police matter.

During the community consultation period, a number of submitters commented that guests of the serviced apartments regularly exhibit anti-social behaviour on and around the subject premises and in Harwood Place, including illegal activity, theft, damage, fighting and obscene language. Comments were also received in relation to noise from the serviced apartments having an adverse impact on the amenity of neighbouring properties, particularly on weekends.

The applicant in their submission states that the serviced apartments manager or security firm has not been contacted by any residents, the City's Officers, or Police regarding anti-social behaviour or the noise complaint received by the City, which would have prompted staff and/or security to follow the complaints management procedure set out in the approved Management Plan. The applicant in their submission does, however, provide details of a noise complaint received by the manager of the serviced apartments from a neighbouring resident after the community consultation period subject to this application. The applicant states that the noise complaint was received at 8:00pm on a Saturday and following investigation by the manager, it was found that four persons had been talking on the balcony. The applicant has outlined that the guests were advised to keep their voices down and no further complaints have since been received.

As part of this application, the applicant provided an updated Management Plan (included as Attachment 4), which sets out a complaints management procedure for minor and major disturbances, including incident response and resolution timeframes, as follows:

- Prior to staying at the serviced apartments, all guests are required to sign terms and conditions that on 26 May 2017 set out a one-strike policy, whereby in the event that any noise, anti-social behaviour or other disturbance is reported to and verified by staff, the offending guests/residents will be required to leave the premises immediately and banned from occupying the premises in the future;
- The 24-hour contact details of the serviced apartments owners, licenced operator and the relevant security company will be provided to all guests of the serviced apartments and owner/occupiers of the adjoining residential properties on Harwood Place for the purposes of reporting any disturbances;
- Definitions of minor versus major disturbances;
- Minor disturbance – If a complaint is received by the manager or security regarding a minor disturbance the guests will first be contacted by phone to cease activities and establish whether the complaint is valid. If a second complaint is received and validated, the manager and/or security firm will attend the premises to advise the guests to cease the undue noise and will remain on the premises for one hour. In the event that a minor noise disturbance occurs again the guests will be evicted immediately; and
- Major disturbance – If a complaint is received by the manager or security regarding a major disturbance (such as a party or fight), the manager and/or security firm will attend the premises within 30 minutes of the phone call to establish if the complaint is valid, and if validated, the guests will be evicted.

The updated Management Plan provides the following security measures to monitor activity at the serviced apartments and address any disturbances should they arise:

- 24-hour CCTV cameras within and around the building that can be accessed by staff at all times;
- Access to the premises, including the front lobby area, car parking area, and all apartments are controlled by keys and smart cards, which are issued to guests and staff only; and
- 24-hour monitoring by a security firm, which includes vehicle patrols and walk throughs.

It is considered that the updated management plan addresses the concerns raised during consultation through improved security measures and complaints management procedures, which provides all parties with a clear guide of how disturbances will be prevented in the first instance and responded to should any arise.

Minimum Accommodation Duration

The applicant has updated the Management Plan (included as **Attachment 4**), to reduce the minimum stay of three nights to two nights. The applicant states in their submission that the average stay is four nights and that, *'the two night minimum stay prevents people from leasing the apartments for weekend periods only, whereby it is more likely that noise and other disturbances may occur'*.

Given that a two night stay could include Friday and Saturday night, it is reasonable for the minimum stay requirement in the Management Plan to remain as three nights, to discourage people from booking in the venue for activities likely to cause disturbances, such as weekend parties. A condition is recommended that an updated Management Plan be submitted to and approved by the City that retains the minimum accommodation duration of three nights.

Parking

Council has previously approved a parking shortfall for the development and required the drop off / pick up bays to be provided. The application does not propose to alter the existing parking arrangements for the Serviced Apartments.

Since the approval was granted by Council on 3 May 2016, the City has received 16 complaints relating to parking issues on Harwood Place. During community consultation, concern was raised that the City's Officers regularly issue parking infringements to guests of the serviced apartments for parking too long in time restricted on-street parking on Harwood Place. The City's records confirm that in response to each complaint received, the City's Officers attended the locality and issued infringements where warranted, however the City's Officers could not confirm if any of the cars being infringed belonged to guests of the serviced apartments.

Concern was also raised during community consultation that patrons and/or visitors are charged a fee, additional to the serviced apartment booking fee, to park in the secured parking area of the building, resulting in some guests opting to park on the street at the detriment of residents who are unable to find parking. The applicant in their submission states that charging for car parking is consistent with management practices for serviced apartments.

The total number of 16 on-site parking bays for the serviced apartments satisfies the requirements of the City's Policy No. 7.7.1 – Parking and Access, which requires the development to provide a minimum of one car bay per serviced apartment in accordance with the Residential Design Codes requirements for multiple dwellings. However, the parking management of the serviced apartments, whereby an on-site parking bay is only provided to a serviced apartment if an additional fee is paid, means that each serviced apartment does not have a minimum of one on-site car bay at all times and therefore the development does not comply with the City's Policy No. 7.7.1 – Parking and Access. It is therefore recommended that a condition be imposed as part of the Management Plan which requires each serviced apartment to be provided with one dedicated parking bay to encourage the use of the on-site parking facilities.

Contact Details

Condition 5.2 of the current approval conditions the Management Plan to include a requirement for the contact details of the Serviced Apartment owners, licensed operators and the relevant security company, to be provided to all owners and occupiers of the adjoining residential properties on Harwood Place. Clause 2.1.3(b) of the City's Temporary Accommodation Policy requires complaints management procedures which include the provision of the telephone number of the accommodation owner and operator to the adjoining neighbours. Section 6.0 of the proposed Management Plan identifies that the contact details will be provided to owners/occupiers of the residential properties on Harwood Place and this is considered to satisfy the Policy requirement. It is recommended that the current condition be amended to also require the Management Plan to ensure that the contact details are made available at all times on the Serviced Apartments website.

Conclusion

The proposal for the reception desk to be staffed during scheduled appointments for guest check ins and outs is consistent with the City's Policy No. 7.4.5 – Temporary Accommodation. In order to assist with addressing concerns raised during consultation, the applicant's updated Management Plan provides a number of security measures and a complaints management procedure, which sets out a clear guide of how disturbances will be prevented in the first instance and responded to should any arise. The applicant's proposal to reduce the minimum stay from three nights to two nights is not considered to be appropriate and it is therefore recommended that the minimum stay remain at three nights. In order to ensure that the development complies with the minimum car parking requirements it is recommended that the Management Plan is updated to provide each serviced apartment with one dedicated car bay. A tracked change version of recommended Condition 4 and 5 is included as Attachment 7.

It is recommended that Conditions 4 and 5 of the previous approval be amended as recommended.

10 TECHNICAL SERVICES**10.1 HYDE STREET RESERVE - PROPOSED EXTENSION**

TRIM Ref: D17/116556

Author: Jeremy van den Bok, Manager Parks & Property Services

Authoriser: Jeremy van den Bok, Manager Parks & Property Services

Attachments: 1. Summary of Comments - Proposed Extension of Hyde Street Reserve [↔](#) 
2. Plan No. 3435-CP-01(A) [↔](#) 

RECOMMENDATION:

That Council:

1. **NOTES** the comments received during the community consultation on regarding the proposal to extend Hyde Street Reserve as shown in Attachment 1;
2. **ENDORSES** the proposed extension of Hyde Street Reserve by permanently closing off a portion of Hyde Street, Mount Lawley as shown on the attached Plan No. 3435-CP-01A (Attachment 2) subject to the formal road closure proceedings being enacted and concluded in accordance with 3 and 4 below;
3. **GIVES** local public notice, pursuant to section 3.50(4) of the *Local Government Act 1995*, of the proposed closure to vehicular traffic of a portion of Hyde Street, Mount Lawley between Forrest Street and Alma Road as shown on attached Plan No. 3435-CP-01A (Attachment 2);
4. **DELEGATES BY ABSOLUTE MAJORITY** to the Chief Executive Officer the powers, pursuant to sections 3.50(1) and 3.50(4) of the *Local Government Act 1995*, to consider and determine any submissions made in relation to the local public notice given in 3 above and to order that Hyde Street, Mount Lawley is permanently closed to the passage of vehicles between Forrest Street and Alma Road; and
5. **NOTES** the City's application for a "Stronger Communities" grant for \$20,000 and Administration's intention to increase the project scope and budget to include solar lighting in the event that the grant application is successful and **THANKS** Federal Member for Perth, Tim Hammond MP for his support of that application.

PURPOSE OF REPORT:

To consider the outcome of the public consultation regarding the proposal to extend Hyde Street Reserve by permanently closing a portion of Hyde Street, Mount Lawley adjacent to the park.

BACKGROUND:

At its Ordinary Meeting held on 27 June 2017, Council considered a report in regard to the proposed extension of Hyde Street Reserve by closing off a portion of Hyde Street, Mount Lawley.

Having considered the report, Council approved the following:

- “1. *CONSULTS* with the local community on the concept plan to close Hyde Street to through traffic, other than pedestrian's and bicycles between Forrest Street and Alma Road to facilitate the extension of the Hyde Street Reserve as a 'roads to parks' demonstration project, as shown on attachment 1;
2. *LISTS* for consideration an amount of \$120,000 in the Draft 2017/18 Budget to extend Hyde Street Reserve, subject to Council's formal approval after consideration of feedback received during community consultation.”

DETAILS:Park Extension:

As outlined in the previous report to Council, the proposed park extension would consist of a simple design to reflect and add to what currently exists (as shown in Attachment 2). The proposal has been favourably accepted by the majority of respondents, which includes the three properties immediately affected and adjacent the park.

The majority of ideas received throughout the consultation period are supported and the comments received against the proposal were related to reduced parking and traffic congestion which was addressed in the initial report to Council. Given the low traffic volume recorded in the northern section of Hyde Street (128 vehicles per day) it was considered that the redistribution of traffic on surrounding individual streets would be negligible.

Stronger Communities Grant Application:

It should also be noted that the City has recently been invited by the Federal Member for Perth, Tim Hammond MP, to formally apply for a \$20,000 grant for this project under the Stronger Communities Programme.

The programme supports the Australian Government's commitment to deliver social benefits across Australia by funding small capital projects. Officers are currently working on a grant application to provide for solar lighting within Hyde Street Reserve as part of the overall project.

Road Closure:

In accordance with section 3.50(1a) of the *Local Government Act 1995*, a Local Government may order that a thoroughfare that it manages is wholly or partially closed to the passage of vehicles for a period exceeding 4 weeks. However, prior to making such an order, section 3.50(4) requires that the proposal must be advertised by means of public notice and that any submissions made must be duly considered.

Subject to Council's decision on this item, Administration will proceed to advertise the proposal to close the road by public notice as soon as possible. Administration is recommending that Council then delegates the powers to consider any submissions made and make the order to permanently close Hyde Street, Mount Lawley between Forrest Street and Alma Road to the Chief Executive Officer. Delegating these powers will allow any decision in relation to the road closure to be made sooner and will therefore have a positive impact on the project schedule, however it is Council's prerogative to either delegate these powers or require a further report to be submitted to Council for its consideration. Given the outcome of the consultation that has already taken place in relation to the reserve, Administration expects that the road closure will be largely supported by the community.

Following the advertising period, should Council approve the proposed closure of Hyde Street between Alma Road and Forrest Street, Mount Lawley, then a request would be made to the Minister for Lands in accordance with the *Land Administration Act 1997* and should approval be granted by the Minister, then notification would be forwarded to the relevant service authorities, emergency services and affected residents confirming the permanent closure of this portion of Hyde Street.

Implementation:

While the nature of possible public submissions and/or objections is difficult to anticipate in respect of service authorities the impact is limited to the Water Corporation (sewer), Optus (Fibre optic) and ATCO Gas (medium pressure gas main), all of which will continue to be fully accessible. While the minimum public notice period under the Act is 7 days it is proposed to apply the industry standard 14 days. On the basis proposed closure is advertised, and the standard notification letters sent in a timely manner, the responses should be received and assessed by mid-late November.

If no significant objections are received it is anticipated that the survey set-out and preliminary site works will commence in December 2017. However, as this falls within the lead-up to the Christmas period, and so as to minimise the disruption to residents and the community, the actual road closure and major civil works would be scheduled for January / February 2018.

CONSULTATION/ADVERTISING:

Consultation was undertaken in accordance with the City's Community Consultation policy in August 2017, surrounding residents were consulted regarding the proposal to extend Hyde Street Reserve by closing a portion of Hyde Street between Alma Road and Forrest Street, Mount Lawley.

A total of 245 consultation packs were distributed to potentially affected residents requesting their comments.

At the close of the consultation period on 18 August 2017, twenty five responses were received with twenty in favour of the proposal and five against (as shown in **Attachment 1**).

The proposed road closure will be advertised in accordance with the *Local Government Act 1995* and *Land Administration Act 1997*, with notification being published in the newspaper and public notice within the Administration and Civic Centre, Library and Local History Centre.

LEGAL/POLICY:

The City has the power to close a thoroughfare to vehicles in accordance with Section 3.50 of the *Local Government Act 1995* 'Closing certain thoroughfares to vehicles'.

RISK MANAGEMENT IMPLICATIONS:

Low: No implications.

STRATEGIC IMPLICATIONS:

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

"1.1: Improve and maintain the natural and built environment and infrastructure.

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

SUSTAINABILITY IMPLICATIONS:

In accordance with the City's *Sustainable Environment Strategy 2011-16*:

"6. Re-establish, conserve and enhance floral and faunal biodiversity, native vegetation, green spaces and green linkages within the City.

6.3.1 Continue to replant areas of City-owned land with local plant and tree species to increase food and habitat areas, including native fringing vegetation as faunal habitat areas.

6.3.2 Continue to establish Greenways by vegetating road reserves, expanding the street tree program and enhancing other habitat corridors as opportunities arise.

6.3.8 Promote faunal protection and habitat enhancement within the City."

FINANCIAL/BUDGET IMPLICATIONS:

An amount of \$120,000 has been included in the 2017/18 capital works budget to undertake this project. The estimated cost as previously reported to Council is outlined as follows:

Item/Task	Total
Demolition/removal/disposal and preparation	\$ 30,000
Civil works	\$ 45,000
Landscaping, irrigation and furniture	\$ 25,000
Traffic management/Services location	\$ 10,000
Contingency (allowance)	\$ 10,000
Sub Total	\$120,000
Stronger Communities Grant Application – Hyde Street Reserve Extension (subject to approval)	\$ 20,000
Total Estimated Cost	\$140,000

In the event of the Stronger Communities grant application being successful the Capital Budget will be increased from \$120,000 to \$140,000 to cater for the installation of solar lighting.

COMMENTS:

One of the six greening initiatives within the City's Greening Plan is to enlarge and enhance areas of public open space and this 'roads to parks' demonstration project is an ideal start to fulfilling this objective.

Of the written responses received the majority were in favour of the proposal, presenting some interesting ideas to consider during the progressing of this project and others that may be worth considering in future budgets.

The main concerns raised were in relation to the road closure which as noted within the body of the report will only result in a negligible increase in the redistribution of traffic in surrounding streets.

In view of the above, it is recommended that Council endorses this project, authorises the Chief Executive Officer to advertise and conclude the formal road closure procedures, with works subsequently being progressed in accordance with the project plan.

11 CORPORATE SERVICES

11.1 REVIEW OF POLICY 4.1.26 - RISK MANAGEMENT

TRIM Ref: D17/100647

Author: Tim Evans, Manager Governance and Risk

Authoriser: John Paton, Director Corporate Services

Attachments: 1. POLICY NO: 4.1.26 - Risk Management 

RECOMMENDATION:

That Council **ADOPTS** the revised Policy No 4.1.26 - Risk Management included as Attachment 1 and agrees that public advertising and community consultation is not required;

PURPOSE OF REPORT:

To consider adopting a revised Risk Management Policy following a review by Administration.

BACKGROUND:

The City's current Risk Management Policy was developed and adopted in February 2010 and is currently due for review.

Administration developed a Risk Management Improvement Plan which was endorsed by the Audit Committee in July 2016. One of the actions within that plan was the review, update and adoption of a revised Risk Management Policy and Risk Management Classification Matrix.

The revised Risk Management Policy was considered by the City's Audit Committee at their meeting on Tuesday 26 September 2017. At that meeting the Audit Committee endorsed the policy and recommended it for adoption by Council.

DETAILS:

The Risk Management Policy outlines the City's objectives for Risk Management and sets out the City's commitment to integrate effective risk management practices into the City's day to day business practices. It clarifies the roles and responsibilities of the various stakeholders in relation to risk management and confirms that the City will use the Australian Standard (AS/NZS 1SO 31000:2009) as the basis for its risk management activities.

Included within the Policy as Appendix 1 is the City's Risk Assessment and Acceptance Criteria which sets out how the City will categorise risk in accordance with the consequence and likelihood of that risk and subsequently, how each of those categories will be managed depending on its risk rating.

Upon reviewing the existing Policy in consultation with the City's risk advisors, LGIS, Administration considered that the Policy was still largely relevant and in reasonable alignment to the City's operations but is nevertheless proposing a number of changes.

Firstly, the risk assessment tables have now been included within the Policy whereas previously they existed within the City's Risk Management Plan 2010-2015. Given that the Risk Management Plan has now expired, it was considered important for the risk assessment tables to be adopted in a current document by Council. The risk tables themselves have been slightly updated following internal consultation and discussion at a Council Workshop to include new sections relating to "Compliance" and "Property" and to adjust the categorisation of "Financial Impact" upwards to be better aligned with the City's current risk context. It should be noted that an important purpose of setting consequence levels is to ensure that the risks are managed at the appropriate level of the organisation. For example, using the proposed risk tables, a risk that is "likely" to result in a financial loss in excess of \$500,000 is to be escalated to the CEO and Council, while less significant risks can be managed at lower levels of the organisational hierarchy.

Secondly, additional detail has been added to further define roles and responsibilities surrounding risk management so that the City's employees are provided with clarity around the City's expectations of them in relation to risk management.

CONSULTATION/ADVERTISING:

Policy 4.1.5 - Community Consultation in Appendix 2 of the Guidelines (Item 10), states that community consultation is required for new policies, or significant amendments to existing policies. Administration has assessed the current proposed amendments and considers that they do not represent a "significant" amendment and it is therefore not proposed to undertake community consultation on the proposed changes.

LEGAL/POLICY:

The *Local Government Act 1995* requires the CEO to put in place appropriate and effective systems and procedures in relation to risk management.

The Risk Management Policy defines the City's position in relation to implementing effective risk management processes.

RISK MANAGEMENT IMPLICATIONS:

Notwithstanding this policy's impact on managing organisational risk, it is considered that there is little risk associated with adopting this revised policy.

STRATEGIC IMPLICATIONS:

Plan for the Future – Strategic Plan 2013 – 2023 – Strategic Objectives

“Objective 4.1: Provide good strategic decision-making, governance, leadership and professional management.

4.1.2 Manage the organisation in a responsible, efficient and accountable manner

(a) Continue to adopt best practise to ensure the financial resources and assets of the City are responsibly managed and the quality of services, performance procedures and processes is improved and enhanced.”

SUSTAINABILITY IMPLICATIONS:

Nil

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

The review and adoption of the revised Risk Management Policy is an important action on the risk management improvement plan. The Policy sets out the City's objectives in relation to implementing effective risk management processes.

11.2 LEASE OF 4 VIEW STREET, NORTH PERTH TO MULTICULTURAL SERVICES CENTRE OF WA

TRIM Ref: D17/129834

Author: Meluka Bancroft, Property Leasing Officer

Authoriser: John Paton, Director Corporate Services

Attachments:

1. Plan of Lease Area - 4 View Street 
2. Submission from MSCWA - services and users of services at 4 View Street 

RECOMMENDATION:

That Council:

1. **APPROVES** a new lease of 4 View Street, North Perth to the Multicultural Services Centre of WA, commencing on 1 December 2017, on the following key terms:
 - 1.1. **Term:** 1 year, commencing 1 December 2017;
 - 1.2. **Option term:** Two 1 year terms, at the City's sole discretion;
 - 1.3. **Permitted purpose:** community facility;
 - 1.4. **Rent:** \$16,296 incl GST (indexed by CPI on 1 July);
 - 1.5. **Rates & Taxes:** payable by the lessee (including ESL & bin charge);
 - 1.6. **Outgoings:** payable by the lessee;
 - 1.7. **Insurance:** lessee to effect and maintain public liability insurance;
 - 1.8. **Indemnity:** lessee indemnifies the lessor against loss / damage / claims;
 - 1.9. **Repair & maintenance:** lessee to keep premises and fittings & fixtures clean and in good repair, and repair any damage caused by lessee or due to fair wear and tear (unless major structural damage);
 - 1.10. **Structural damage:** if damage renders premises unsafe / unfit for occupation, lease will terminate and no compensation will be payable to lessee;
 - 1.11. **Painting:** lessee responsible to repaint prior to expiry, unless lessor determines that repainting unnecessary;
 - 1.12. **Assignment / subletting:** lessor's written consent required, which can be withheld at lessor's discretion;
 - 1.13. **Shared use:** lessee can hire premises to community groups when not in use, and charge fee consistent with fees in City's Schedule of Fees & Charges; and
 - 1.14. **Termination:** by mutual agreement or by lessor if default occurs.
2. **SUBJECT** to final satisfactory negotiations being carried out by the Chief Executive Officer, **AUTHORISES** the Mayor and Director Corporate Services, to affix the common seal and execute the lease in 1 above.

PURPOSE OF REPORT:

To consider entering into a short term lease with the Multicultural Services Centre of WA Inc (MSCWA) to continue using 4 (Lot 15) View Street, North Perth.

BACKGROUND:

The Property

The City purchased 4 View Street, North Perth (Lot 15 on Deposited Plan 29892, Certificate of Title Volume 1541 Folio 462) in 2002 and has leased the portion of the land comprising the house/ office (Property) to the MSCWA since 1 December 2002 (see **Attachment 1**). The MSCWA refurbished the Property as an office in 2002 (previously a medical centre), in exchange for a one year rent free period. Over the term of the lease

the MSCWA has predominately used the centre as a training and counselling centre, however MSCWA has advised it is currently used as a legal centre.

The Property has an internal area of 163m² and comprises 6 small rooms which are used as offices/meeting rooms, a reception and a large kitchen / staff room. The property is in a reasonable condition. In 2015 the verandah (which was enclosed as a computer training centre by the MSCWA) was damaged due to water ingress and was subsequently removed by the City.

The Lessee

The MSCWA is an association which was established in 1980 in North Perth, with a stated purpose to:

- *meet the settlement, welfare, education and training, cultural, legal and related needs of culturally and linguistically diverse Western Australians;*
- *undertake research and community education activities in relation to their needs; and*
- *establish Foundations/Trusts for this purpose.*

The legal centre is open during business hours and provides legal advice and counselling to people of a multicultural background, with the aim of providing culturally and linguistically diverse communities equal access to the justice system. The MSCWA also operates a Migration Service Program, providing assistance to culturally and linguistically diverse communities in areas of immigration and migration law, and a Partners in Recovery Program, providing mental health assistance. Further details of the services provided by the MSCWA at the Property is attached at **Attachment 2**.

Future use of 4 View Street

Council at the Ordinary Meeting of Council of 25 July 2017 (Item 9.2) considered the provision of public open space in the North Perth Town Centre and resolved to support the location of the 'North Perth Common' at the corner of View and Fitzgerald Streets. In respect to the Property, Council resolved as follows:

- "6. *Lists for consideration in the 2017/18 to 2020/2021 Corporate Business Plan a project to prepare an urban design concept and business case for Lots 15, 16 and 40 View Street and the adjoining View Street road reserve...*"

Accordingly, Item 6.5 'Prepare an urban design concept for View Street Car Park and surrounds' has been listed on the Corporate Business Plan commencing in 2017/18 and finalised in 2019/20. Depending on the outcome of the design concept and business case, the future use of 4 View Street may change. On this basis, it is considered appropriate to restrict any formal ongoing use arrangement (lease or otherwise) in respect to 4 View Street to the anticipated project timeline.

DETAILS:

The MSCWA's current lease, dated 26 June 2008, commenced on 1 December 2007 and will expire on 30 November 2017. The key terms of the lease are as follows:

Term:	5 years, with 5 year option;
Rent:	\$12,500 plus GST (indexed by CPI, currently \$14,814 or \$16,296 incl. GST);
Permitted Use:	community activities;
Rates & Taxes:	payable by lessee;
Utilities:	payable by lessee;
Repairs & maintenance:	lessee must repair and maintain premises, including all fittings and fixtures, except if the damage is to plumbing / piping or electrical wiring and it is due to the component being at end of life;
Painting:	lessee is responsible to repaint the premises as often as reasonably required by lessor;
Insurance:	lessee must effect and maintain public liability insurance and pay the annual building insurance premium and any excess for a claim; and
Shared use:	lessee will permit community groups to use the premises when not required, and may charge a fee consistent with the City's hire fees.

The Lease also provides that the MSCWA may continue occupying the Property as a monthly tenant following the expiry of the Lease pursuant to the holding over provision. The monthly tenancy can be terminated by either party at any time by providing one month's notice.

The MSCWA by email dated 8 September 2017 advised the City that it would like to enter into a new lease of the Property upon the expiry of the current lease. The MSCWA intends to continue operating its legal and migration services from the Property and notes that the Property is a good location for this service due to its close proximity to public transport, the town centre, coffee shops and the MSCWA Headquarters (20 View Street). The MSCWA have provided detailed information in respect to the services provided and users of the services, as attached at **Attachment 2**.

Administration is supportive of continued use of the Property by the MSCWA, pending the outcome of the North Perth Common and urban design project for the View Street Car Park and surrounds. On this basis, Administration put the following key lease terms to the MSCWA, which are consistent with the terms of the current lease, for review and approval.

Term:	1 year, commencing 1 December 2017 and expiring 30 November 2018;
Option Term:	Two 1 year option terms, at the City's sole discretion, commencing on 1 December 2018 and 1 December 2019;
Permitted purpose:	community facility - commercial and business purposes not permitted;
Rent:	\$17,000 incl GST (indexed by CPI);
Rates and Taxes:	payable by lessee, including ESL and bin charges
Outgoings:	payable by the lessee
Insurance:	lessee to effect and maintain public liability insurance and pay building insurance premium;
Indemnity:	lessee indemnifies the lessor against any claims, liability, loss or damage which arises as a result of the lessee's use of the premises;
Repair & maintenance:	lessee to keep premises, fittings & fixtures clean and in good working order, which includes servicing and maintenance, and must repair any damage caused by the lessee or due to fair wear and tear (unless major structural damage);
Major Structural damage:	if structural damage renders the premises or a part thereof unsafe for occupation, the lease will terminate and no compensation will be payable by the lessor to the lessee for any resulting loss;
Painting:	lessee responsible to repaint all parts of the premises within 3 months of the expiry of the Lease, unless the lessor determines that repainting is not necessary;
Assignment /subletting:	lessor's written consent required, which can be withheld at the lessor's discretion;
Shared use:	lessee may hire portions of the premises to community groups provided that the use is consistent with the permitted purpose and fees charged are consistent with City's Schedule of Fees & Charges; and
Termination:	by mutual agreement or by lessor if default occurs.

Administration is proposing a lease term of 1 year with two 1 year options which are to be exercised at the City's sole discretion. This will ensure that the City has the flexibility to implement the recommendations of the urban design project. Administration also proposes to make it clear in the lease that if any structural damage or damage due to fair wear and tear occurs which renders the Property unfit or unsafe for use, the City is not obligated to repair the damage and can terminate the lease, with no compensation payable to the MSCWA.

By email dated 22 September 2017, the MSCWA has confirmed that, excepting the terms specified below, the proposed terms of the lease as set out above are acceptable. The terms which the MSCWA disputed and justification, are as follows:

<u>Rent:</u>	<i>The MSCWA currently pays \$16,408.80 including GST per annum [actually \$16,296]. The commercial rents have fallen considerably and we have had to reduce the rent charged for a commercial property we recently bought by 15%. Given that we a charitable organisation and that we provide such a range of services within the CoV, we request Council to reduce the rent rather than increase it to \$17,000 incl GST (indexed by CPI);</i>
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Repairs & Maintenance: *Agree in general that the lessee should keep the premises, fittings & fixtures clean and in good working order, which includes servicing and maintenance, and must repair any damage caused by the lessee or due to fair wear and tear, but exemption needs to be made for fittings/fixtures/equipment that are very old, e.g. air conditioning;*

Painting: *The Property was in a poor condition when original tenancy commenced. MSCWA painted the whole building at its cost and has subsequently repainted some of it. It is unreasonable to expect the MSCWA to repaint the Property prior to the expiry of the lease.*

CONSULTATION/ADVERTISING:

Administration met with representatives of the MSCWA on the 12 August 2017 to discuss the North Perth Common project and its implications on the future use of the Property.

LEGAL/POLICY:

Local Government Act 1995 section 3.58 - Disposing of Property, provides that a local government can only dispose of property (which includes to lease) to:

- “(a) the highest bidder at public auction; or*
- (b) the person who at a public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.”*

However, a local government can also dispose of property by complying with sub section (3), if, before agreeing to dispose of the property –

- “(a) it gives local public notice of the proposed disposition –*
 - (i) describing the property concerned; and*
 - (ii) giving details of the proposed disposition; and*
 - (iii) inviting submissions to be made to the local government before the date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;*
- (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.”*

Regulation 30 of the *Local Government (Functions and General) Regulations 1996* provides a range of dispositions that are exempt from the application of section 3.58 of the Act, including dispositions to:

- “(b) A body, whether incorporated or not the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and the members of which are not entitled or permitted to receive any pecuniary profit from the body’s transactions.”*

As the proposed disposition is to an incorporated body, the objects of which are cultural, the City would not be required to comply with section 3.58.

City of Vincent Policy 1.2.1 – Policy Statement:

1. Any new lease granted by the Council shall usually be limited to a five (5) year period, and any option to renew shall usually be limited to no more than a ten (10) year period.
2. Council may consider longer periods where the Council is of the opinion that there is benefit or merit for providing a longer lease term.

RISK MANAGEMENT IMPLICATIONS:

Low: The MSCWA has demonstrated its capacity to manage the lease of the Property since 2002, as well as a lease of the wellness centre at Woodville Reserve, North Perth, since 2004. Entering into a 1 year lease, with two 1 year option periods at the City’s sole discretion, will ensure the City has the flexibility to implement the recommendations of the North Perth Common design concept and business case.

STRATEGIC IMPLICATIONS:

In accordance with the objective of Strategic Plan 2013-2023:

2.1.3 *Develop business strategies that reduce reliance on rates revenue*

- (c) *Continue to review leases and commercial contracts to ensure the best return for the City, whilst being cognisant of its community service obligations.*

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

The City currently receives an annual rent of \$14,814 (excl GST). The table below shows that the City has minimal costs in respect to the Property. Furthermore, the depreciation is estimated to be \$10,200 per annum, and therefore the current rent offsets the depreciation

INCOME - EXPENDITURE 2016-17 (excl GST)		
Description	Income	Expenditure
Rent	\$14,711.16	
Recoups	\$1,360.29	
Maintenance - General		\$2,271.56
Maintenance - Lighting & Electrical		\$237.63
Maintenance - Fire Appliance		\$43.15
Maintenance - Pest Control		\$123.25
Water usage & service charge		\$615.43
Building Insurance premium		\$465.94
	\$16,071.45	\$3,756.96
TOTAL		\$12,314.49

In 2016/17, the City replaced an evaporative air conditioner at the Property due to age and condition. The cost of these works was \$8,250 and was funded through the City's relevant asset renewal budget.

COMMENTS:

The MSCWA has leased the Property since 2002 for the purpose of providing services to the community and wishes to continue to operate this service from the Property. Administration is required to prepare an urban design concept for the View Street Car Park and surrounds, which may result in the future use of the Property changing. On this basis, a short term lease is considered appropriate and Administration is recommending a 1 year lease, with two 1 year option terms, at the City's sole discretion, to enable the MSCWA to continue operating its services from the Property. Once the urban design project is completed Council will be in a position to make an informed decision in respect to the longer term future use of the Property.

Administration has considered the MSCWA's comments in respect to the proposed terms and notes the following:

Rent:

The current lease provides that the rent is to be increased annually on 1 July by an amount equal to the percentage increase in the Consumer Price Index (All Groups Perth). Under the circumstances, it is considered appropriate that the current rent (\$16,296 including GST) which only increased in July 2017 should be maintained as the commencing rent for the new lease, with annual CPI increases to be applied in July each year, consistent with the current lease provision. On this basis, Administration proposes that the lease fee is set at \$16,296 (incl GST) to be indexed by CPI on 1 July each year (subject to the exercise and approval of each option term).

Repairs & Maintenance:

The current Lease clearly provides that the lessee is responsible for all repair and maintenance, except for the repair or replacement of plumbing / piping or electrical wiring which is at end of life. Consequently it is currently (and has been since the MSCWA commenced occupying the Property in 2002) the responsibility of the MSCWA to maintain and repair the fittings and fixtures. On this basis, the new lease is not proposing to shift responsibility.

It is noted that the City purchased a new air conditioning unit at a cost of \$8,250 in March 2017, however that decision was taken due to the uncertainty at the time in respect to ongoing use of the building by the current Lessee. Given that the City is uncertain of the long term future use of the Property it is proposed that any major structural works at the Property would not be undertaken, and therefore in the event that damage or failure of a component of the Property (such as the new air conditioner) renders the Property unfit for use by the MSCWA, the City may terminate the Lease. Accordingly, no change is recommended to the proposed Repair and Maintenance terms.

Painting:

The current Lease provides that the lessee must repaint the Property as often as reasonably required by the lessor. Administration is proposing a consistent clause in the new lease - repainting of the Property prior to the expiry of the proposed lease would be at the City's discretion. Therefore depending on the future use of the Property and condition of the painted surfaces, the City can determine whether repainting is required. Therefore if the MSCWA has ensured the paint work remains in a good condition, painting prior to the expiry of the lease may not be necessary.

11.3 TERMINATION OF LEASE AND OPTIONS FOR FUTURE USE - 245 (LOT 245) VINCENT STREET, LEEDERVILLE**TRIM Ref:** D17/118750**Author:** Meluka Bancroft, Property Leasing Officer**Authoriser:** John Paton, Director Corporate Services**Attachments:**
1. Aerial View of 245 Vincent Street 
2. Plan of 245 Vincent Street showing internal layout **RECOMMENDATION:****That Council:**

1. **APPROVES** by mutual agreement the termination of the lease of 245 Vincent Street, Leederville, dated 20 September 2011, held by Patricia Giles Centre Inc. effective 31 August 2017;
2. **NOTES** and **ENDORSES** Administration's intent to appoint a suitably qualified and experienced agent to secure and manage a residential lease over 245 Vincent Street, Leederville;
3. **APPROVES BY ABSOLUTE MAJORITY**, in accordance with section 6.8(1) of the *Local Government Act 1995*, the unbudgeted expenditure of \$7,700 plus GST to enable the upgrade of the kitchen at 245 Vincent Street, Leederville, to a residential standard (oven, cooktop, range hood, dishwasher, pantry and overhead cupboards) and other minor works to facilitate the residential lease in 2. above; and
4. **NOTES** the expenditure in 3. above will be offset by an increase in the property income.

PURPOSE OF REPORT:

To consider a notice from the Patricia Giles Centre Inc to terminate its lease of 245 Vincent Street, Leederville, on 31 August 2017 and to consider future disposition options for the site.

BACKGROUND:

At the Ordinary Meeting of Council held on 19 September 2017 (Item 11.1) Council considered the above recommendation and resolved to defer the item. This report (and recommendation) is unchanged from that presented to Council in September 2017, with the exception of additional information that has now been included in the comment section of this report.

The Property

The legal description of the land located at 245 Vincent Street, Leederville is Lot 245 on Deposited Plan 25293 and being the whole of the land comprised within Certificate of Title Volume 2723 Folio 520 (**Land**). The Land was acquired by the City [of Perth] in 1973 and is held in freehold. It abuts Venables Park, which is Crown Land vested in the City for the purpose of public recreation. The Land area is 206m² and comprises a weatherboard and corrugated iron roofed house which was constructed in 1914/15 (**Cottage**). A plan of the Land is attached at **Attachment 1**.

Following the purchase in 1973, the Cottage was tenanted, however in September 1999 it was declared unfit for human habitation. At the Ordinary Council Meeting of 20 December 1999 (Item 10.3.4) Council resolved to restore the cottage, at a cost of approximately \$61,000. The restoration project was carried out as a 'live work project' by Aboriginal students then enrolled in the Central Metropolitan College of TAFE.

Following the restoration of the cottage, the City invited expressions of interest for its future lease. In 2001 the Patricia Giles Centre Inc submitted a request for the lease of the Land, and has leased the Land since 1 December 2001, pursuant to the following Council resolutions (**Lease**):

Ordinary Meeting of Council	Term, commencing	Rent
6 November 2001 (Item 10.3.1)	5 years , 1 December 2001	\$5,000 pa plus outgoings
22 August 2006 (Item 10.3.5)	5 years, 1 December 2006	\$6,184 pa plus outgoings
5 April 2011 (Item 9.3.1)	5 years plus 5 year option, 1 December 2011	\$7,460 pa plus outgoings

The Patricia Giles Centre Inc exercised its option to extend the lease term for a further five years on 9 September 2016, expiring 30 November 2021. The current rent is \$8,900 plus outgoings.

The Cottage was added to the City's Municipal Heritage Inventory (**City's Heritage Inventory**) as a Management Category A – Conservation Essential building in 2006. The Inventory includes the following information:

The weatherboard house at No 245 Vincent Street is a fine and notable example of a Late Colonial Cottage style, which has associations with the Bourne family, early residents of Leederville, who owned and occupied the place from 1915 to 1973.

The Land is zoned 'Urban' under the provisions of the Metropolitan Region Scheme and 'residential R80' under the City of Vincent Town Planning Scheme No. 1. Pursuant to the proposed City of Vincent Town Planning Scheme No. 2 the zoning would be 'Regional Centre' and any development would be governed by the Leederville Masterplan Built Form Guidelines. However, due to the heritage nature of the Cottage any development would need to be assessed against the City's heritage local planning policies, which may restrict the development opportunities.

The Lessee

The Patricia Giles Centre Inc is a not for profit service established to assist children and families who have experienced domestic violence through the provision of individual and group counselling, information and education.

The Patricia Giles Centre Inc has confirmed that it has been in the process of reviewing and rationalising its assets and as an outcome of that review, the use of the Land is no longer required. On 19 May 2017, Patricia Giles Centre Inc advised it intended to terminate the Lease on 31 August 2017.

The Lease does not contemplate the early determination of the Lease, except if the Lessee is in breach of the terms of the Lease or if the premises is damaged to the extent that it becomes substantially unfit for use. The Patricia Giles Centre Inc was not in breach of the Lease and the cottage has not become unfit for use. Notwithstanding the above, Administration recommends that the Council agrees to the early determination of the Lease and investigates alternative uses and options for the Land.

In preparation for vacating the premises, the Cottage has been repainted both internally and externally, and the decking has been oiled. The Patricia Giles Centre Inc paid for the cost of this work.

DETAILS:

The Cottage is in good condition and comprises four square rooms, three of which were originally bedrooms/living room but were used by the Patricia Giles Centre Inc as offices and counselling/meeting rooms. The other main room is the kitchen, which is furnished as a simple office kitchen (does not contain a cooktop or oven). If the Cottage was to be used residentially, the kitchen would need to be upgraded to include an oven, cooktop, range hood and pantry. There is also a bathroom, laundry and storage area at the rear of the building. A plan of the internal layout of the Cottage is attached at **Attachment 2**.

The City has no immediate demand for the Cottage, and therefore Administration considers it appropriate to investigate disposition options. The three options available are:

- sell the land;
- lease the land for a community purpose; or
- lease the land residentially.

All options require the City to comply with section 3.58 of the *Local Government Act 1995*, which is set out below.

Disposal of the Land

While the Land is situated close to the Leederville Town Centre, public transport, is zoned 'Residential 80' and has an area of approximately 406m², development of the Land may be limited due to the cottage being listed on the City's Heritage Inventory. The City has obtained a market valuation of the Land, which has estimated the current value to be in the order of \$600,000. This value is under the threshold for a 'major land transaction', consequently, the options for selling the land would be as follows:

- Dispose of the land through a tender or auction; or
- Implement an expression of interest process, either by the City or through an agent. If the Land was proposed to be sold through an expression of interest process, it would be necessary for the City to provide public notice of the proposed sale and consider any submissions.

Lease of the Land to community group

Another option is for the City to retain the Land and Cottage as is and invite expressions of interest for the lease of the Land. The Cottage may suit a community group, however, the rental return from this type of lease is unlikely to offset the City's maintenance and renewal costs on the Cottage. That use would also need to comply with relevant zoning.

Furthermore, the City intends to undertake a review of the utilisation of its community facilities to ensure optimum utilisation. It is likely there is capacity to increase utilisation of existing facilities over the longer term through enhanced management and enabling tenancy arrangements.

Residential Lease

The third option is for the City to lease the Land for a residential purpose. Entering into a residential lease would likely provide a better financial return to the City than a community lease, and would not restrict the City's future use of the Land.

This option would require the City undertaking minor works, including refitting the kitchen as a residential kitchen, provision of a washing line and other minor works. The estimated cost of these works would be in the order of \$7,700 excluding GST and take approximately 2 - 3 weeks. This cost would equate to approximately 4 months of the residential rent. It is also noted that it is likely to increase the market value of the Land.

Administration would propose that a real-estate agent be engaged to manage the residential lease (including securing a tenant). The City has contacted a number of local real-estate agents to obtain market appraisals and the management fees and terms. The market values provided a rental income ranging from \$350 - \$480 a week, equating to an annual return of between \$18,200 and \$24,960.

The City would not be required to comply with section 3.58 of the *Local Government Act 1995* if leasing the Cottage to a person for a residential purpose. Therefore it would not be necessary for public notice of the proposed lease to be provided.

CONSULTATION/ADVERTISING:

Depending on the option supported by Council, the City may be required to advertise and provide public notice of its intention to dispose of the Land, due to the requirements set out in section 3.58 of the *Local Government Act 1995*.

LEGAL/POLICY:

Local Government Act 1995 section 3.58 - Disposing of Property, provides that, at sub section (2), a local government can only dispose of property (which includes to lease) to:

- “(a) the highest bidder at public auction; or
- (b) the person who at a public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.”

A local government can also dispose of property by complying with sub section (3), if, before agreeing to dispose of the property –

- “(a) it gives local public notice of the proposed disposition –
- (i) describing the property concerned; and
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before the date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;
- (b) it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.”

If complying with sub section (3), the details required to satisfy sub section (3)(a)(ii) include –

- “(a) the names of all parties concerned; and
- (b) the consideration to be received by the local government for the disposition; and
- (c) the market value of the disposition –
- (i) as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or
 - (ii) as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.”

Section 3.58(5) provides that section 3.58 does not apply to certain types of dispositions, including dispositions which are provided by the *Local Government (Functions and General) Regulations 1996 to be exempt*. Regulation 30 provides a range of dispositions that are exempt from the application of section 3.58 of the Act, including dispositions to:

- “(b) A body, whether incorporated or not the objects of which are of a charitable, benevolent, religious, cultural, educational, recreational, sporting or other like nature; and the members of which are not entitled or permitted to receive any pecuniary profit from the body’s transactions; and
- (g) leasing of residential property to a person.”

Therefore if the disposition was to a charitable or educational group whose members would not receive any pecuniary benefit from the transaction, it would not be necessary for the City to comply with the process set out in section 3.58. If the City was to lease the Land residentially it would also be exempt from the requirements of section 3.58.

RISK MANAGEMENT IMPLICATIONS:

Medium There are a number of risks associated with the Land being left vacant following the termination of the Patricia Giles Centre Inc’s lease on 31 August 2017, including vandalism and increased maintenance and upkeep costs for the City.

STRATEGIC IMPLICATIONS:

In accordance with the objective of Strategic Community Plan 2013-2023:

2.1.3 Develop business strategies that reduce reliance on rates revenue

- (c) Continue to review leases and commercial contracts to ensure the best return for the City, whilst being cognisant of its community service obligations.

4.1.2 Manage the organisation in a responsible, efficient and accountable manner

- (a) Continue to adopt best practise to ensure the financial resources and assets of the City are responsibly managed and the quality of services, performance procedures and processes is improved and enhanced.”

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

The City currently receives an annual rent of \$8,900 from the lease of the Cottage to the Patricia Giles Centre Inc. The Lease provides that the Lessee is responsible for the repair and maintenance of the Land, and therefore the majority of the costs incurred in respect to the cottage have been paid by the Patricia Giles Centre Inc.

The market valuation for selling the Land is approximately \$600,000, while residentially leasing the Land for a weekly rent of \$440-\$480, which would provide an annual return of between \$22,880 and \$24,960 (minus the management fees of approximately \$1,900).

COMMENTS:

Given the nature of service provided by the Patricia Giles Centre Inc. and current level of return being achieved from the Land, it is considered appropriate to accept the termination of the Lease over the Land from 31 August 2017.

As the Land is held in the City's freehold ownership, the City does have options, however a decision to sell is more appropriately made in consideration of a broader strategic assessment of the City's land holdings. In the interim, it is appropriate to ensure the land is managed appropriately and achieves a reasonable rate of return.

Administration has considered the future uses of the Land and recommends that a residential lease would be the most appropriate at this time as:

- the use would be consistent with current zoning;
- the rate of return based on market rates is likely to be higher than a community use;
- residential leases, whilst covered by the Residential Tenancies Act 1987, are likely to be easier to terminate if and when an alternative use or disposition is considered.

During consideration of this item at the 19 September 2017 Council meeting, the following amendment was approved prior to the deferral motion being put and adopted:

That the Recommendation be amended as follows:

That Council:

1. *APPROVES by mutual agreement the termination of the lease of 245 Vincent Street, Leederville, dated 20 September 2011, held by Patricia Giles Centre Inc. effective 31 August 2017;*
2. ~~*NOTES and ENDORSES Administration's intent to appoint a suitably qualified and experienced agent to secure and manage a residential lease over 245 Vincent Street, Leederville;*~~
3. ~~*APPROVES BY ABSOLUTE MAJORITY, in accordance with section 6.8(1) of the Local Government Act 1995, the unbudgeted expenditure of \$7,700 plus GST to enable the upgrade of the kitchen at 245 Vincent Street, Leederville, to a residential standard (oven, cooktop, range hood, dishwasher, pantry and overhead cupboards) and other minor works to facilitate the residential lease in 2. above; and*~~
4. ~~*NOTES the expenditure in 3. above will be offset by an increase in the property income.*~~
2. *APPROVES the advertising of an Expression of Interest for the sale or lease of 245 Vincent Street, Leederville in order to inform decisions regarding the future use and ownership of the property; and*
3. *NOTES a report will be submitted to Council at the conclusion of the Expression of Interest process in recommendation 2. above for Council to consider disposition options, including sell or lease in accordance with the requirements of section 3.58 of the Local Government Act 1995.*

In view of the Deferral decision, there was no consideration of the substantive motion and consequently the amendment has effectively lapsed and therefore has not been included in the Officer Recommendation, which remains unchanged.

In the event an expression of interest (EOI) process was approved, the following indicative timeline would be involved:

<u>Process</u>	<u>Date</u>
Council Decision	17/10/2017
Compile EOI document	18/10/17 – 31/10/17
Advertising/Consultation Period	01/11/17 – 22/11/17
Assess EOI submissions/proposals	23/11/17 – 28/11/17
Present report to Council	05/12/17 – 12/12/17

Subject to the nature and quality of the proposals received in response to the EOI, the options then available to Council would be:

Lease Proposal

1. Consider the overall merit of the lease proposal. If adequate information presented and the proposal was supported, then:
2. If the lease proposal was from an organisation that-
 - (i) would meet any of the exemption provisions under section 3.58(5) of the Act, then it is open for Council to consider approving a lease; or
 - (ii) would not be exempt from the requirements of section 3.58 of the Act, then approval could be granted for the proposed disposition (lease) to be advertised in accordance with section 3.58(3) of the Act.
3. If the proposed Lease was advertised, any public submissions received would need to be considered by Council (or CEO if delegation approved) prior to a formal decision being made to enter into the lease.

Sale Proposal

1. Consider the overall merit of the sale proposal. If adequate information presented and the proposal was supported, then -
2. If the sale proposal was from an organisation that:
 - (i) would meet any of the exemption provisions under section 3.58(5) of the Act, then it is open for Council to consider approving a sale; or
 - (ii) would not be exempt from the requirements of section 3.58 of the Act, or Council chose not to exercise the exemption, then approval could be granted for the proposed disposition (sale) to be advertised in accordance with section 3.58(3) of the Act, with appropriate conditions.
3. If the proposed sale was advertised, any public submissions received would need to be considered by Council (or CEO if delegation approved) prior to a formal decision being made to approve the sale.

Regardless of the proposals received, it would remain open for Council not to accept any submission or proposal and reconsider the longer term position at a later stage. In that case, Council could then implement the process provided for in the current Recommendation in respect to an interim residential tenancy arrangement.

11.4	LEASE TO AXICOM PTY LTD FOR TELECOMMUNICATIONS PURPOSES - LOT 9023 MARMION AVENUE, CLARKSON (TAMALA PARK)
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TRIM Ref: D17/131046

Author: Meluka Bancroft, Property Leasing Officer

Authoriser: John Paton, Director Corporate Services

Attachments: 1. Plan of proposed Lease Area - telecommunications tower 

RECOMMENDATION:

That Council:

1. **AGREES** in principle to lease of the 150m² site currently occupied by Axicom Pty Ltd at Lot 9023 Marmion Avenue, Clarkson on a commercial basis for a term of 10 years, subject to the requirements of Section 3.58(3) of the *Local Government Act 1995* and the approval from the City of Joondalup, City of Wanneroo, City of Stirling, City of Perth, Town of Victoria Park and Town of Cambridge;
2. **AUTHORISES** the Chief Executive Officer to liaise with the City of Wanneroo to coordinate the publishing of a public notice of the intention to enter into the Lease in 1. above;
3. **NOTES** that the proposed lease is for a term of 10 years, commencing on 1 November 2017, with the following key terms:
 - 3.1. **Rent:** \$70,000 pa plus GST;
 - 3.2. **Occupation fee:** \$5,000 pa plus GST per additional carrier;
 - 3.3. **Rent review:** 5% increase annually;
 - 3.4. **Height restriction:** 45m telecommunication tower;
 - 3.5. **Utilities:** payable by lessee;
 - 3.6. **Insurance:** lessee to effect and maintain public liability insurance;
 - 3.7. **Repairs & maintenance:** lessee to repair and maintain premises and any fixtures or fittings, and repair any damage caused;
 - 3.8. **Assignment / co-location:** written consent of lessor required; and
 - 3.9. **Termination:** lessee to provide 12 months' notice of termination;
4. **DELEGATES BY ABSOLUTE MAJORITY** to the Chief Executive Officer, the power to consider any submissions received in response to the Public Notice in 2 above, and determine whether to proceed with the proposed disposition listed in 1 above; and
5. **Subject to the lease being approved by all Owner Councils, AUTHORISES** the Mayor and Director Corporate Services to affix the common seal and execute the lease.

PURPOSE OF REPORT:

To consider entering into a lease with Axicom Pty Ltd over a portion of Lot 9023 (No. 1700K) Marmion Avenue, Clarkson, for the purpose of a telecommunications facility.

BACKGROUND:

The Land

Lot 9023 (No. 1700K) Marmion Avenue, Clarkson (commonly known as Tamala Park) is comprised in Certificate of Title Volume 2931 Folio 346 and is owned in freehold by seven local governments (Owner Councils) as tenants in common. The shares of the Owner Councils are shown in the following table:

Local Government	Portion of Ownership of Lot 9023
City of Stirling	4/12
City of Joondalup	2/12

City of Wanneroo	2/12
City of Perth	1/12
City of Vincent	1/12
Town of Cambridge	1/12
Town of Victoria Park	1/12

Tamala Park is predominantly occupied by the Mindarie Regional Council (MRC) under the terms of a Lease between the Owner Councils and MRC, which will expire on 30 June 2032. MRC operate the Tamala Park Waste Management Facility at Tamala Park.

Previous telecommunication's tower lease over portion of Tamala Park

On 1 November 1998 the Cities of Stirling, Joondalup and Perth (Owners of Lot 9023 at the time) entered into a lease with Vodafone Network Pty Ltd (owner of telecommunications mobile telephone coverage base station at the time) in respect to a 150m² fenced off portion of Tamala Park (**Land**), as shown in the plan attached at **Attachment 1**. Following the execution of the lease, the City of Joondalup was divided into the City of Joondalup and City of Wanneroo, while in 2001 the City of Perth's original interest in the Land was divided equally between the City of Perth, Town of Cambridge, Town of Victoria Park and the Town (now City) of Vincent. In 2001 Vodafone sold the telecommunications tower to Crown Castle Australia and the Owner Councils subsequently approved the assignment of the lease from Vodafone to Crown Castle Australia.

The Lease was for a five year term with three further five year option terms. The three further five year terms were all exercised and the final option term expired on 31 October 2013. At the Ordinary Meeting of Council held on 27 August 2013 (Item 9.5.2) the City approved Crown Castle Australia remaining in occupation of the Land as a six monthly tenant pursuant to clause 6.2 of the Lease. In mid-2015 Crown Castle Australia sold the telecommunications tower to Axicom Pty Ltd. The lease was not assigned to Axicom Pty Ltd, however, Axicom Pty Ltd currently pays the rent (currently \$60,000 plus GST per annum) and occupies the Land in accordance with the previous lease. The Owner Councils have been in negotiations with Axicom Pty Ltd since 2015 in respect to entering into a new lease to govern Axicom Pty Ltd.'s use of the Land.

Land development to the north (Catalina Estate)

The Catalina Estate to the north of the Land is currently being developed residentially. Administration confirms that this development will not be affected by the proposed lease. Catalina Estate will be at a minimum 650m from the telecommunications tower.

DETAILS:

Since 2013 the Owner Councils have been in discussions with Crown Castle Australia, and following the transfer of the telecommunication tower in 2015, with Axicom Pty Ltd, in respect to the terms of a new lease. In May 2013 the Owner Councils met and agreed that the City of Wanneroo would negotiate the terms of the lease on behalf of the Owner Councils. In May 2013 the City of Wanneroo engaged Burgess Rawson to provide a market valuation of the Land. The market rent at the time was estimated to be \$60,000 per annum. The City of Wanneroo advised Crown Castle Australia of this figure, who responded by obtaining an independent valuation from McGees Property, which estimated the market rent to be \$45,000 per annum. Crown Castle Australia and the Owner Council's eventually agreed on the following key lease terms (subject to Council approval of the lease):

Term:	Five (5) years with one five (5) year option
Rent:	\$60,000.00 plus GST (based on 3 telecommunication carriers operating from the site)
Rent Review:	Rent to be increased by 5% annually
Further Rent Review:	Rent to be reviewed after the initial term of 5 years
Commencement Date:	1 May 2014

In 2014 the City of Wanneroo provided local public notice of the proposed lease in accordance with section 3.58 of the *Local Government Act 1995*. (the Act). However, due to delays by the parties in drafting the lease, the lease was never finalised. Upon the transfer of the telecommunications tower to Axicom Pty Ltd in 2015 the Owner Councils commenced negotiations with Axicom Pty Ltd in respect to a lease. The Owner Councils obtained a new rental valuation on 10 March 2017. Based on the new rental valuation, the City of Wanneroo presented the following key terms to Axicom Pty Ltd for approval:

Term:	Ten (10) years from Commencement Date
Further Term:	Nil
Commencement Date:	1 November 2017
Rent:	\$70,000.00 per annum plus GST and outgoings (based on the licenced valuation)
Restriction on maximum height of the lessee's tower:	45 metres
Occupation Fee (additional fee in addition to annual rent which will be applicable if further major telecommunication carriers co-locate to the site over and above those already in situ on the tower):	\$5,000.00 plus GST.
Rent review:	Rent will be incremented annually through the Term at a rate of 5%
Permitted Use:	Telecommunications facility
Termination of Lease:	Lessee may determine the Lease at any time by giving not less than twelve (12) month's prior written notice to the Lessor.

Axicom Pty Ltd has agreed to the above key terms, and therefore Administration recommends that Council approve the proposed lease to Axicom Pty Ltd on the terms set out above, subject to Administration advertising the proposed disposition in accordance with section 3.58 of the Act. This will enable Axicom Pty Ltd to continue operating the telecommunications tower on the Land and will ensure increased financial returns for the City.

Administration notes that the term of the proposed lease is 10 years, commencing on 1 November 2017 and expiring on 31 August 2027, and therefore the proposed term expires prior to the MRC Lease of Tamala Park (expires 30 June 2032).

CONSULTATION/ADVERTISING:

The City of Wanneroo has met with Axicom Pty Ltd representatives to discuss and agree on the key terms of the proposed lease. In addition, the Administration from each of the Owner Councils have been collaborating with each other throughout the negotiation process and have expressed general support for the proposal.

Given that the proposed lease is not considered to be an exempt disposition for the purposes of section 3.58(3) of the Act, a local public notice is required. As the lease also affects other councils, it is proposed that the City of Wanneroo will publish a public notice in the Western Australian Newspaper instead, given its metropolitan area distribution.

The placement of notices in local papers is not considered necessary as the lease is not regarded as having an impact on the local community. The City of Wanneroo will compile any submissions received and provide notice of these submissions to the Owner Councils.

LEGAL/POLICY:

Local Government Act 1995 section 3.58 - Disposing of Property, provides that, at sub section (2), a local government can only dispose of property (which includes to lease) to:

- “(a) the highest bidder at public auction; or
- (b) the person who at a public tender called by the local government makes what is, in the opinion of the local government, the most acceptable tender, whether or not it is the highest tender.”

A local government can also dispose of property by complying with sub section (3), if, before agreeing to dispose of the property –

- “(a) it gives local public notice of the proposed disposition –
 - (i) describing the property concerned; and
 - (ii) giving details of the proposed disposition; and
 - (iii) inviting submissions to be made to the local government before the date to be specified in the notice, being a date not less than 2 weeks after the notice is first given;

- (b) *it considers any submissions made to it before the date specified in the notice and, if its decision is made by the council or a committee, the decision and the reasons for it are recorded in the minutes of the meeting at which the decision was made.*"

If complying with sub section (3), the details required to satisfy sub section (3)(a)(ii) include –

- “(a) *the names of all parties concerned; and*
 (b) *the consideration to be received by the local government for the disposition; and*
 (c) *the market value of the disposition –*
 (i) *as ascertained by a valuation carried out not more than 6 months before the proposed disposition; or*
 (ii) *as declared by a resolution of the local government on the basis of a valuation carried out more than 6 months before the proposed disposition that the local government believes to be a true indication of the value at the time of the proposed disposition.*”

Section 3.58(5) provides that section 3.58 does not apply to certain types of dispositions, including dispositions which are provided by the *Local Government (Functions and General) Regulations 1996* to be exempt. Regulation 30 provides a range of dispositions that are exempt from the application of section 3.58 of the Act. Administration notes that the exemptions are not applicable to the proposed lease.

City of Vincent Policy 1.2.1 – Policy Statement:

1. Any new lease granted by the Council shall usually be limited to a five (5) year period, and any option to renew shall usually be limited to no more than a ten (10) year period.
2. Council may consider longer periods where the Council is of the opinion that there is benefit or merit for providing a longer lease term.

RISK MANAGEMENT IMPLICATIONS:

Low: Axicom Pty Ltd has demonstrated since mid-2015 its capacity to operate the telecommunications tower on the Land in accordance with the terms of the previous lease. As this lease was not assigned to Axicom Pty Ltd, it is necessary for the Owner Councils to enter into a new lease with Axicom Pty Ltd as a matter of urgency. The terms of the proposed lease will provide an increased financial return to the City and will ensure that the City's interests in respect to the Land and potential risk and liability issues are resolved.

STRATEGIC IMPLICATIONS:

In accordance with the objective of Strategic Plan 2013-2023:

2.1.3 Develop business strategies that reduce reliance on rates revenue

- (c) *Continue to review leases and commercial contracts to ensure the best return for the City, whilst being cognisant of its community service obligations.*

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

The proposed rent of \$70,000.00 per annum (plus GST), in aggregate, will be allocated to each of the seven Owner Council's in accordance with its share of ownership. Therefore the City's portion (1/12) of the annual rent will be \$5,833 plus GST for the first year of the term of the lease. This will increase by 5 per cent each year during the term. The current annual rent the City receives is \$5,000 plus GST.

COMMENTS:

Administration notes that Axicom Pty Ltd has occupied the Land since mid-2015 without any formal arrangement (lease or otherwise) to govern its use. As Axicom Pty Ltd purchased the telecommunications tower from Crown Castle Australia, who occupied the Land pursuant to a lease with the Owner Councils, Axicom Pty Ltd has continued to pay the rent and observe the lessee's covenants as set out in the previous lease. However, this lease is not binding on Axicom Pty Ltd and therefore it is essential that the Owner Councils enter into a lease with Axicom Pty Ltd as a matter of urgency.

The proposed terms of the lease will result in an increased financial return for the City and will ensure an annual increase (5 per cent) in rent over the 10 year term of the lease. On this basis, it is recommended that Council endorse the lease proposal, subject to the City of Wanneroo advertising the disposition and considering all submissions in accordance with section 3.58(3) of the *Local Government Act 1995*. It is noted that while the City of Wanneroo will compile all submissions, all Owner Councils are required to consider the submissions.

Administration also notes that as all Owner Councils are tenants in common, the approval of each Owner Councils' respective Council is required.

11.5 FINANCIAL STATEMENTS AS AT 31 AUGUST 2017

TRIM Ref: D17/135961

Author: Nilesh Makwana, Accounting Officer

Authoriser: John Paton, Director Corporate Services

Attachments: 1. Financial Statements as at 31 August 2017 

RECOMMENDATION:

That Council **RECEIVES** the Financial Statements for the month ended 31 August 2017 as shown in Attachment 1.

PURPOSE OF REPORT:

To present the provisional Financial Statements for the period ended 31 August 2017.

BACKGROUND:

Regulation 34 (1) of the Local Government (Financial Management) Regulations 1996 requires a local government to prepare each month a statement of financial activity reporting on the sources and applications of funds, as set out in the budget.

The financial reports as presented provide an estimate of the August position, pending finalisation and audit of the 2016-17 accounts.

A Statement of financial activity report is to be in a form that sets out:

- the annual budget estimates;
- budget estimates for the end of the month to which the statement relates;
- actual amounts of expenditure, revenue and income for the end of the month to which the statement relates;
- material variances between the year-to-date income and expenditure; and
- includes other supporting notes and other information that the local government considers will assist in the interpretation of the report.

In addition to the above, under *Regulation 34 (5) of the Local Government (Financial Management) Regulations 1996*, each financial year a local government is to adopt a percentage of value, calculated in accordance with AAS 5, to be used in statements of financial activity for reporting material variances.

DETAILS:

The following documents, included as **Attachment 1** represent the Statement of Financial Activity for the period ending 31 August 2017:

Note	Description	Page
1.	Statement of Financial Activity by Programme Report and Graph	1-3
2.	Statement of Comprehensive Income by Nature and Type Report	4
3.	Net Current Funding Position	5
4.	Summary of Income and Expenditure by Service Areas	6-64
5.	Capital Expenditure and Funding and Capital Works Schedule	65-79
6.	Cash Backed Reserves	80
7.	Rating Information and Graph	81-82
8.	Debtor Report	83
9.	Beatty Park Leisure Centre Financial Position	84

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

Summary of Financial Activity By Programme as at 31 August 2017

	Adopted Budget 2017/18 \$	YTD Budget 2017/18 \$	YTD Actual 2017/18 \$	Variance 2017/18 \$	Variance 2017/18 %
REVENUE	22,396,493	4,024,911	3,784,786	(240,125)	-6%
EXPENDITURE	(57,020,430)	(9,591,604)	(7,210,174)	2,381,430	-25%
NET OPERATING EXCLUDING RATES	(34,623,937)	(5,566,693)	(3,425,388)	2,141,305	-38%
OPERATING ACTIVITIES EXCLUDED FROM BUDGET					
NON-CASH EXPENDITURE AND REVENUE					
Add Deferred Rates Adjustment	0	0	(10,577)	(10,577)	0%
Add Back Depreciation	9,663,980	1,610,638	0	(1,610,638)	-100%
(Profit)/Loss on Asset Disposals	(411,373)	(9,210)	0	9,210	-100%
"Percent for Art" and "Cash in Lieu" Funds Adjustment	0	0	0	0	0%
AMOUNT ATTRIBUTABLE TO OPERATING ACTIVITIES	9,252,607	1,601,428	(10,577)	(1,612,005)	-101%
INVESTING ACTIVITIES					
Non-Operating Grants, Subsidies and Contributions	2,692,344	584,000	471,064	(112,936)	-19%
Capital Expenditure	(13,411,320)	(1,904,189)	(439,876)	1,464,313	-77%
Proceeds from Joint Venture Operations	333,333	0	0	0	0%
Proceeds from Disposal of assets	204,500	18,000	(0)	(8,095)	-45%
	(10,181,143)	(1,302,189)	31,188	1,343,282	-103%
FINANCING ACTIVITIES					
Repayments Loan Capital	(881,398)	(142,213)	(142,213)	0	0%
Transfers from Reserves	1,309,605	35,783	2,611	(33,172)	-93%
Transfers to Reserves	(1,850,534)	(253,836)	(60,537)	193,299	-76%
	(1,422,327)	(360,266)	(200,139)	160,127	-44%
Total amount raised from General Rates	32,939,532	32,598,692	32,477,128	(121,564)	0%
Surplus/(Deficiency) Before General Rates	4,035,268	4,035,268	4,853,470	818,202	20%
NET CURRENT ASSETS at JUNE 30 C/FWD - SURPLUS/(DEFICIT)	0	31,006,240	33,725,682	2,729,348	9%

Comments on Summary of Financial Activity by Programme:**Operating Revenue**

There is a difference in classification in revenue reported by Programme or by Nature and Type. Operating revenue in Programme reporting includes 'Profit on Sale of Assets', but this is excluded in the Nature and Type report, however 'Rates' revenue is added.

Revenue by programme is showing a negative variance of 6% (\$240k), this is due to lower revenue in General Purpose Funding \$64k, Health \$31k, Recreation and Culture \$18k, and Transport \$210k.

Operating Revenue as presented on the 'Nature and Type' report (Page 4 of **Attachment 1**) is showing a negative variance of 1%, with the largest negative variation in Fees and Charges.

Operating Expenditure

Expenditure by programme is showing a favourable variance of 25% (\$2.38m). Major portion of this variance relates to Depreciation of \$1.61m which has not yet been charged for August 2017, this will be processed once 2016/17 end of year processes are completed, including asset revaluation. Other variances are due to lower expenditure in Governance \$134k, Law and Order \$19k, Health \$22k, Education and Welfare \$75k, Community Amenities \$285k, Recreation and Culture \$1.23m, Transport \$476k, and Other Property and Services \$151k. The favourable variance would be 8% (\$770k) if the depreciation was allocated.

Transfer from Reserves

Transfer from Reserves is aligned with the timing of Capital Works projects that are Reserves funded. Most of these projects have not yet started.

Capital Expenditure

The variance is attributed to timing on commencement of projects. For further detail, refer to Note 5 on **Attachment 1**.

Transfer to Reserves

Monthly transfer to reserves commenced in July 2017.

Opening Funding Surplus/(Deficit)

The estimated surplus opening balance brought forward from 2016/17 is currently reflecting \$4,853,470, as compared to the adopted budget opening surplus balance of \$4,035,268. The actual balance is anticipated to reduce once the 2016/17 end of year process is completed and the accounts are audited.

Closing Surplus/(Deficit)

There is currently a surplus of \$33,725,682, compared to year to date budget surplus of \$31,006,240. This is substantially attributed to the positive variance in operating expenditure, current level of Capital Expenditure and the increase shown in the opening balance.

It should be noted that the closing balance does not represent cash on hand (please see the Net Current Funding Position on page 5 of the attachment).

Comments on the financial performance as set out in the Statement of Financial Activity (**Attachment 1**) and an explanation of each report is detailed below:

1. Statement of Financial Activity by Programme Report (Note 1 Page 1)

This statement of Financial Activity shows operating revenue and expenditure classified by Programme.

2. Statement of Comprehensive Income by Nature and Type Report (Note 2 Page 4)

This statement of Financial Activity shows operating revenue and expenditure classified by nature and type.

3. Net Current Funding Position (Note 3 Page 5)

Net Current Asset is the difference between the current asset and current liabilities, less committed assets and restricted assets. This amount indicates how much capital is available for day to day activities. The net current funding position as at 31 August 2017 is \$33,725,682.

4. Summary of Income and Expenditure by Service Areas (Note 4 Page 6 – 64)

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

5. Capital Expenditure and Funding Summary (Note 5 Page 65 - 79)

The following table is a Summary of the 2017/2018 Capital Expenditure Budget by programme, which compares Year to date Budget with actual expenditure to date. The full Capital Works Programme is listed in detail in Note 5 of Attachment 1.

	Adopted Budget \$	YTD Budget \$	YTD Actual \$	Remaining Budget %
Land and Buildings	2,343,358	612,905	101,173	96%
Infrastructure Assets	8,358,501	1,089,033	225,668	97%
Plant and Equipment	1,597,846	101,636	89,244	94%
Furniture and Equipment	1,111,615	100,615	23,791	98%
Total	13,411,320	1,904,189	439,875	97%

FUNDING	Adopted Budget \$	YTD Budget \$	YTD Actual \$	Remaining Budget %
Own Source Funding - Municipal	9,204,871	1,850,406	437,264	95%
Cash Backed Reserves	1,309,605	35,783	2,611	100%
Capital Grant and Contribution	2,692,344	0	0	100%
Other (Disposals/Trade In)	204,500	18,000	0	100%
Total	13,411,320	1,904,189	439,875	97%

Note: Detailed analysis are included on page 65 - 79 of Attachment 1.

6. Cash Backed Reserves (Note 6 Page 80)

The Cash Backed Reserves schedule details movements in the reserves, including transfers and funds used, comparing actual results with the annual budget. The balance as at 31 August 2017 is \$8,966,045.

7. Rating Information (Note 7 Page 81 - 82)

The notices for rates and charges levied for 2017/18 were issued on 07 August 2017.

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

First Instalment	12 September 2017
Second Instalment	06 November 2017
Third Instalment	08 January 2018
Fourth Instalment	06 March 2018

To cover the costs involved in providing the instalment programme the following charge and interest rates apply:

Instalment Administration Charge (to apply to second, third, and fourth instalment)	\$13.00 per instalment
Instalment Interest Rate	5.5% per annum
Late Payment Penalty Interest	11% per annum

Pensioners registered with the City for rate concessions do not incur the above interest or charge.

The Rates debtors balance as at 31 August is \$25,607,350 (this includes deferred rates of \$130,190). This represents 75.99% of the collectable income compared to 76.20% at the same time last year.

8. Receivables (Note 8 Page 83)

Receivables of \$3,299,978 are outstanding at the end of August 2017, of which \$2,689,915 has been outstanding over 90 days. This is comprised of:

- \$2,181,493 (81.1%) relates to unpaid infringements (plus costs) over 90 days. Infringements that remain unpaid for more than two months are sent to Fines Enforcement Registry (FER), who then collect the outstanding balance and return the funds to the City for a fee.
- \$368,067 (13.7%) relates to Cash in Lieu Parking. Some Cash in Lieu Parking debtors have special payment arrangements over more than one year.
- \$140,356 (5.2%) relates to Other Receivables, including recoverable works and property.

Administration has been following up outstanding items which relate to Other Receivables by issuing reminders when they are overdue and formal debt collection when payments remain outstanding.

9. Beatty Park Leisure Centre – Financial Position Report (Note 9 Page 84)

As at 31 August 2017 the operating surplus for the Centre was \$60,798 in comparison to the year to date budgeted deficit of \$198,875, however it is noted that Depreciation has not been allocated for August 2017. Allowing for depreciation, the year to date result would be a deficit of \$30,360.

The cash position showed a current cash surplus of \$60,798 in comparison to year to date budget estimate of a cash deficit of \$107,717.

10. Explanation of Material Variances

All material variance as at 31 August 2017 has been detailed in the variance comments report in **Attachment 1**.

The materiality thresholds used for reporting variances are 10% and \$10,000. This means that variances will be analysed and separately reported when they are more than 10% (+/-) of the YTD budget, where that variance exceeds \$10,000 (+/-). This threshold was adopted by Council as part of the Budget adoption for 2017/18 and is used in the preparation of the statements of financial activity when highlighting material variance in accordance with *Financial Management Regulation 34(1) (d)*.

CONSULTATION/ADVERTISING:

Not applicable.

LEGAL/POLICY:

Section 6.4 of the Local Government Act 1995 requires a local government to prepare an annual financial report for the preceding year and such other financial reports as are prescribed.

Regulation 34 (1) of the Local Government (Financial Management) Regulations 1996 requires the local government to prepare each month, a statement of financial activity reporting on the source and application of funds as set out in the adopted Annual Budget.

A statement of financial activity and any accompanying documents are to be presented at the next Ordinary Meeting of the Council following the end of the month to which the statement relates, or to the next Ordinary Meeting of Council after that meeting.

RISK MANAGEMENT IMPLICATIONS:

Low: In accordance with *Section 6.8 of the Local Government Act 1995*, a local government is not to incur expenditure from its Municipal Fund for an additional purpose except where the expenditure is authorised in advance by an absolute majority decision of Council.

STRATEGIC IMPLICATIONS:

Strategic Plan 2013-2023:

“4.1 Provide good strategic decision-making, governance, leadership and professional management:

4.1.2 Manage the organisation in a responsible, efficient and accountable manner;

(a) Continue to adopt best practice to ensure the financial resources and assets of the City are responsibly managed and the quality of services, performance procedures and processes is improved and enhanced.”

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

Not applicable.

COMMENTS:

All expenditure included in the Financial Statements is incurred in accordance with Council's adopted budget or subsequent approval in advance.

11.6 AUTHORISATION OF EXPENDITURE FOR THE PERIOD 24 AUGUST 2017 TO 22 SEPTEMBER 2017

TRIM Ref: D17/133290
Author: Nikki Hirrill, Accounts Payable Officer
Authoriser: John Paton, Director Corporate Services
Attachments:

1. Payments by EFT September 17 
2. Payments by Cheque September 17 
3. Payments by Credit Card September 17 

RECOMMENDATION:

That Council RECEIVES the list of accounts paid under delegated authority for the period 24 August 2017 to 22 September 2017 as detailed in attachment 1, 2 and 3 as summarised below:

Cheque Numbers 81538 – 81632	\$107,413.59
Cancelled Cheque 81367	-\$1,640.00
EFT Documents 2131 - 2145	\$5,357,022.93
Payroll	\$1,088,724.31

Direct Debits

- Lease Fees \$385.00
- Loan Repayments \$147,116.20
- Bank Fees and Charges \$30,146.30
- Credit Cards \$16,833.83

Total Direct Debit	\$194,481.33
Total Accounts Paid	\$6,746,002.16

PURPOSE OF REPORT:

To present to Council the expenditure and list of accounts paid for the period 24 August 2017 to 22 September 2017.

BACKGROUND:

Council has delegated to the Chief Executive Officer (Delegation No. 1.14) the exercise of its power to make payments from the City's Municipal and Trust funds. In accordance with *Regulation 13(1) of the Local Government (Financial Management) Regulations 1996* a list of accounts paid by the Chief Executive Officer is to be provided to Council, where such delegation is made.

The list of accounts paid must be recorded in the minutes of the Council Meeting.

DETAILS:

The Schedule of Accounts paid for the period 24 August 2017 to 22 September 2017, covers the following:

FUND	CHEQUE NUMBERS/ PAY PERIOD	AMOUNT
Municipal Account (Attachment 1, 2 and 3)		
Cheques	81538 - 81632	\$107,413.59
Cancelled Cheque	81367	-\$1,640.00

EFT Payments	2131 - 2145	\$5,357,022.93
Sub Total		\$5,462,796.52

Transfer of Payroll by EFT	05/09/17	\$541,437.03
	19/09/17	\$545,457.89
	20/09/17	\$1,829.39
	September 2017	\$1,088,724.31

Bank Charges and Other Direct Debits

Lease Fees	\$385.00
Loan Repayments	\$147,116.20
Bank Charges – CBA	\$30,146.30
Credit Cards	\$16,833.83

Total Bank Charges and Other Direct Debits (Sub Total) **\$194,481.33**

Total Payments **\$6,746,002.16**

CONSULTING/ADVERTISING:

Not applicable.

LEGAL/POLICY:

Regulation 12(1) and (2) of the *Local Government (Financial Management) Regulations 1996* refers, i.e.-

12. *Payments from municipal fund or trust fund, restrictions on making*

- (1) *A payment may only be made from the municipal fund or the trust fund —*
 - *if the local government has delegated to the CEO the exercise of its power to make payments from those funds — by the CEO; or*
 - *otherwise, if the payment is authorised in advance by a resolution of Council.*
- (2) *Council must not authorise a payment from those funds until a list prepared under regulation 13(2) containing details of the accounts to be paid has been presented to Council.*

Regulation 13(1) and (3) of the *Local Government (Financial Management) Regulations 1996* refers, i.e.-

13. *Lists of Accounts*

- (1) *If the local government has delegated to the CEO the exercise of its power to make payments from the municipal fund or the trust fund, a list of accounts paid by the CEO is to be prepared each month showing for each account paid since the last such list was prepared -*
 - *the payee's name;*
 - *the amount of the payment;*
 - *the date of the payment; and*
 - *sufficient information to identify the transaction.*
- (3) *A list prepared under sub regulation (1) is to be —*
 - *presented to Council at the next ordinary meeting of Council after the list is prepared; and*
 - *recorded in the minutes of that meeting.*

RISK MANAGEMENT IMPLICATIONS:

Low: Management systems are in place to establish satisfactory controls, supported by internal and external audit function.

STRATEGIC IMPLICATIONS:

Strategic Plan 2013-2023:

“4.1 Provide good strategic decision-making, governance, leadership and professional management:

4.1.2 Manage the organisation in a responsible, efficient and accountable manner;

(a) Continue to adopt best practice to ensure the financial resources and assets of the City are responsibly managed and the quality of services, performance procedures and processes is improved and enhanced.”

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

All Municipal Fund expenditure included in the list of payments is in accordance with Council’s Annual Budget.

COMMENTS:

If Councillors require further information on any of the payments, please contact the Manager Financial Services.

11.7 INVESTMENT REPORT AS AT 30 SEPTEMBER 2017

TRIM Ref: D17/136201
Author: Sheryl Teoh, Accounting Officer
Authoriser: John Paton, Director Corporate Services
Attachments: 1. Investment Report [↗](#) 

RECOMMENDATION:

That Council **NOTES** the provisional Investment Report for the month ended 30 September 2017 as detailed in Attachment 1.

PURPOSE OF REPORT:

To advise Council of the level of investment funds and operating funds available, the distribution of surplus funds in investments and the interest earned to date.

BACKGROUND:

Surplus funds are invested in Bank Term Deposits for various terms, to maximise investment returns in compliance with good governance, legislative requirements and Council's Investment Policy No 1.2.4. Details are attached in Attachment 1.

The City's Investment Portfolio is diversified across several Financial Institutions in accordance with the Investment Policy.

This Investment Report as presented is provisional to provide an estimate of the year-end position. There are still a number of year end transactions, and adjustments that need to be completed before the year end accounts will be finalised and audited. Whilst the overall balance of investments and interest earned is not likely to change, the allocations between Municipal, Trust and Reserve funds may need to be adjusted.

DETAILS:

Total funds held for the period ended 30 September 2017 including on call in the City's operating account were \$40,305,364; compared to \$36,754,571 for the comparative period ended 30 September 2016.

Total Investments for the period ended 30 September 2017 were \$37,944,911 as compared to \$27,714,651 for the prior month end; and \$34,302,896 for the period ended 30 September 2016.

Investment comparison table:

Month Ended	2016/17		2017/18	
	Total Funds Held	Total Investments	Total Funds Held	Total Investments
July	\$19,683,412	\$18,420,252	\$23,433,728	\$21,212,649
August	\$26,167,645	\$22,573,297	\$30,161,860	\$27,714,651
September	\$36,754,571	\$34,302,896	\$40,305,364	\$37,944,911
October	\$37,581,885	\$34,521,542		
November	\$37,034,885	\$35,775,011		
December	\$33,692,431	\$31,165,443		
January	\$34,645,041	\$33,201,749		
February	\$34,028,716	\$32,316,251		
March	\$32,070,200	\$31,424,409		
April	\$30,661,122	\$26,206,328		
May	\$27,412,051	\$25,718,292		
June	\$24,670,461	\$23,533,279		

Total accrued interest earned on Investments as at 30 September 2017:

	Adopted Budget	YTD Budget	YTD Actual	% of YTD Budget
Municipal	\$414,960	\$92,590	\$83,600	90.29%
Reserve	\$258,420	\$60,930	\$60,137	98.70%
Sub-total	\$673,380	\$153,520	\$143,737	93.63%
Leederville Gardens Inc Surplus Trust*	\$0	\$0	\$36,373	0.00%
Total	\$673,380	\$153,520	\$180,110	117.32%

*Interest estimates for Leederville Gardens Inc Surplus Trust were not included in the 2017/18 Budget as actual interest earned is held in Trust and restricted.

CONSULTATION/ADVERTISING:

Not applicable.

LEGAL/POLICY:

The power to invest is governed by the *Local Government Act 1995*.

6.14. Power to invest

- (a) (1) *Money held in the municipal fund or the trust fund of a local government that is not, for the time being, required by the local government for any other purpose may be invested as trust funds may be invested under the Trustees Act 1962 Part III.*
- (b) (2A) *A local government is to comply with the regulations when investing money referred to in subsection (1).*
- (c) (2) *Regulations in relation to investments by local governments may —*
 - (a) *make provision in respect of the investment of money referred to in subsection (1); and*
 - [(b) *deleted*]
 - (c) *prescribe circumstances in which a local government is required to invest money held by it; and*
 - (d) *provide for the application of investment earnings; and*
 - (e) *generally provide for the management of those investments.*

Further controls are established through the following provisions in the *Local Government (Financial Management) Regulations 1996*:

19. Investments, control procedures for

- (d) (1) *A local government is to establish and document internal control procedures to be followed by employees to ensure control over investments.*
- (e) (2) *The control procedures are to enable the identification of —*
 - (a) *the nature and location of all investments; and*
 - (b) *the transactions related to each investment.*

19C. Investment of money, restrictions on (Act s. 6.14(2)(a))

- (f) (1) *In this regulation —*
 - authorised institution** means —
 - (a) *an authorised deposit-taking institution as defined in the Banking Act 1959 (Commonwealth) section 5; or*
 - (b) *the Western Australian Treasury Corporation established by the Western Australian Treasury Corporation Act 1986;*
 - foreign currency** means *a currency except the currency of Australia.*
- (g) (2) *When investing money under section 6.14(1), a local government may not do any of the following —*
 - (a) *deposit with an institution except an authorised institution;*
 - (b) *deposit for a fixed term of more than 3 years;*

- (c) invest in bonds that are not guaranteed by the Commonwealth Government, or a State or Territory government;
- (d) invest in bonds with a term to maturity of more than 3 years;
- (e) invest in a foreign currency.

To further guide the prudent and responsible investment of the City's funds, Council has adopted the City's Investment Policy No. 1.2.4, which delegates the authority to invest surplus funds to the Chief Executive Officer or his delegate.

Administration has established guidelines for the management of the City's investments, including the following ratings table.

City of Vincent Investment Report Grouping*	Long Term Rating (Standard & Poor's) or Equivalent	Short Term Rating (Standard & Poor's) or Equivalent	Direct Investments Maximum % with any one institution		Managed Funds Maximum % with any one institution		Maximum % of Total Portfolio	
			Policy	Actual	Policy	Actual	Policy	Actual
	AAA	A1+	30%	Nil	45%	Nil	100%	Nil
Group A	AA	A1+	30%	28.3%	30%	Nil	90%	65.3%
Group B	A	A1	20%	10.8%	30%	Nil	80%	23.0%
Group C	BBB	A2	10%	10.4%	n/a	Nil	20%	11.7%

*As per subtotals on **Attachment 1**

RISK MANAGEMENT IMPLICATIONS:

Moderate: Funds are invested with various financial institutions with high Long Term and Short Term Rating (Standard & Poor's or equivalent), obtaining more than three quotations for each investment. These investment funds are spread across various institutions and invested as Term Deposits from one to twelve months to reduce risk.

STRATEGIC IMPLICATIONS:

In keeping with the City's Strategic Plan 2013-2023:

"4.1 Provide good strategic decision-making, governance, leadership and professional management:

4.1.2 Manage the organisation in a responsible, efficient and accountable manner;

- (a) Continue to adopt best practice to ensure the financial resources and assets of the City are responsibly managed and the quality of services, performance procedures and processes is improved and enhanced."

SUSTAINABILITY IMPLICATIONS:

Not applicable.

FINANCIAL/BUDGET IMPLICATIONS:

The financial implications of this report are as noted in the details and comments section of the report. Overall the conclusion can be drawn that appropriate and responsible measures are in place to protect the City's financial assets and to ensure the accountability of management.

COMMENTS:

The funds for investment have increased from the previous period due to seasonal funds available from receipt of rates revenue after creditors and other payments.

Funds invested with the Members Equity Bank exceeded 10% by 0.4% at the end of September 2017. On balance, this investment was considered appropriate after consideration of attaining higher rate of return and the institution's social and environmental responsibility rating. By proportion it will reduce as the investment portfolio increases, and the risk associated with the investment is deemed to be negligible.

The City has obtained a weighted average interest rate of 2.55% for current investments including the operating account; and 2.62% excluding the operating account. The Reserve Bank 90 days Accepted Bill rate for September 2017 is 1.72%.

As at 30 September 2017, the City's total investment earnings excluding the Leederville Gardens Inc. Surplus Trust income, is lower than the year to date budget by 6.37%. It is anticipated this will come in line with budget forecasts as rate income continues to be received.

In response to the August 2016 amendment to the City's Investment Policy that provided for preference "*to be given to investments with institutions that have been assessed as to have a higher rating of demonstrated social and environmental responsibility, providing that doing so will secure a rate of return that is at least equal to alternatives offered by other institutions*", Administration has actively sought investment offerings from relevant institutions.

It is of note that during this reporting period, the City added Bank Australia Ltd to the list of non-fossil fuel lending institutions utilised. As a result, 34.67% of the City's investments were held in non-fossil fuel lending institutions as at 30 September 2017.

As stated above the financial reports as presented are provisional based on an estimate of the year-end position and pending finalisation and audit of the prior year accounts.

The investment report (**Attachment 1**) consists of:

- Investment Performance & Policy Compliance Charts;
- Investment Portfolio;
- Investment Interest Earnings; and
- Current Investment Holding.

11.8 REVIEW OF LOCAL GOVERNMENT ACT – SUBMISSION TO WALGA

TRIM Ref: D17/133841

Author: Tim Evans, Manager Governance and Risk

Authoriser: John Paton, Director Corporate Services

Attachments:

1. WALGA Discussion Paper - Review of Local Government Act [↗](#) 
2. City of Vincent Submission [↗](#) 

FRECOMMENDATION:

That Council **ENDORSES** the submission included as **Attachment 2** as the City of Vincent's response to the Western Australian Local Government Association (WALGA) discussion paper relating to the *Review of the Local Government Act 1995*.

PURPOSE OF REPORT:

To consider the City's draft submission on WALGA's Review of the *Local Government Act 1995* Discussion Paper.

BACKGROUND:

In June 2017, the Minister for Local Government, Hon David Templeman announced the commencement of a review of the *Local Government Act 1995* in two phases.

The first phase will focus on modernising Local Government, with a Bill expected in 2018. Key topics in this phase will be:

- increasing elector participation;
- electronic disclosure (making information more readily available);
- simplifying the disclosure of gifts; and
- reducing red tape provisions.

The second phase will focus on delivering for the community with a Bill expected in 2019. Key topics in this phase will be:

- improving behaviour and relationships;
- increasing community participation;
- enabling local government enterprises; and
- improving financial management.

WALGA has published a discussion paper – included as **Attachment 1** - on issues that have been identified over the last eight years including advocacy positions resolved by the sector and has invited all local governments to put in a Council-endorsed submission on the issues raised.

DETAILS:

Administration has drafted a City of Vincent submission, included as **Attachment 2**, which includes the list of positions raised by WALGA and a City of Vincent response based on any past positions of Council and, where no formal position has been taken to date, the views of Council Members and the Executive Team following discussions internally.

Over and above the issues raised in the discussion paper, a list of further items and issues have been included that either Council has an adopted position on (e.g. as a result of a Council decision or a Council endorsed paper such as "Raising the Bar") or Administration is proposing a particular position on. These items are also proposed to be included within the City's submission to WALGA.

This report seeks Council's endorsement of the City's submission to WALGA in respect of the discussion paper, for lodgement with WALGA prior to its 20 October 2017 deadline. It is expected that submissions made by Local Governments will be considered by the WALGA State Council at the 6 December meeting.

CONSULTATION/ADVERTISING:

The submission is being developed in response to WALGA's consultation exercise in relation to the review of the *Local Government Act 1995*.

LEGAL/POLICY:

This item concerns a review of the *Local Government Act 1995*.

RISK MANAGEMENT IMPLICATIONS:

Low There is not considered to be any risk to the City arising from making a submission to WALGA concerning the Review of the *Local Government Act 1995*.

STRATEGIC IMPLICATIONS:

In keeping with the City's *Plan for the Future – Strategic Community Plan 2013 – 2023* – the following Objectives state:

'4.1: *Provide good strategic decision-making, governance, leadership and professional management.*

4.1.5 *Focus on stakeholder needs, values, engagement and involvement.'*

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Nil.

COMMENTS:

WALGA's discussion paper lists 41 positions that have been raised or resolved through State Council or Zone meetings. Of the 41 positions raised, the City's draft submission proposes that the City is supportive of 31, is partially supportive of 1, has no position on 6 and does not support 3.

The majority of the issues raised by WALGA are considered to be sensible and relevant positions in relation to the legislation, however the following are the WALGA positions which it is proposed that the City does not support:

1) Method of Election of Mayor/President

Contrary to WALGA's view that Local Governments should retain the power to determine whether their Mayor or President will be elected by the Council or elected by the community, the City of Vincent's position, adopted by Council through [Raising the Bar](#) discussion paper in April 2016 is that section 2.11 of the *Local Government Act 1995* should be amended to mandate local governments to fill the position of Mayor or President through direct election by ratepayers. The City holds this view on the basis that the practice of directly electing a Mayor or President is considered a far more transparent, democratic and representative of community sentiment than the practice of a Mayor or President being elected by their peers. These processes deprive electors of a basic democratic right to vote for their civic leaders, instead leaving this essential decision, and often associated negotiations, in the hands of a select few.

2) Method of Voting – Local Government Elections

While WALGA's position is that voting in Local Government elections should remain voluntary, the City favours making voting mandatory. The City believes that voting in local government should be made mandatory in order to encourage voter participation and engagement.

3) Mandatory Training for Elected Members and Candidates

In contrast to WALGA's position, the City supports mandatory and / or incentivised training for Elected Members, particularly those in their first term as a means to raise the minimum governance standards across the industry. The City also supports a requirement for candidates to undertake basic, light-weight training (e.g. an online course or attend an information session) prior to nomination so that candidates have a full understanding of the demands of the role. However, training requirements over and above this may result in a barrier to nomination and participation.

In addition to the positions put forward by WALGA through the discussion paper, the City is also making a number of further proposals for legislative reform which are included as part 2 of the City's submission. In particular, it is the City's view that there are a number of areas in which the current *Local Government Act 1995* does not facilitate the highest standards of accountability and transparency in local government decision making. Importantly, the City's submission proposes a number of minimum benchmarks and standards that should be set for all local governments, including additional mandatory publication of Council information on the web such as Councillor Expenses, Senior Staff Pay Bands, Leasing Arrangements, Councillor Contact with Developers, Disclosure of Interest and Travel Expenses.

The Department of Local Government, Sport and Cultural Industries has announced that it will be publishing its own discussion paper in relation to phase 1 of its review in November. It is expected that the City will make a further submission at that time in response to the Department's discussion paper.

Administration notes that the recommendations that are made are for changes to the Act that will impose minimum requirements on the entire local government sector. Over and above the legislated minimum requirements, any local government is at liberty to hold itself to higher standards through their own code of conduct or through the implementation of policies, procedures, strategies and other such internal mechanisms.

12 COMMUNITY ENGAGEMENT**12.1 SPORTSGROUND FEES & CHARGES REVIEW**

TRIM Ref: D17/129664

Author: Karen Balm, Community Partnerships - Projects Officer

Authoriser: Michael Quirk, Director Community Engagement

- Attachments:
1. Sportsground Classification Framework 
 2. Sportsground Licence System Model 
 3. Sportsground Cost Recovery Model 
 4. Standard Per Player Charge Model 
 5. Sports Specific Player Charge Model 
 6. Sportsground Hourly Hire Charge Model 
 7. Sportsgrounds Fees & Charges Financial Impact Summary 
 8. Proposed Schedule of Fees and Charges 2017/18 

RECOMMENDATION:**That Council**

1. In accordance with Section 6.16 of the *Local Government Act 1995* APPROVES BY ABSOLUTE MAJORITY amendments to Sportsgrounds Seasonal Hire within the Schedule of Fees and Charges 2017/2018 as identified within Attachment 8;
2. PROVIDES public notice of the revised Sportsgrounds Seasonal Hire to be included in the Schedule of Fees and Charges 2017/2018 effective from 1 November 2017 pursuant to section 6.19 of the *Local Government Act 1995*.

PURPOSE OF REPORT:

To consider implementation of a revised fee structure for the seasonal of sportsgrounds through amendments to Council's Schedule of Fees and Charges 2017/2018.

BACKGROUND:

Both Council and Administration have identified the need to improve the accessibility and usage of community halls, parks and reserves throughout Vincent. A recent review of fees and charges for these community assets identified that the current charging methodology is complex and the costs are generally higher when compared with other Local Government areas. This led to revised fees and charges for community halls within Council's Schedule of Fees and Charges 2017/18 based upon the categorisation of buildings as well as the establishment of community rates and commercial rates. Changes to the facility bookings software and associated administrative practices has also supported the implementation of these new fees and charges.

At the Ordinary Meeting of Council on 2 May 2017 it was resolved to also review the sportsground hire fees and charges to ensure that the methodology is contemporary, locally appropriate and affordable for local sporting clubs. In addition, at the Ordinary Meeting of Council held on 22 August 2017 it was resolved that Administration obtain sporting club membership details by gender to directly inform strategies to improve participation and accessibility by women and girls, including the sportsground seasonal hire fees review.

The City has nine sportsgrounds that accommodate 11 sporting clubs/associations who remain subject to fees and charges, as follows:

Sportsground	Winter Club	Summer Club
Beatty Park Reserve, North Perth	East Perth Football Club North Perth United Football (Soccer) Club	East Perth Football Club

Sportsground	Winter Club	Summer Club
Birdwood Square, Perth	Perth Soccer Club	
Britannia Road Reserve, Leederville	Floreat Athena Football (Soccer) Club	Leederville Cricket Club Last Man Stands (Cricket)
Charles Veryard Reserve, North Perth	Modernians Hockey Club Mt Hawthorn Cardinals Junior Football Club	Tuart Hill Cricket Club University Cricket Club
Forrest Park, Mount Lawley	Perth Soccer Club	Floreat Hellenic Cricket Club Last Man Stands (Cricket)
Leederville Oval, Leederville	East Perth Football Club Subiaco Football Club	
Les Lilleyman Reserve, North Perth	Subiaco Football Club	Subiaco Football Club Last Man Stands (Cricket) University Cricket Club
Menzies Park, Mount Hawthorn	Mt Hawthorn Cardinals Junior Football Club	University Cricket Club
Woodville Reserve, North Perth	North Perth United Football (Soccer) Club	

These sporting clubs/associations are currently charged on a per player basis which then varies depending on whether they are also using change rooms and/or clubrooms, and the proportion of this charge then varies again depending on whether they are using the reserve for training and/or match play. A snapshot of the current per player charge for senior sporting clubs is provided below:

Seasonal Hire Fees	Match Play & Training (per person)	Match Play or Training (per person)
Reserve Only	\$166.60	\$89.25
Reserve and Change Rooms	\$197.40	\$105.75
Reserve, Change Rooms and Clubrooms	\$235.20	\$126.00

The per player charges are determined based upon application of the base rates and percentage increases provided below:

Seasonal Hire Base Rate	
Sport Teams (Base fee per season)	
No Change Rooms	\$119.00
With Change Rooms	\$141.00
With Social Rooms	\$168.00
Adults	
Training Only	Base x 75%
Match Play Only	Base x 75%
Training & Matchplay	Base x 140%

This overly complex approach to sportsground fees and charges has proven difficult for Administration to implement and also difficult for sporting clubs to fully understand. Indeed it is now clear that Administration has historically inaccurately implemented these fees and charges, and even more importantly, has not interrogated the player number information provided by clubs for accuracy. When these errors are corrected from 2017 onwards many clubs would be subjected to higher seasonal sportsground charges that may adversely impact their financial sustainability. Interrogation of the current per player base rates and

percentage increases has also confirmed that the figures are arbitrary and bear absolutely no relationship with reserve maintenance costs, participation rates or Council's strategic objectives.

Administration has completed a benchmarking exercise with other Local Governments within the Perth Metropolitan Area which identified that Vincent's existing sportsground fees and charges for specific senior sporting clubs are generally the highest which may impact the long-term viability and sustainability of these local clubs.

Local Government	Cricket (per person)	Hockey (per person)	Soccer (per person)
Town of Bassendean	\$24.09	\$30.83	\$24.17
City of Joondalup	\$44.56	\$40.85	\$40.85
City of Wanneroo	\$39.32	\$36.04	\$36.04
City of Melville	\$46.00	\$46.00	\$46.00
City of Stirling	\$49.55	\$45.42	\$45.42
Town of Victoria Park	\$63.00	\$63.00	\$63.00
Town of Cambridge	\$65.00	\$65.00	\$65.00
City of Vincent	\$166.60	\$166.60	\$166.60

Sportsgrounds fees and charges for juniors were reviewed at the Ordinary Meeting of Council on 10 March 2015 whereby sporting clubs with more than 60% City of Vincent residents are fully subsidised, and those clubs with less than 60% residents are subject to a sliding scale that increases from \$2.00 to \$5.00 depending upon their percentage of resident's threshold. This methodology encourages children and young people to participate in organised physical activity and is comparable with approaches across other Local Government areas.

DETAILS:

Administration has completed a review of different models used by Local Government Authorities throughout Australia in order to establish a more contemporary approach to sportsground fees and charges that better aligns with Council and community expectations. This review has included analysis of the following models:

- Sportsground Classification Framework;
- Sportsground Licence System;
- Sportsground Cost Recovery Percentage;
- Standard Per Player Charge;
- Sports Specific Per Player Charge; and
- Sportsground Hourly Hire Charge.

Sportsground Classification Framework

Administration has compiled a Sportsground Classification Framework which is relevant to several fees and charges options. The framework has been developed to reflect the varied range of sportsgrounds and associated amenities within Vincent. Each sportsground has been assessed based upon designated criteria to establish a classification from category AA (highest quality) to C (lowest quality) – please refer to **Attachment 1**. Sportsgrounds do not need to align with all of the specified criteria with a 'best fit' principle to apply.

In developing this framework a number of variables were considered which included:

- Type of facility;
- A seasonal grading system of sportsgrounds, facilities and reserves which is based on the quality of the grounds, relevant facilities and amenities
- Benefits derived from the provision of this facility (income generated from hiring, catering facilities etc.);
- Cost of providing the facility, service or program;
- Development of a formula which makes fees and charges of sportsgrounds uniform and efficient to administer;
- Practicality of administering the charging methodology;
- The provision of greater transparency and correlation between the fees that are levied against facilities provided;

- To encourage shared use of sporting infrastructure by other community groups;
- Benchmarking data;
- Community benefit;

Sportsground Licence System

Overview

Through this approach the sporting clubs are simply charged a seasonal licence fee to utilise a sportsground regardless of their team or player numbers. The licence fee is based upon 10% cost recovery of the actual sportsground maintenance cost dependent upon the number of playing fields utilised. The sportsground maintenance cost for the previous financial year would be utilised as the basis for the licence fee. That fee can then be further subsidised dependent upon specific Council objectives and benchmarks (i.e. junior participation targets, female participation targets, local resident membership targets, establishment of a new sporting code, delivery of defined City/Club initiatives, etc.).

A seasonal licence provides sporting clubs with a permit to use a sportsground for an agreed purpose for an agreed period of time providing certainty of tenancy but does not provide any exclusive occupancy rights to ensure ongoing accessibility by the broader community. A key objective of the Sportsground Licence System is to link the licence length with the term of associated clubroom leases/licences held by sporting clubs in order to streamline the ground allocation process.

Methodology

Please refer to **Attachment 2** for analysis of this model based upon a 10% cost recovery figure noting that this cost recovery target can be adjusted to deliver alternative financial implications. An example of this methodology is provided below using Modernians Hockey Club at Charles Veryard Reserve who currently pay \$8,668 per season:

Annual Ground Maintenance Costs	Seasonal Ground Maintenance Costs	10% Cost Recovery	No. of Fields	Per Field Maintenance Costs	No. Fields Used by Club	Sportsground Licence Cost	10% Community Objective Rebate	30% Community Objective Rebate
\$191,539.00	\$95,769.50	\$9,576.95	2	\$4,788.48	2	\$9,576.95	\$8,619.25	\$6,703.86

The key opportunity with this model is that Council/Administration can establish participation and performance targets for sporting clubs that are incentivised through sportsground licence fee rebates. An example of some of the options are provided below:

Community Objective Criteria	Rebate (Up to a maximum of 50%)
Seasonal Junior Participation Increase	10%
Seasonal Female Participation Increase	10%
Seasonal Alcohol Revenue Reduction	10%
Implementation of Specific Initiatives (i.e. reconciliation, accessibility)	10%
More than 50% of members reside in Vincent (senior clubs only)	10%

Sporting clubs will be annually assessed to determine the subsidy applicable for each season based upon the provision of financial, membership and other data. While this model enables Council/Administration to influence the performance of sporting clubs it requires a significant amount of effort to review and calculate fees. In addition, modelling demonstrates that many sporting clubs will attract much higher sportsground fees and charges through a Licence System even with the application of community objective rebates.

Sportsground Cost Recovery Percentage

Overview

Through this approach the sportsground fees are directly linked to the actual recurrent cost of maintaining sportsgrounds including mowing, irrigation, top dressing and fertilisation. While it is not realistic to achieve full cost recovery a percentage contribution can be applied to those sporting clubs that benefit from the increased maintenance levels necessary at sportsgrounds compared to other passive parks and reserves.

The sportsground costs recovery percentage methodology is simple and equitable so that all sporting clubs and users pay an amount based upon the Sportsground Classification Framework. There is an opportunity to implement the same cost recovery percentage across the sportsground categories or to implement a sliding scale based upon the highest to lowest quality sportsgrounds. Note that Category AA has not currently been included in this methodology due to an existing Memorandum of Agreement with East Perth and Subiaco Football Clubs for use of Leederville Oval.

Methodology

Please refer to **Attachment 3** for analysis of this model based upon variable cost recovery targets of 5%, 2.5% and 1%. An example of this methodology is provided below using University Cricket Club at Les Lilleyman Reserve who currently pay \$1,163.25 per season:

Reserve Category	Ground Maintenance 2016/17	5% Cost Recovery	2.5% Cost Recovery	1% Cost Recovery
B	\$106,544.00	\$5,327.20	\$2,663.60	\$1,065.44

Under this model there is no consideration of the number of playing fields used or the number of teams/players using the sportsground. On that basis, there is a disadvantage for those sporting clubs with lower player/team numbers and those who only use sportsgrounds for a limited number of hours per week.

A key consideration for this model will be determining whether a single cost recovery percentage is applied across all sportsgrounds or a sliding scale based upon the highest to lowest quality sportsgrounds. The analysis of this model demonstrates that implementing a sliding scale approach will have minimal financial implications for those sporting clubs using category B and C sportsgrounds, however those utilising category A sportsgrounds will be significantly impacted.

Standard Per Player Charge

Overview

Through this approach the per player charging methodology remains regardless of the sportsground being utilised or the specific sporting code, however sportsground maintenance costs are used as the basis for such the charge rather than the longstanding arbitrary approach. This revised per player charging methodology remove the complexity of applying percentage variations depending on the associated facilities used and whether the sportsground is utilised for training and/or matchplay.

The current charging methodology as per the Fees and Charges Schedule is provided below:

Seasonal Hire Fee	Match Play & Training (per person)	Matchplay or Training (per person)
Reserve Only	\$166.60	\$89.25
Reserve and Change Rooms	\$197.40	105.75
Reserve, Change Rooms and Clubrooms	\$235.20	\$126.00

These per player charges are determined based upon application of the base rates and percentage increases provided below:

Seasonal Hire Base Rate	
Sport Teams (Base fee per season)	
No Change rooms	\$119
With Change rooms	\$141
With Social rooms	\$168
Adults	
Training Only	Base x 75%
Matchplay Only	Base x 75%

Seasonal Hire Base Rate	
Training & Matchplay	Base x 140%

This overly complex approach to sportsground fees and charges has proven difficult for Administration to implement and also difficult for sporting clubs to fully understand.

Methodology

Please refer to **Attachment 4** for analysis of this model based upon a per player fee of \$40 (training or matchplay) and \$80 (training and matchplay). These fees have been developed using 1% cost recovery of total sportsground maintenance costs as a benchmark which was then utilised to prepare an average cost across the varying player numbers for each sporting code currently active within Vincent.

An example of this methodology is provided below using North Perth United Football (Soccer) Club at Woodville Reserve for matchplay only who currently pay \$3,543.25 per season:

Number of Players Per Team (Soccer)	2016/17 Number of Players	Per person Charge Training or Matchplay	2016/17 Total Payable	Per Player Fee Matchplay Only	Total Payable under Per Player Charge
11	56	\$89.25	\$3,543.25	\$40.00	\$2,240.00

Under this model a reduced rate per player would be applicable should a sporting club only utilise the sportsground for either training or matchplay.

This model also provides the opportunity for Council/Administration to establish participation and performance targets for sporting clubs that are incentivised through per player cost rebates albeit the recommended rebates are lower given the financial implications associated with a per player charge. An example of some the options are provided below:

Community Objective Criteria	Rebate (up to a maximum of 25%)
Seasonal Junior Participation Increase	5%
Seasonal Female Participation Increase	5%
Seasonal Alcohol Revenue Reduction	5%
Implementation of Specific Initiatives (i.e. reconciliation, accessibility)	5%
More than 50% of members reside in Vincent (senior clubs only)	5%

Through this methodology a player is charged the same amount to play at Britannia Reserve as they are at Birdwood Square (for example) with no consideration given to the supporting amenities, the level of impact on the turf or the size of the sportsground. Nonetheless, this approach provides a well-informed basis for fees and charges that can be implemented equitably across sporting codes. It also allows Council and Administration to incentivise

Sports Specific Per Player Charge

Overview

Through this approach there is a variable per player charge depending on the type of sport and its subsequent impact on turf management and sportsground availability. The basis for this charge takes into account actual maintenance costs for those sportsgrounds that accommodate sporting codes which have a more significant impact on the turf. Again, it is considered prudent to establish a well-informed per player charge rather than the current approach of applying arbitrary percentage variations.

Methodology

This model relies upon a 'turf impact rating' derived following the assessment of factors that impact on the condition of the sportsground turf and its usability by the broader community. Sportsgrounds are rated based on the following factors that impact their capacity:

- Turf condition – turf species and surface quality;
- Type of usage/sporting code – high impact sport (AFL/Soccer) or Low impact (cricket);
- Number of teams – juniors/seniors;
- Level of usage – competition, training, competition and training, special events.

Sporting codes have also been classified so that a higher turf impact codes (such as soccer) are charged at a higher rate than a lower impact code (cricket). The rating system is detailed below:

Turf Impact Rating Scale			
1.	Low Impact	0.5% cost recovery	Cricket
2.	Medium Low	0.5% cost recovery	
3.	Medium	1% cost recovery	Hockey
4.	Medium High	2% cost recovery	
5.	High	2% cost recovery	Soccer

Please refer to **Attachment 5** for analysis of this model. An example of this methodology is provided below using Leederville Cricket Club at Britannia Reserve who currently pay \$6,534 per season:

Turf Impact Rating Summer	Seasonal Ground Maintenance Cost	Cost Recovery 0.5%	Sport Specific Player Charge (Per Team)	Number of Players Per Team	Team Cost	Number of Teams	Total Payable
1	\$178,970.00	\$894.85	\$40.00	11	\$440.00	9	\$3,960.00

The calculations utilised for this approach are quite complex with an impact rating being assigned to each sporting code followed by assigning a cost recovery percentage component to each category, and an average for each sporting code is then determined. This forms the basis of a sport specific player charge which is then multiplied by the number of players in a team.

The financial implications are positive for the lower impact sporting clubs such as cricket with higher impact clubs such as soccer and hockey being disadvantaged compared to current fees and charges.

Sportsground Hourly Hire ChargeOverview

Through this approach each sporting club would simply be charged at an hourly rate based upon their training and matchplay requirements. The hourly rates vary from sportsground to sportsground depending on the quality of the playing surface and supporting infrastructure. This option enables Administration to better manage reserve distribution between sporting clubs and passive activities by the broader community.

Advice from Department of Local Government, Sport and Cultural Industries states that the capacity of a natural grass sportsground, that is the maximum level of usage the site can sustain without resulting in a major decline leading to it being unfit for use, is approximately 26 hours. This has directly the 'bookable hours' available for our sportsgrounds. As a basis any given sportsground can be made available five nights per week for five hours each night and two half days per weekend, although in order to determine the hourly maintenance cost recovery the seasonal ground maintenance costs have been divided by 4,368 hours (the total number of hours the reserve is available per season).

Methodology

Sportsground seasonal fees are then calculated as follows:

- Divide the Seasonal Maintenance costs by 4,368 (total number of hours within a 26 week season);
- Determine the weekly usage requirements of the sports club;
- Multiply the hourly maintenance cost recovery (cost per hour) x weekly usage x 26 week season to calculate a total seasonal charge.

Please refer to **Attachment 6** for analysis of this model. An example of this methodology is provided below using Last Man Stands Cricket at Forrest Park who currently pay \$714 per season:

Category	Seasonal Ground Maintenance Costs	Hourly Maintenance Cost Recovery	Weekly Usage (Hours)	Potential Seasonal Cost	Previous Seasonal Charge
A	\$53,131.50	\$12.16	6.5	\$2,055.68	\$720.00

With this type of charging methodology the main focus is cost recovery of seasonal ground maintenance which is used to determine an hourly rate. Consideration is not given to turf impact, number of players, or available facilities and supporting amenities.

The financial implications to the sporting clubs who book sportsgrounds varies significantly with some clubs (i.e. cricket) receiving a large fee increase and other clubs (i.e. soccer) receiving a large fee decrease. Although from a practical perspective this approach is simple and easy to administer.

CONSULTATION/ADVERTISING:

The proposed fee structure for sportsgrounds seasonal hire will require amendments to Council's 2017/18 Schedule of Fees and Charges and therefore advertising pursuant to s6.19 of the *Local Government Act 1995* and in accordance with Policy No 4.1.5 – Community Consultation is necessary.

LEGAL/POLICY:

- Policy No 2.1.7 – Parks, Reserves & Hall Facilities – Conditions of Hire and Use
- Policy No 4.1.5 – Community Consultation

RISK MANAGEMENT IMPLICATIONS:

Nil.

STRATEGIC IMPLICATIONS:

Improving the management and utilisation of sportsgrounds aligns with the following objectives in the City's *Strategic Community Plan 2013-2023*:

Natural and Built Environment

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

1.1.6: Enhance and maintain the City's parks, landscaping and the natural environment.”

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

It is anticipated that the revised fee structure for Sportsgrounds Seasonal Hire will significantly improve administrative practices, ensure accurate implementation of fees and charges, and promote reserve utilisation by local sporting clubs. The financial impact of the proposed changes to Sportsground Fees and Charges varies from club to club across each of the models that have been investigated. Please refer to **Attachment 7** for a summary of the estimated financial impacts when compared to the actual charges for each Club last season.

Based upon 2016/17 sportsground usage levels and modelling of the Standard Per Player Charge as the preferred model being recommended by Administration, it is estimated that there will be an \$11,779 reduction in fees/charges revenue (not including the proposed rebates). However, it must be acknowledged that existing charges are the highest within the Perth Metropolitan Area. In addition, improved reconciliation between Sportsgrounds Seasonal Hire Booking Forms, association/competition fixtures and actual sporting club usage will enable Administration to more accurately implement Council's fees and charges which may indeed increase the abovementioned revenue projections.

COMMENTS:

Sportsgrounds are a vitally important part of the City's public open space network and provide the setting for a range of sporting clubs to provide physical activity and socialisation opportunities for our residents. The current fees and charges structure is complicated and based on an outdated methodology which results in the charges being amongst the highest in the Perth Metropolitan area. This approach does not align with Council's priorities to deliver more inviting green and open spaces, to improve community connection and inclusion, and to support liveable neighbourhoods.

A range of sportsground fees and charges options have been reviewed with a focus on providing a fair and equitable framework for all local sporting clubs, identifying a sound basis for the establishment of fees and charges, and ensuring consistency and transparency in decision making. These options have varying impacts on the management of sportsgrounds and also have varying financial implications for local sporting clubs.

Administration recommends implementation of the 'Standard Per Player Charge' which is based upon 1% cost recovery of total sportsground maintenance costs and enables the application of consistent charge of \$40 for training or matchplay per player or \$80 for training and matchplay per player across varying sporting codes. In addition, this approach allows implementation of rebates for local sporting clubs that deliver upon key community objectives as identified by Council and Administration from season to season. Implementation remains subject to advertising of the proposed amendments to Council's Schedule of Fees and Charges 2017/18 with any increases for individual sporting clubs to be phased at the discretion of the Chief Executive Officer under delegated authority.

12.2	UNBUDGETED CAPITAL EXPENDITURE - DIGITAL CAMERA FOR MARKETING AND COMMUNICATIONS
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TRIM Ref: D17/133395
Author: Rosslind Ellis, Manager Marketing and Communications
Authoriser: Michael Quirk, Director Community Engagement
Attachments: Nil

RECOMMENDATION:

That Council:

- In accordance with Section 6.8(1) of the *Local Government Act 1995* APPROVES BY AN ABSOLUTE MAJORITY the unbudgeted expenditure of \$2,532 to purchase a digital camera for marketing and communications purposes and;
- NOTES the following reallocation of funds to facilitate the expenditure in 1. above:

	From Account	To Account
Operating Account – 2165.340.577	\$2,532	
New Capital Budget – Digital Camera		\$2,532

PURPOSE OF REPORT:

To consider approving unbudgeted capital expenditure to enable the purchase of digital camera that will support the activities of the City's Marketing and Communications Team.

BACKGROUND:

The City's Marketing and Communications Team has recently been established within the Community Engagement Directorate to improve the provision of information to our community and the overall customer experience. This includes the delivery of or contributions toward key Corporate Business Plan initiatives such as review/upgrade of the City's website, implementation of a revised Customer Request Management System, establishment of a new Customer Service Standard, preparation of a Community Engagement Strategy and revised Community Consultation Policy, establishment of the Community Engagement Panel, and preparation of Town Centre Branding and Marketing Plans.

DETAILS:

Administration does not currently have a high quality digital camera to support marketing and communications activities with a reliance upon using personal devices to take photos and videos or using an inferior digital camera that only produces low quality images. The need for a good quality, fit-for-purpose digital camera was previously identified with funding allocated in the 2017/18 operating budget due to the purchase price the camera will actually be considered a capital purchase. On that basis, Council approval of unbudgeted expenditure is required.

The digital camera specifications necessary to enable in-house photography and videography have previously been developed, and in accordance with *Council Policy No. 1.2.3 – Purchasing Policy*, a total of three quotes were sought to ensure value for money. At a cost of \$2,532 the preferred camera provides a versatile lens which works well with both still images and video, and therefore meets business needs.

It should be noted that where the highest quality photos or videos are required this may still be outsourced to a professional photographer or videographer. However, the purchase of a quality digital camera enables Administration to complete an increased volume of work in-house particularly where there are budget and time constraints. This is particularly relevant for social media purposes.

CONSULTATION/ADVERTISING:

Nil.

LEGAL/POLICY:

Council Policy No. 1.2.3 – Purchasing Policy requires at least three verbal or written quotations for the procurement of goods or services valued between \$1,001 and \$19,999.

RISK MANAGEMENT IMPLICATIONS:

Low: The delivery of quality corporate marketing and communications content remains vitally important for the City of Vincent, and purchase of a quality digital camera will improve the quality of in-house photography and videography. In addition, the purchase of a digital camera enables the City's images and intellectual property to be maintained within the corporate record keeping system rather than images being stored on personal mobile phones.

STRATEGIC IMPLICATIONS:

This initiative will support the following objectives within the City's *Strategic Community Plan 2013-2023*:

“4.1 *Provide good strategic decision-making, governance, leadership and professional management*

4.1.3 *provide excellence in customer service*

4.1.5 *focus on stakeholder needs, values, engagement and involvement*

4.3 *Promote and implement knowledge management and technology*

4.3.1 *enhance knowledge management and promote technology opportunities to improve the City's business, communication, security and sustainability”*

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

Based upon the quotations received a digital camera with accessories that meets the required specifications will cost \$2,532. These funds are available within the Marketing and Communications operating budget – Account No. 2165.340.577 – Furniture and Equipment to balance the unbudgeted capital expenditure.

COMMENTS:

To develop dynamic digital marketing and communications content it is necessary for Administration to have suitable equipment to create professional photography and videography. The purchase of a quality digital camera will support the development of this content in-house through the Marketing and Communications Team, and in particular, the Graphic Designer. While the required funding is available within the 2017/18 operating budget it is necessary for Council to authorise unbudgeted capital expenditure to enable this purchase given the value of the digital camera.

13 CHIEF EXECUTIVE OFFICER**13.1 INFORMATION BULLETIN****TRIM Ref:** D17/95467**Author:** Emma Simmons, Governance and Council Support Officer**Authoriser:** Len Kosova, Chief Executive Officer

- Attachments:**
1. Halloween Night' Road Closure – Buxton street, Mt Hawthorn [⇒](#) 
 2. Minutes of the Business Advisory Group Meeting held on 18 January 2017 [⇒](#) 
 3. Minutes of the Design Advisory Committee Meeting held on 9 August 2017 [⇒](#) 
 4. Minutes of the Design Advisory Committee Meeting held on 23 August 2017 [⇒](#) 
 5. Children and Young People Advisory Group Unconfirmed Minutes Thursday 17 August 2017 [⇒](#) 
 6. Minutes of the Audit Committee Meeting held 26 September 2017 [⇒](#) 
 7. Statistics for Development Applications as at end of September 2017 [⇒](#) 
 8. Register of Legal Action and Prosecutions Register Monthly - Confidential
 9. Register of State Administrative Tribunal (SAT) Appeals – Progress Report as at 21 September 2017 [⇒](#) 
 10. Register of Applications Referred to the MetroWest Development Assessment Panel – Current [⇒](#) 
 11. Register of Applications Referred to the Design Advisory Committee – Current [⇒](#) 
 12. Summary Minutes of WALGA State Council Meeting held on 8 September 2017 [⇒](#) 
 13. Minutes of the Tamala Park Regional Council Meeting held on 17 August 2017 [⇒](#) 
 14. Minutes of the Mindarie Regional Council Meeting held on 14 September 2017 [⇒](#) 
 15. Register of Petitions - Progress Report - October 2017 [⇒](#) 
 16. Register of Notices of Motion - Progress Report - October 2017 [⇒](#) 
 17. Register of Reports to be Actioned - Progress Report - October 2017 [⇒](#) 

RECOMMENDATION:**That Council RECEIVES the Information Bulletin dated October 2017**

13.2 APPROVAL OF COUNCIL BRIEFING AND COUNCIL MEETING DATES FOR 2018

TRIM Ref: D17/132537

Author: Emma Simmons, Governance and Council Support Officer

Authoriser: Len Kosova, Chief Executive Officer

Attachments: 1. Draft Meeting Schedule - 2018 

RECOMMENDATION:

That Council **ADOPTS** the 2018 Council Briefing and Council Meeting Schedule included as Attachment 1, consisting of a monthly meeting cycle of:

1. Twelve (12) Council Briefing Sessions, commencing Tuesday 30 January 2018; and
2. Twelve (12) Council Meetings, commencing Tuesday 6 February 2018.

PURPOSE OF REPORT:

To consider and adopt the schedule of Council Briefings and Council Meetings for 2018.

BACKGROUND:

Under the *Local Government Act 1995* (Section 5.3) and the *Local Government (Administration) Regulations 1996*, (Regulation 12), Council must set its Ordinary Meeting dates and times for the next twelve (12) months and these must be published at least once a year.

At its meeting on 20 September 2016 (Item 9.3.5) Council adopted the 2017 four-weekly Council Meeting cycle preceded by a Council Briefing Session Schedule.

DETAILS:

Administration has prepared a draft 2018 Council Briefing and Ordinary Council Meeting Schedule (see **Attachment 1**) based on a four-weekly meeting cycle commencing with a Council Briefing on 30 January 2018 followed by a Council Meeting on 6 February 2018.

There is a public holiday for Good Friday, 30 March 2018 and Easter Monday, 2 April 2018. As per the schedule, the Council Meeting for April was due on Tuesday 3 April 2018, however, due to the reduced working days in which members of the public are able to contact Council Members regarding possible queries arising from the Council Briefing of 27 March 2018 it is proposed to hold the Council Meeting on Wednesday 4 April 2018 at 6.00pm.

All meetings are scheduled to commence at 6.00pm with the exception of the Briefing Session scheduled for Tuesday 30 January 2018, which is proposed to commence at 6.30pm, following the proposed Annual General Meeting of Electors at 6pm on Tuesday 30 January 2018.

CONSULTATION/ADVERTISING:

The Council Briefing and Ordinary Council Meeting dates will be published in both local newspapers and on the City's website.

LEGAL/POLICY:

Section 5.3 of the *Local Government Act 1995* states:

“Ordinary and Special Council meetings:

- (1) *A Council is to hold ordinary meetings and may hold special meetings;*
- (2) *Ordinary meetings are to be held not more than three months apart; and*
- (3) *If a Council fails to meet as required by subsection (2) the CEO is to notify the Minister of that failure.”*

Regulation 12 of the *Local Government (Administration) Regulations 1996* states:

- "12 (1) *At least once a year a local government is to give local public notice of the dates on which and the time and place at which –*
- (a) *The ordinary Council meetings; and*
 - (b) *The Committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public;*
- are to be held in the next 12 months;*
- (2) *A local government is to give local public notice of any change to the date, time or place of a meeting referred to in sub regulation (1);"*

Policy No. 4.2.3: Council Briefings, Meetings & Forums – Format, Procedures and Maximum Duration sets out additional guiding principles for the management of Council Briefings and Meetings.

RISK MANAGEMENT IMPLICATIONS:

Nil.

STRATEGIC IMPLICATIONS:

This is in keeping with the City's Strategic Plan – Plan for the Future 2013-2018, Objective 4.1 – *"Provide Good Strategic Decision Making, Governance, Leadership and Professional Management"* and, in particular, Objective 4.1.2 – *"Manage the organisation in a responsible, efficient and accountable manner"*.

SUSTAINABILITY IMPLICATIONS:

Nil.

FINANCIAL/BUDGET IMPLICATIONS:

The advertising of the Meeting and Briefing Session dates will cost approximately \$250 and has been accommodated in the 2017/18 budget.

COMMENTS:

It is recommended that Council adopts the Council Briefing and Council Meeting Schedule for 2018 as shown in **Attachment 1**.

14 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

**15 QUESTIONS BY MEMBERS OF WHICH DUE NOTICE HAS BEEN GIVEN
(WITHOUT DISCUSSION)**

Nil

16 REPRESENTATION ON COMMITTEES AND PUBLIC BODIES

17 URGENT BUSINESS

Nil

18 CONFIDENTIAL ITEMS/MATTERS FOR WHICH THE MEETING MAY BE CLOSED**18.1 CHIEF EXECUTIVE OFFICERS PERFORMANCE REVIEW 2016-17****Disclosure of Financial Interest**

The Chief Executive Officer, Len Kosova, has disclosed a direct financial interest in this matter as it relates to his performance and remuneration in the role of CEO and his contract of employment with the City.

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

Local Government Act 1995 - Section 5.23(2):

- (a) a matter affecting an employee or employees

18.2 LATE REPORT: APPOINTMENT OF DIRECTOR ENGINEERING

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

Local Government Act 1995 - Section 5.23(2):

- (a) a matter affecting an employee or employees

LEGAL:**2.14 Confidential business**

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

Confidential reports are provided separately to Council Members, the Chief Executive Officer and Directors.

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

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

19 CLOSURE