



CITY OF VINCENT

NOTES

Council Briefing

7 March 2023

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**NOTES OF CITY OF VINCENT
COUNCIL BRIEFING
HELD AS E-MEETING AND AT THE ADMINISTRATION AND CIVIC CENTRE,
244 VINCENT STREET, LEEDERVILLE
ON TUESDAY, 7 MARCH 2023 AT 6.00PM**

PRESENT:	<p>Mayor Emma Cole Cr Susan Gontaszewski Cr Alex Castle Cr Jonathan Hallett Cr Suzanne Worner</p> <p>Cr Dan Loden Cr Ashley Wallace Cr Ron Alexander Cr Ross Ioppolo</p>	<p>Presiding Member South Ward North Ward South Ward North Ward (left at 8.12pm during Item 5.7) North Ward South Ward North Ward South Ward</p>
IN ATTENDANCE:	<p>David MacLennan Jay Naidoo</p> <p>John Corbellini</p> <p>Tara Gloster</p> <p>Peter Varris</p> <p>Rhys Taylor Luke McGuirk</p> <p>Sarah Hill</p> <p>Karen Balm</p> <p>Jayde Robbins</p> <p>Yvette Plimbley</p> <p>Paul Morrice</p> <p>Aaron Griffiths</p> <p>Wendy Barnard</p>	<p>Chief Executive Officer Manager Development & Design (electronically) (left at 7.40pm after Item 5.2) Executive Director Strategy & Development Manager Policy and Place (left at 8.14pm after Item 5.7) A/Executive Director Infrastructure & Environment (electronically) (left at 7.52pm after Item 11.2) Chief Financial Officer Manager Engineering (left at 7.52pm after Item 11.2) Manager Parks (electronically) (joined at 6.29pm during Item 4 and left at 7.23pm during Item 5.3) Coordinator Community Development (left at 7.34pm after Item 7.5) Manager City Buildings & Asset Management (electronically) (left at 8.18pm after Item 6.2) Manager Waste & Recycling (left at 8.00pm after Item 11.2) Manager Ranger Services (electronically) (left at 6.55pm after Item 6.1) Manager Projects and Procurement Mindarie Regional Council (Item 11.1 only) Council Liaison Officer</p>
Public:	Approximately 18 members of the public.	

1 DECLARATION OF OPENING / ACKNOWLEDGEMENT OF COUNTRY

The Presiding Member, Emma Cole, declared the meeting open at 6.00pm and read the following Acknowledgement of Country statement:

“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 and present.”

2 APOLOGIES / MEMBERS ON APPROVED LEAVE OF ABSENCE

Cr Suzanne Worner is on approved leave of absence from 15 February 2023 to 28 March 2023, but attended the meeting electronically.

3 PUBLIC QUESTION TIME AND RECEIVING OF PUBLIC STATEMENTS

The following is a summary of questions and submissions received and responses provided at the meeting. This is not a verbatim record of comments made at the meeting.

3.1 John Viska of North Perth – Item 8.4

- Spoke about the Hyde Park Conservation Plan AGM motion that is in this agenda.
- Mentioned that the conservation plan is important because it maintains and conserves the significance of Hyde Park, which has cultural significance as listed in the current conservation plan.
- Stated that the current management of Hyde Park is not according to the conservation plan.
- Stated that when the new document is commissioned people who have experience should be consulted, for example the Heritage Council WA, professional historical researchers, horticulturists and arboriculturists with heritage experience, heritage architects and input from community groups such as the WA Horticultural Council, WA Garden History Society and the local history centre.
- Mentioned that there are problems in the park with diseases and pests, so the conservation plan should be used as a working document to guide how the park is managed and the cultural significance is maintained.

The Presiding Member, Emma Cole, thanked Mr Viska for his comments.

3.2 Marie Slyth of West Perth – Item 8.4

Marie submitted the below comments in writing, which she spoke to.

Marie Slyth of West Perth – Item 8.4

Motion 4.13(1) Creation of Cul-de-Sac - Local Traffic Impact

Following receipt of COV Administration's response to our request for protection of our Cleaver Character Area Streets, i.e. Florence Street, Carr Street, Strathcona Street and Hammond from the impact of unavoidable, inevitable further increased Rat running through our Streets,(together with timber carrying trucks), which will occur due to the approval of a Bunnings store on the corner of Cleaver and Newcastle Streets, we find it hard to believe that Council's review of our recommendation that a Cul de Sac be installed near the bottom of Strathcona Street , would have no material impact. We consider it would be the most effective way to protect our streets for the future.

We local people live here and know what is happening on a daily basis. We are already suffering (as stated in the original Motion) from daily increased Rat running from jam packed Vincent Street – with vehicles turning left into Florence Street, then left into Carr Street and then right into Strathcona Street - sometimes at speeds of up to 50 kph in their hurry to get to Newcastle Street, to avoid the Loftus and Vincent Street lights which at both morning and late afternoon to evening peak hours are getting worse all the time, (noisy vehicles, Motor bikes and large trucks in both directions now hurtle at over 60 kph along Carr Streets between Charles and Cleaver Streets) (added into that now are road using e-scooters (at least these are dangerously silent) - at the state DAP meeting all this information was spelled out but ignored by the Board. (I would point out that Carr Street is not a main road) Safe Active 30 km has just become a joke in Strathcona Street, and 40 km in Carr Street is rarely observed. 30km in Florence Street seems to be more frequently observed. I have spoken to a number of neighbours who can't understand why Council is not going to help protect us from the Rat running through out streets. If only Council staff and councilors would come especially at peak hours and observe what we are saying they might wake up.

We wonder why Council has not put speeding lines across these streets to be able to believe what we local residents are trying to say.

Once Bunnings is completed, just what does Council intend to do to provide local residents with parking facilities - since there is bound to be an overflow into our local streets from Bunnings customers? At the outset of the Bunnings takeover, Council did state that the adjoining local area (i.e. Cleaver Character Area) would be looked after.

Admin's review statement re number of crashes in our area being other reason for denying our recommendation is not applicable - only a miracle that have been none in our area. Point to raise if number of accidents is to be considered is with the blocking off of Alma Road North Perth, how many accidents took place there?

Motion 4.13(2) - Removal of tree

This is my fourth attempt to have Council remove this huge Jacaranda tree the almost monthly increasing height of which branches, will now most certainly cause damage to my house as the north west powerful winds make the top branches of the trees lean over my front lawn far enough to reach and hit my front verandah.

My insurance company will not cover such damage when this happens as the tree stands on City of Vincent street verge. In Council's decision in failing to support my requested recommendation (as was approved at the Electors AGM) be aware that Council HAS NOT PRUNED THIS TREE IN MANY YEARS WHICH IS WHY IT IS CONTINUING TO GROW TO SUCH A RIDICULOUS HEIGHT.

My request is that the tree be removed and replaced by a tree that can be pruned in accordance with Council's policy. Accordingly I ask that my request be supported.

Thank you in anticipation – Please help me to protect my Cat. B Heritage listed house.

Motion 4.4 Britannia Reserve Pathway

electric (e scooters)

ebikes

eskateboards

e roller-skates

one-wheel escooters and hoverboards

using PEDESTRIAN PATHWAYS

Given the high risk erideables now create for ordinary pedestrians and especially disabled people and elderly people - surely all must now be required to register, pay the reg. fee as vehicle drivers on our roads must do, so that when such erideable users crash into a pedestrian on a regular footway – pathway, they must be held liable for the injuries they cause - as applies in all road vehicles accidents.

We all have to pay our rates for our footpaths so why if erideables are taking away the safety of walking on our footpaths should such users escape registration.

So far I have just missed (by a whisker) being hit by e scooter riders on my local Carr Street footpath when stepping on the footpath outside my gate. Why should Council support dangerous e-rideable users when footpaths were not created for such users, which now seek to claim free benefits?

The Presiding Member, Emma Cole, thanked Ms Slyth for her comments.

3.3 Penny Hutchison of West Perth – Item 8.4

- Anxious about the rat running down Florence street onto Carr street and onto Strathcona street.
- It would inconvenience residents to have a cul-de-sac, but it is a necessity before Bunnings is built and the traffic increases.
- Implores Council to listen to the residents.

The Presiding Member, Emma Cole, thanked Ms Hutchison for her comments. Mayor Cole asked Manager Policy & Place if she could investigate if the transport study that is to be undertaken for the Pickle District Local Planning Framework will take into consideration the residential streets on the other side of Newcastle Street?

Manager Policy & Place has provided the below response:

The West Perth traffic study will give the City a better understanding of traffic in the area. However specific investigations into these residential streets cannot be requested to be included in the scope at this stage as it is outside the Perth Parking Management Area (PPMA). Until the legislation is revised monies cannot be spent on areas outside of the PPMA.

3.4 Joshua Carmody of Perth– Item 5.1

From Planning Solutions representing the neighbours of the development.

- They are concerned about the overshadowing that will be caused if approved, three of the units will be overshadowed by greater than 70 per cent, with one of them overshadowed by 92 per cent, the north facing living rooms throughout winter will be dark and they will need to have internal lighting on during the day.
- Overshadowing is only acceptable if the solar access to adjoining properties is protected, it is clear that the access to outdoor areas will not be protected, particularly during winter.
- The only one asked to compromise are the neighbours.
- Requests that Council refuse this application, or defer so that applicant can achieve meaningful compromise to protect their amenity.

The Presiding Member, Emma Cole, thanked Mr Carmody for his comments.

3.5 Louise Schneider of Mt Lawley – Item 6.1

- Spoke to the petition submitted and requests that Council approve the suggested changes to resident parking, implementaiton of resident parking on the south of the street.
- Main Roads have identified the intersections with Harold and Beaufort Streets as blackspots and funding is available this financial year to implement measures to mitigate traffic events, but the residents are concerned that even with these measures it will not alleviate the traffic management concerns raised in the petition, with the anticipated increase in traffic volume expected from the imminent opening of Challis development, and the continued use of the roads as a rat run.
- Requests a traffic calming warrant check after the opening of the Challis development to assess if any other measures, such as the request of making the street one way, need to be investigated.

The Presiding Member, Emma Cole, thanked Ms Schneider for her comments.

3.6 Peter Mrdja of Perth – Item 5.1

- Stated he is with Urbanista Town Planning representing the applicants.
- The application process comenced in December 2021, since then there have been three design reviews and several rounds of advertising and requests for infromation.
- Stated that this is way longer than the required 90 day determination period.
- The assessment process for grouped dwellings is very slow.

The Presiding Member, Emma Cole, interrupted Mr Mrdja to ask him to restrict his comments to the specifics of the application in question.

- With respect to overshadowing, the fig tree overshadows the existing development for more than the 50 per cent that is proposed, this cannot be changed.
- The application is supported by the DRP.

The Presiding Member, Emma Cole, interrupted Mr Mrdja to advise him that his allocated time was up, and invited him to speak to the Council Meeting next week, or to send through an email.

3.7 Ashlee La Fontaine of North Perth - Item 8.4 (Item 4.12)

At the AGM I proposed, on behalf of my community, that ratepayers within the previous Highgate East underground power project area be refunded or credited towards their rates next year. This motion was carried but Administration's response here does not support it on the reasoning that all funds that remain in

the underground power reserve at the completion of the project will be able to be used to support other projects at the City, subject to a decision from Council.

I'd like to ask, firstly, how much money is the City expecting to accrue in the underground power reserve at the completion of the project, and secondly, given the cost of living pressures ratepayers are currently under, lifting rates should have been a last resort. Why was this funding model selected instead of the previous loan model which charged interest only to those who chose to defer payments to cover their underground power?

A response to this query has been provided in Item 8.4, later in these notes.

The Presiding Member, Emma Cole, thanked Ms La Fontaine for her comments.

3.8 Dudley Maier of Highgate – Items 8.4 and 7.4

Item 8.4 (Item 4.16(3))

I am disappointed but not surprised with the response about the suggestion about making it easier for residents to deal with eWaste. It is unrealistic to suggest that people are going to drive all the way to Tamala Park or Balcatta or use the Verge Valet service at \$200.00 a pop, to dispose of a computer screen or laptop or some computer equipment, it is just unrealistic. It is not about setting up your own recycling centre as suggested by the staff, it is more about providing a big box somewhere that people could drop off stuff, somewhere that is convenient and just having a staff member take it somewhere to Osborne Park near the City's depot and deal with it. It's no big deal.

A response to this query has been provided in Item 8.4, later in these notes.

Item 8.4 (4.16(4))

In relation to clarifying who can speak on behalf of Council the Administration response was that *"It is also available to non-DAP Elected Members to attend and speak at DAP meetings in either their private capacity as residents and ratepayers, or as a Council Member representing the interests of electors, ratepayers and residents of the district."*

It is not about speaking, it is about purporting to speak on behalf of the City or Council without the Council first having taken a formal position. As an example, the Mayor recently spoke on the Bunnings proposal on behalf of the City, without first formally consulting the rest of Council. She was against the proposal, so what happens if another councillor had gone along and said they were speaking on behalf of the Council and they thought the development was good and should be supported, particularly if the Mayor had not been at that meeting.

Item 8.4 (4.15(2))

In the Commercial Waste motion response there is a statement that *"... the rate in the dollar for Commercial rates now sitting at 19% lower than Residential rates."*

This either demonstrates a lack of understanding of how rates work or is intended to incorrectly suggest that businesses have been treated favourably. The different rates in the dollar simply reflect the inconsistent changes to the relative GRVs about 3 years ago. It's like trying to imply that the rates in Claremont are cheaper than in Vincent because the rate on the dollar is 6.86c, whereas Vincent is 25 per cent higher at 8.5c on the dollar. The reality is the average rate in Claremont is \$2370, Vincent is \$1720.

Item 7.4

The CEO's commitment that the \$20.5M capital works would be spent this year has been blown out of the water. Attachment 5 shows that just under \$1M of ratepayers money was not needed this financial year. There is also an acknowledgement in the report about the \$1M mistake in the opening surplus but there is no explanation, it is almost as if it is of no real concern, so my questions are:

How did the \$1M variance come about and when were the staff first aware of it?

There is also the fact that the surplus is not transparently carried forward to reduce next year's rates. This about accounting practices that nobody can follow.

There is also a recommendation to put \$1.5M in underground power reserve, effectively obtaining bridging finance for the project before you have even decided on a funding model, so it looks like it is far too early and the surplus should have been carried forward until the decision has been made.

A response to this query has been provided in Item 7.4, later in these notes.

The Presiding Member, Emma Cole, thanked Mr Maier for his comments.

3.9 Marco Vittino of Perth – Item 8.6

- Stated he is the director of a small architectural business.
- Refers to Attachment 7 of the Infobulletin, Register of Applications Referred to the Metro Inner-North Joint Development Assessment Panel.
- Item 5 of that report, 139 – 141 Lake Street, Perth – he represents over 100 local residents and users of adjacent Stuart Reserve, who do not support this application. Details of the objections have been submitted in writing but in summary they relate to scale, amenity, safety and sustainability.
- Does the City think it is appropriate to recommend the approval of a scheme which is not compliant with or respectful of the long term vision for the area and will result in overdevelopment of the site beyond what the City's own policy is deemed to be allowable and acceptable in this location?
- Would Elected Members be willing to undertake a collective site visit to consider their concerns?

The Presiding Member, Emma Cole, thanked Mr Vittino for his comments.

Executive Director Strategy & Development advised that the application has been out for community consultation and has now closed. The responsible authority report is due the start of April, at this stage. The Executive Director stated that he is happy to facilitate a meeting between Council Members, Administration and residents to discuss the proposal, answer any questions and help residents understand the process around the JDAP consideration of the proposal. Mayor Cole queried how many submissions had been received, but that information was not immediately at hand.

The following questions and statements were submitted in writing prior to the meeting:

Chandra Woodley of Leederville – Item 5.3

I'd just like to raise a concern about how the business will maintain the peace/noise at the venue please? It's been good lately but in the not so distant past, there has been a lot of anti-social behaviour outside the front and back of the restaurant causing a lot of noise.

James Penman of Mt Lawley – Item 6.1

I am a resident of Harold Street that is affected by the current traffic situation. I would like to thank the councillors and council staff who attended a meeting with representatives of Harold Street. I have reviewed the briefing note and I would like the councillors to consider the following feedback when assessing next steps:

- I support the suggestions for reallocation of loading and taxi zones along Beaufort St which can be implemented in a short timeframe.
- The traffic survey - dated 4 August 2021 - referenced in the response is likely to significantly misrepresent the current (and future) state of traffic flows along Harold Street. The survey was undertaken: 1) on a weekday only and before "The Beaufort" venue was operational, 2) without the additional flows from the Challis apartment block using Harold St, and 3) during the COVID-19 pandemic when restrictions are likely to have reduced general activity in the area. Basing decisions on this outdated data risks a compromised solution being delivered. I support an updated traffic survey being conducted before additional treatments are proposed.

The Manager Engineering has clarified the duration of the traffic survey in the report, being 28 July to 4 August 2021.

- It is not clear from the proposed blackspot treatment if right hand turns will be prohibited from Beaufort St into Harold St; however, from the geometry of the proposed traffic island extension shown on the plan, it appears that right hand turns into Harold St would still be allowed. If this is the case, it is likely to exacerbate issues as all traffic travelling along Harold St (Lord to Beaufort) trying to reach Vincent St would be directed to travel via Harold St (Beaufort to Vincent) as opposed to the current arrangement where a portion of the traffic is able to turn right onto Beaufort St and then left into Vincent St.

The Manager Engineering has clarified that preventing southbound right hand turns from Beaufort Street into Harold Street will be considered as part of the proposed Traffic Calming Warrant investigations.

Anthony Dowling of Leederville – Item 5.3 (with attachments, not included)

1. We are the owners and residents of 105 Richmond Street Leederville, which is located directly behind 209 Oxford Street Leederville, separated only by a 3 metre wide right-of-way (ROW).
2. We have been for the past 3 and ¼ years – and are continuing to be - directly and adversely impacted by the shisha lounge use being carried out at the rear of 209 Oxford Street Leederville.
3. These adverse impacts and our associated concerns with the proposed development are set out in our letter and submission dated 16 August 2022 to the advertised development application, copies of which are attached.
4. We are very **strongly supportive of the City's administration recommendation** for Council to refuse to approve the development application, and concur with the recommended grounds of refusal. However, we also consider the failure by the applicant **to propose any onsite car parking ought to be added as a ground of refusal.**
5. We **strongly urge Council to refuse to approve the development application**, and to take steps for the unauthorised **shisha bar use to immediately cease** and any **associated unauthorised structures be promptly removed.**
6. Notwithstanding statement 4 above we do **take issue** with the administration's comment in the report on the application that **'while it is expected that those abutting a Regional Centre zone would be afforded a reduced level of amenity compared to a property that is centrally located within a Residential zone ...'** and as also asserted by the applicant in response to the submissions made on the proposal.

The City's planning scheme **does not make any distinction nor contain any provision or requirement about the level or degree of amenity to be enjoyed by residents in a residential zone.** People residing in one part of a residential zone ought to be **able to enjoy an equitable level** of amenity afforded to people living in another part of the same zone.

We note the City's planning scheme has a **Residential zone objective** *'To enhance the amenity and character of the residential neighbourhood by encouraging the retention of existing housing stock and **ensuring new development is compatible within these established areas** (our emphasis)'*.

Whilst we understand that the part of the objective *'to ensure new development is compatible within these established areas'* may specifically refer to new development within the Residential zone itself, we consider it incumbent upon a proponent of development fringing an existing residential zone - and the City itself in assessing and determining whether to grant approval to such development - to ensure that the development will be compatible with residential living being carried out from within lawfully established housing in an adjoining residential zone.

We contend that **the expectation of a lesser residential amenity would only apply to new residents occupying a housing component that forms part of say, a mixed use development under a Regional Centre type zoning.**

Please be aware that we have been permanently residing at 105 Richmond Street since 2016, long before Shesh Besh established its shisha lounge in late 2019, and prior to that had no issue with or suffered any adverse amenity impacts from previous uses carried out upon 209 Oxford Street.

7. We have many times contacted the proprietor of Shesh Besh requesting the noise levels and the 'din' associated with the shisha lounge use to be toned down but to date this has been ignored and been to no avail.
8. Regardless of the views held by the applicant (proprietor) about shisha smoking, the odour from smoking shisha is pungent and unpleasant to us, and can be smelt from inside our house when our windows nearest to the shisha lounge are open, and from within our front carport.

We should not have to put up with or tolerate this.

9. Whilst we support the recommendation to refuse to approve the shisha lounge use, we have **no objection to the restaurant use continuing as per presently carried out.** However, we would object to any proposed expansion or intensification of this use towards the rear of 209 Oxford Street where this will result in continuing unacceptable adverse amenity impacts being suffered by us.

10. Notwithstanding the administration's report on the development proposal, there are a number of questions we still have about the proposal that hopefully the City can satisfactorily address.

These are as follows:

Questions

1. Can the City please explain how the **unauthorised** shisha lounge use **is able to continue to operate and carry on whilst it has no development approval from the City to do so?** If it is currently an unauthorised use surely it cannot continue until such time as the City has determined the development application, or the State Administrative Tribunal (SAT) has determined the application in the event that the applicant applies to the SAT to review a decision by Council to refuse to approve the development application?
2. If Council – on the other hand - decides to ultimately approve the development application against the recommendation to refuse to approve it, **will Council provide reasons and/or the basis upon which approval is granted?**
3. We note from the administration's report on the application that the shisha lounge **holds a retail tobacco licence to sell shisha**. How can this be when the shisha lounge has **no development approval to carry out the smoking of shisha within its premises?**

Whilst this might be a question for the **Tobacco Compliance Branch** of the WA Department of Health **to specifically answer** has the City's administration queried or questioned the Tobacco Compliance Branch about this situation, and if so, what was its response?

4. Based on the information provided on the WA Department of Health's '*Shisha and the Law*' publication (copy attached), and given the shisha lounge's current set-up, we consider that the shisha lounge falls within the meaning of an '**enclosed public place**' and thus **would not be permitted**.

Has the City sought advice/confirmation from the WA Department of Health as to whether the proposed shisha bar is deemed an '**enclosed public place**' pursuant to the *Tobacco Products Control Act (2006)* and/or the *Tobacco Products Control Act Regulations 2006*?

With reference to the definition of an 'enclosed public place' in the attached WA Department of Health publication is **more than 50%** of the current shisha lounge enclosed by walls or other structures or coverings?

In any event, would not the applicant's proposal to provide a 2.4 metre high barrier wall along the northern and western walls of the shisha lounge **constitute** the lounge being determined as an 'enclosed public place'?

5. In assessing the development application against relevant local planning scheme/policy provisions why has the administration determined that **no additional onsite car bays are warranted**, and thus **have not been included as a ground of refusal?**

Whilst we can perhaps entertain some parking supply concession being applied to the proposed development surely the accommodation of **50 additional patrons** (additional to the current restaurant use) upon the premises **seriously warrants the provision of some additional onsite parking bays?**

After all, premises contiguous with 209 Oxford Street (between Richmond and Melrose Streets) have provided some onsite parking bays – **why is the shisha lounge any different in this respect?**

We note too that the administration's report states that under the City's draft *Leederville Precinct Structure Plan* (LPSP) that **up to 2 onsite car bays can be provided onsite**. If these can't be provided onsite (and the applicant **is unwilling to make an alternative cash-in-lieu payment**) then the **non-provision of at least 2 onsite car bays** should be included as a **ground of refusal**.

We wish to add that prior to the development of the shisha lounge commencing there was **space available at the rear of 209 Oxford Street for onsite car parking**, notwithstanding that the current eating house approval required no onsite car parking.

The Fiore family – the owner and operator of a café that was being carried out upon 209 Oxford Street and which preceded the Shesh Besh development used to park at **least 2 cars at the rear of 209 Oxford Street when the café was operational**.

As City ratepayers we consider the granting of any **substantial onsite car parking provision concession** (especially up to **100%**), for **both** the restaurant use and the shisha lounge will be **unfair and inequitable** to City ratepayers, and other approved uses/businesses that have had to provide

onsite car parking bays. We contend that this will also be an **unreasonable and unacceptable subsidisation of a private 'for profit' business/enterprise.**

6. Notwithstanding that the City does not accept the acoustic report accompanying the development application, wouldn't the City require the applicant to **provide specific details** as to the **type of material the proposed extended barrier walls will be constructed of** in order to assess **whether noise generated from the shisha lounge use will accord with the assigned outdoor noise target level?**
7. Similarly too, wouldn't the City **assess the fire risk** to both patrons of the shisha lounge, occupants of other adjoining and adjacent uses, and adjoining and adjacent properties from the **flammable materials currently used in the ceiling and along the walls of the shisha lounge?**
8. Surely these assessments (in Q's 6 and 7) **are required to inform Council** as to whether the proposal is **able to comply** with clause 67(2)(r) of the *Planning and Development (Local Planning Schemes) 2015* which concerns the **'suitability of the land for the development taking into account the possible risk to human health or safety'**?

A response to this query has been provided in Item 5.3, later in these notes.

There being no further speakers, Public Question Time closed at approximately 6.28pm.

Responses to the questions asked are in the relevant item below.

4 DECLARATIONS OF INTEREST

Cr Dan Loden declared an impartiality interest in Item 5.6 Amendment to the Trees of Significance Inventory to include the Jacaranda tree at No. 59 Ellesmere Street, Mount Hawthorn. The extent of his interest is that he is a resident of the street and friends with adjoining neighbours.

Cr Ross Ioppolo declared a proximity interest in item 7.1 Financial Statements as at 31 January 2023 and Item 7.2 Authorisation of Expenditure for the Period 1 January 2023 to 31 January 2023. The extent of his interest is related to any expenditure on City of Vincent Administration Building and Leederville Early Childhood Centre at 244 Vincent Street, Leederville, as his residential property is in direct proximity to those locations.

5.1 NO. 109 (LOT: 100; D/P: 43470) PALMERSTON STREET, PERTH - PROPOSED FOUR GROUPED DWELLINGS**Ward: South**

- Attachments:**
1. Consultation and Location Plan
 2. Development Plans
 3. Applicant Justification
 4. Environmentally Sustainable Design Assessment
 5. Context Analysis
 6. Development Perspectives
 7. Arboricultural Report
 8. Minutes of 15 November 2022 Ordinary Council Meeting - Item 9.1
 9. Previously Considered Development Plans
 10. Objection to Proposal from Planning Consultant
 11. Applicant Response to Objection from Planning Consultant
 12. Summary of Submissions - Administration Response
 13. Overshadowing Analysis
 14. Visual Privacy Analysis
 15. Determination Advice Notes

RECOMMENDATION:

That Council, in accordance with the provisions of the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme, APPROVES the development application for Four Grouped Dwellings at No. 109 (Lot: 100; D/P: 43470) Palmerston Street, Perth in accordance with the plans in Attachment 2, subject to the following conditions, with the associated determination advice notes in Attachment 15:

1. Development Plans

This approval is for Four Grouped Dwellings as shown on the approved plans dated 16 December 2022 No other development forms part of this approval;

2. Boundary Walls

The surface finish of boundary walls facing No. 107 Palmerston Street, Perth shall be of a good and clean condition, prior to the occupation or use of the development, and thereafter maintained, to the satisfaction of the City. The finish of boundary walls is to be fully rendered or face brick, or material as otherwise approved, to the satisfaction of the City;

3. External Fixtures

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

4. Colours and Materials

4.1 Prior to the issue of a building permit, a schedule detailing the colours, materials and finishes of the development must be submitted to and approved by the City.

The schedule is to include the use of 'San Selmo Reclaimed Bricks' or similar colour for the face brick portions of the development as indicated on the approved plans, to the satisfaction of the City.

The development must be finished and thereafter maintained in accordance with the approved schedule of colours and materials, prior to occupation of the development and to the satisfaction of the City; and

4.2 The meter boxes are to be painted the same colour as the wall they are attached so as to

not be visually obtrusive, to the satisfaction of the City;

5. Landscaping

5.1 Prior to the issue of a Building Permit, a detailed landscape and reticulation plan for the development site and adjoining road verge, to the satisfaction of the City, shall be lodged with and approved by the City. The plan shall be drawn to a scale of 1:100, be generally in accordance with the landscaping plan dated 16 December 2022 and show the following:

5.1.1 The location and type of existing and proposed trees and plants;

5.1.2 Areas to be irrigated or reticulated; and

5.1.3 The provision of an additional landscaping area containing two trees as marked in red on the approved plans. The tree species are to be consistent with the City's Tree Selection Tool so as to maximise the provision of canopy coverage and to the satisfaction of the City;

5.2 All landscaping works shall be undertaken in accordance with the approved plans dated 16 December 2022, as modified in Condition 5.1.3, prior to the occupancy or use of the development and maintained thereafter to the satisfaction of the City; and

5.3 No verge trees shall be removed without the prior written approval of the City. Verge trees shall be retained and protected from damage including unauthorised pruning to the satisfaction of the City. Prior to any pruning of verge trees, an arborist report shall be prepared by the landowner and submitted to the City;

6. Privacy Screening

Prior to occupancy or use of the development, all privacy screening shown on the approved plans shall be installed and shall be visually impermeable and is to comply in all respects with the visual privacy requirements of the Residential Design Codes, to the satisfaction of the City;

7. Sight Lines

Walls, fences, and other structures truncated or reduced to no higher than 0.75 metres within 1.5 metres of where walls, fences, other structures adjoin vehicle access points where a driveway meets a public street, with the exception of:

- One pier at max width of 0.4 metres x 0.4 metres and 1.8 metres height, with decorative capping permitted to a height of 2.0 metres;
- Infill that provides a clear sight line;
- If a gate is proposed:
 - When closed: a min of 50 percent unobstructed view; or
 - When open: a clear sightline;

unless otherwise approved by the City;

8. Front Fence

Fencing infill panels above the approved solid portions of fence shall be visually permeable in accordance with the Residential Design Codes Volume 1, to the satisfaction of the City;

9. Car Parking and Access

9.1 The layout and dimensions of all driveways and parking areas shall be in accordance with AS2890.1;

9.2 All driveways, car parking and manoeuvring areas which form part of this approval shall be sealed, drained, paved and line marked in accordance with the approved plans prior to the first occupation of the development and maintained thereafter by the

owner/occupier to the satisfaction of the City;

- 9.3 No goods or materials being stored, either temporarily or permanently, in the parking or landscape areas or within the access driveways. All goods and materials are to be stored within the buildings or storage areas, where provided;
- 9.4 The new crossover to Palmerston Street shall be reduced to a maximum width of 3 metres to maximise the separation from the existing verge tree; and
- 9.5 Prior to the first occupation of the development, the redundant or “blind” crossovers shall be removed, the verge area landscaped, and the kerb made good to the City’s specifications and to the satisfaction of the City, at the applicant/owner’s full expense;

10. Tree Protection

Prior to the issue of a Building Permit a Tree Protection Plan prepared in accordance with Australian Standard AS4970-2009 shall be submitted and approved by the City. The Tree Protection Plan is to include details of the construction methods for works to be undertaken on site to minimise impact on the Moreton Bay Fig situated in Robertson Park and adjacent to the northern boundary of the subject site. The Tree Protection Plan shall include the following details:

- Fencing of the Tree Protection Zone (TPZ) and Structural Root Zone, as defined in the Arboricultural Report stamp dated 8 June 2021, for the duration of works to avoid compaction and root severance;
- Methodology and construction details for site grading, retaining walls and boundary fencing within the TPZ;
- Location and construction methodology for utility trenching to minimise impact on TPZ;
- Soakwells and stormwater pipes within the TPZ to be manually excavated to avoid root severance;
- Construction methodology for footings of Units 3 and 4 within the TPZ to minimise impact on the tree roots; and
- Driveway to be manually compacted.

The recommendations of the Tree Protection Plan shall be implemented and complied with for the duration of the construction of the development, to the satisfaction of the City;

11. Construction Management Plan

A Construction Management Plan shall be lodged with and approved by the City prior to the issue of a Building Permit. This plan is to detail how construction will be managed to minimise disruption in the area and shall include:

- The delivery of and delivery times for materials and equipment to the site;
- Storage of materials and equipment on site;
- Parking arrangements for contractors and sub-contractors;
- The impact on traffic movement;
- Dilapidation report of the nearby properties at Nos. 107 and 116 Palmerston Street, Perth;
- Notification to affected land owners; and
- Construction times.

The management plan shall be complied with for the duration of the construction of the development; and

12. Stormwater

All stormwater produced on the subject land shall be retained on site or connected to the City’s drainage system at the expense of the applicant/landowner, to the satisfaction of the City.

MAYOR COLE:

Could Administration please advise on the nature of the overshadowing from the fig tree. Is the overshadowing dense or dappled in nature?

MANAGER DEVELOPMENT & DESIGN:

The canopy of the fig tree is relatively dense in nature, but does provide for some dappled sunlight as shown below. When the sun is at a lower angle during winter, the tree provides a more dense shadow. This is because the light has to pass through more of the canopy.



*View from No. 107 Palmerston Street
Looking North*



View from Fig Tree Looking South West

ADDITIONAL INFORMATION:**Residential Design Codes Volume 1 – Medium Density**

On 23 February 2023, the State Government publicly released amendments to State Planning Policy 7.3 – Residential Design Codes Volume 1 to incorporate Part C – Medium Density. This Part will apply to grouped dwellings in areas coded R30 and above, such as the subject site.

These amendments have not been gazetted and are not yet operational. The assessment of this application continues to be against the provisions of the current R Codes. Where deemed-to-comply provisions are not met, the assessment is required to be undertaken primarily against the design principles of the existing R Codes, with due regard given to relevant design principles of Part C – Medium Density also.

The Legal/Policy and Comments sections of the officer report have been updated to reflect this.

6.1 HAROLD STREET - RESPONSE TO PETITION

- Attachments:
1. Harold Street Petitions (2) - Confidential
 2. Design Drawing
 3. Plan No. 3749-CD-01 Proposed loading zone Beaufort St & Harold St

RECOMMENDATION:

That in response to a petition received by the Council on 14 February 2023 in relation to Local Area Traffic Management and parking issues on Harold Street, Mount Lawley, Council:

1. **NOTES** the current approved Main Roads WA funded Blackspot project which has investigated and mitigates road safety issues (crashes) at the intersection of Harold Street and Beaufort Street;
2. **REQUESTS** Administration to complete a Traffic Calming Warrant check and if warranted, design a treatment to be delivered which addresses road safety issues (speeding, driver behaviour etc) on Harold Street between Vincent Street and Beaufort Street; and
3. **CONSULT** with residents about implementing a residential parking only zone on the north side of Harold Street between Vincent Street and Beaufort Street.
4. **APPROVES** the following minor parking restriction improvements and amendments:
 - 4.1 **Convert** the 1/4P on Beaufort Street, outside The Beaufort, to a Loading Zone during the day, 7.00am to 4.00pm, Monday to Friday and Taxi Zone at all other times, clearway times excepted, Plan No. 3749-CD-01 (Attachment 3); and
 - 4.2 **Convert** the Loading Zone on the south side of Harold Street, corner of Beaufort Street, to 2P at all times, Plan No. 3749-CD-01 (Attachment 3).

MAYOR COLE:

Recommendation – consider the resident only parking on north side of the street – but residents want it on the south? What is the rationale for the side of the street? Are there more bays on the north?

MANAGER RANGER SERVICES:

North – 15 bays (15 Residences)

South – 26 bays (6 Residences)

MAYOR COLE:

Recommendation talks about consulting about parking, but not under consultation section of the report?

MANAGER RANGER SERVICES:

Report amended to reflect consultation in implications to consider.

MAYOR COLE:

Black spot funding – talks about inform, is that still valid in the strategy?

MANAGER ENGINEERING SERVICES:

Has been included in the report. While specific blackspot measures to mitigate risk of vehicle crashes and resultant harm to people are subject to an 'Inform' approach in the Community and Stakeholder Engagement Strategy (i.e., There is no ability to influence the decision to undertake a traffic management intervention), there is an opportunity for the Community to provide feedback on the project generally and make suggestions around the delivery and 'aesthetics' of a blackspot project.

CR LODEN:

When did we introduce the resident only parking on Mary Street? When was the last time the Council introduced resident only parking?

MANAGER RANGER SERVICES:

12 Feb 2002 – Council introduced resident only parking to the south side of Mary St

12 Feb 2013 – Council approved (subject to consultation) for the north side to have 2P between William & Beaufort

14 May 2013 – Council deferred decision on 2P restriction to north side

11 June 2013 – Council approved 2P restriction on the north side, from the Church to Beaufort St

At 6.55pm Manager Ranger Services left the meeting and did not return.

8.4 RESPONSES TO MOTIONS CARRIED AT THE ANNUAL GENERAL MEETING OF ELECTORS HELD ON 2 FEBRUARY 2023

Attachments: 1. Annual General Meeting of Electors Minutes 2 February 2023

RECOMMENDATION:

That Council **NOTES** and **ENDORSES** the responses provided by Administration to the General Business motions carried at the Annual Meeting of Electors held on Thursday 2 February 2023 for the reasons outlined in the report.

MAYOR COLE:

Can the report have a list of motions with an index and recommendation?

A/EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:

Report has been updated.

MAYOR COLE:

Item 4.1 - had we considered our colocation and community hubs and community notice board stating regular hirers

A/EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:

Administration will investigate if there is an opportunity to install a notice board outside the hall which lists all frequent hall users and has updated the report recommendation.

MAYOR COLE:

Item 4.2 – lots of information, doesn't clearly state what we already have could this be brought forward? Not supported or partially supported?

EXECUTIVE DIRECTOR STRATEGY AND DEVELOPMENT:

Response reviewed and recommendation updated.

MAYOR COLE:

Item 4.4 – Britannia Reserve – Has Administration considered the fact that cyclists are using the path to access the freeway – should the path be widened, or at least part of it? Motion 4.7 and 4.15 – recommendation is not supported, but reason notes that it is due to be considered by Council – does Administration think this should be updated?

MANAGER ENGINEERING:

Report has been updated.

MAYOR COLE:

Item 4.8 chemical sprays – council has sought quite a bit of information on this, complete elimination not supported because needed in eco zoning maintenance. Where is it being used for maintenance? Noted recently used at Britannia.

A/DIRECTOR INFRASTRUCTURE AND ENVIRONMENT:

Amendment proposed by Cr Hallett seeks further investigation and analysis of City's use of glyphosate, for report back to Council. Administration supports this Amendment.

MANAGER PARKS:

The City's Parks Team employ integrated weed management techniques to control weeds and maintain garden areas within public open space. This includes the use of chemical control (including organic alternatives and glyphosate) as well as mechanical removal and suppression (such as mulching and dense planting).

Prior to undertaking chemical weed control, areas are assessed to determine the best method based on weed species present. Organic herbicide is the preferred option however, this is ineffective in the control of running grasses (such as those used in turfed areas) and woody perennial weeds. Therefore when these weeds are present, glyphosate is used to assist in weed control.

CR IOPPOLO:

Item 4.12 - how much money is the City expecting to accrue in the underground power reserve at the completion of the project, secondly, given the cost of living pressures ratepayers are currently under, lifting rates should have been a last resort. Why was this funding model selected instead of the previous loan model which charged interest only to those who chose to defer payments to cover their underground power?

CHIEF FINANCIAL OFFICER:

How much money is the City expecting to accrue in the underground power reserve at the completion of the project?

The City is currently working with Western Power to determine a suitable rollout plan for underground power across the whole of the City of Vincent. The City is modelling various scenarios and after the preferred funding model has been chosen, we will be able to provide further guidance on the estimated future underground power reserve balances.

Why was this funding model selected instead of the previous loan model which charged interest only to those who chose to defer payments to cover their underground power?

The City is currently exploring a number of options to be able to provide ratepayers with longer payback periods for the underground power project. All options are currently being considered including a debt funding model.

The City is reviewing its borrowing capacity in relation to the Western Australian Treasury Corporation guidelines, to determine the optimal debt levels to support the planned rollout by Western Power. Due to a large portion of the overhead network being due for replacement at a similar time, the City's ability to borrow is restricted and a level of reserves in combination with debt, will be required to support longer payback periods for ratepayers.

Marie Slyth of West Perth

If number of accidents is to be considered with the blocking off of Alma Road, North Perth, how many accidents took place there?

MANAGER ENGINEERING:

Through the Main Roads WA crash data there is one recorded accident at the corner of Alma Rd and Leake Street.

Marie Slyth of West Perth

Why should Council support dangerous e-rideable users when footpaths were not created for such users, which now seek to claim free benefits?

MANAGER ENGINEERING:

This has been included in the report.

MAYOR COLE:

Item 4.13 – could further information be incorporated talking to DoT traffic study. Can consideration be given to if no further investigation, then if bunnings progressed if this can be measured in this real time.

MANAGER ENGINEERING:

This has been included in the report.

MAYOR COLE:

Item 4.16 – verge valet can collect e-waste – clarify?

MANAGER WASTE AND RECYCLING:

Point of clarification with respect to the City's Verge Valet system. Every residential ratepayer is entitled to one verge valet collection per financial year, as part of their annual rates. This Verge Valet™ service provides residents with year-round on-request access to a bulk collection service which is inclusive of e-waste items. To clarify, there is no additional charge for this service. If residents wish to purchase additional verge valet collections, i.e., above their annual allowance, the City's contractor offers a Verge Valet™ Extra Service – with applicable charges paid directly to the contractor. Please refer to the following link for details of the Vincent Verge Valet™ System and acceptable items. [Verge-Valet City-of-](#)

[Vincent_6PP-DL.pdf \(vergevalet.com.au\)](#)

With regards to the suggestion of "providing a big box somewhere that people could drop off stuff", this is not an appropriate option for the City. As previous experience with charity clothing drop-off points within the City has shown, positioning bins at unsecured locations results in antisocial behaviour, OSH issues and community complaints; hence why they have been removed for some years.

As outlined in the Council Briefing report, if the Verge Valet™ system or Balcatta Recycling Centre (located 8.3km from City's administration building) is not a suitable alternative, there are also a number of local retail providers that offer drop off options for e-waste (under their Extended Producer Responsibility Programs). This e-waste return network and scope of e-waste inclusions is also likely to expand, with the National E-Waste Product Stewardship Scheme currently under review and the impending E-waste to Landfill Ban (scheduled for 2024).

CR GONTASZEWSKI:

E-Waste – why do stations at supermarkets, etc accept and why a small e-waste point would not be appropriate?

MANAGER WASTE AND RECYCLING:

Please refer previous response.

CR CASTLE:

Item 4.1 Lesser Hall – further info about proposed outdoor stage?

A/DIRECTOR STRATEGY & DEVELOPMENT:

The Mount Hawthorn Hub Town Team have been discussing installing a stage at Braithwaite Park. This is only in the planning stage and discussions are continually being had on the feasibility. Therefore reference to the stage has been removed from Administration's response.

CR HALLETT:

Motion 4.2.1 Development Green Space – is the admin comment correct? Has the City ever applied for funding for Hyde Park?

EXECUTIVE DIRECTOR STRATEGY & DEVELOPMENT:

This has been reviewed and updated.

CR HALLETT:

4.9 and 4.10 different comments – question vs statement

A/EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:

At the AGM both motion 4.9 and 4.10 lapsed as there were no movers for the motion. the report has been updated to reflect the minutes which noted that 4.9 was a statement and no further action. 4.10 was a question and a response provided by administration.

CR HALLETT:

Hyde Park conservation plan? Extent of using plan in works?

A/EXECUTIVE DIRECTOR INFRASTRUCTURE AND ENVIRONMENT:

In April 2004 Council adopted in principle the recommendations and guidelines contained within the conservation plan for the purposes of retaining and conserving the cultural heritage significance of Hyde Park, subject to consideration of other factors relating to economic, social and environmental matters.

The Plan is referred to in that context.

MANAGER PARKS:

The City's Parks Team periodically refer to the Hyde Park Conservation Plan when undertaking parks infrastructure replacement and renewal projects to ensure selected designs and treatments are in keeping with the Plan.

Examples of infrastructure renewal projects where the Plan has been consulted include, but are not limited to, light pole renewal, pathway re-asphalting and installation of new park furniture.

CR LODEN:

Menzies St Traffic – report spoke about vehicle movements – how many vehicles a day, which direction?

MANAGER ENGINEERING:

This has been added to the report.

CR LODEN:

Would the proximity to Angove Street make a difference to the cul-de-sac decision? If there was a high vehicle flow, around 1500, what would be the appropriate way to get an investigation for a remedy? Flag that if there are significant volumes, around 1500, will have an amendment.

MANAGER ENGINEERING:

Need to do more traffic modelling on stopping through flow traffic and MRWA need to be consulted as they would ultimately approve cul-de-sac's.

CR LODEN:

Strathcona Street volume – can be provided vehicle movement data?

MANAGER ENGINEERING:

The City has volumes for this area, and these are quite low. It has been created as a safe active street reducing the speeds to 30km/h. It would not warrant further traffic calming as it is a safe active street.

CR WALLACE:

have we ever done any examination of residual effects on the soil from use of glysohates. Could we get some samples tested.

MANAGER PARKS:

Parks Staff are trained in the safe handling and application of chemicals. Additional and refresher training is undertaken as required.

At 7:21 pm, Cr Dan Loden left the meeting.

At 7:22 pm, Cr Dan Loden returned to the meeting.

5.3 NO. 209 OXFORD STREET (LOT: 4; P:1239), LEEDERVILLE - PROPOSED CHANGE OF USE FROM EATING HOUSE TO RESTAURANT/CAFE AND UNLISTED USE (SHISHA BAR) AND ASSOCIATED ALTERATIONS AND ADDITIONS (EXISTING UNAUTHORISED DEVELOPMENT)

Ward: South

Attachments:

1. Consultation and Location Plan
2. Development Plans
3. Cover Letter and Justification
4. Acoustic Report
5. Parking Management Plan
6. Waste Management Plan
7. Context Plan
8. Summary of Submissions - Administration's Response
9. Summary of Submissions - Applicant's Response

RECOMMENDATION:

That Council, in accordance with the provisions of the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme, REFUSES the application for Change of Use from Eating House to Restaurant/Café and Unlisted Use (Shisha Bar) and Associated Alterations and Additions at No. 209 (Lot: 4; P: 1239) Oxford Street, Leederville, as shown in Attachment 2, for the following reasons:

1. As a consequence of the location of the Unlisted Use (Shisha Bar), within an unenclosed patio at the rear of the subject site, proximity to adjoining residential and other sensitive land uses, operating hours and intensity of the Unlisted Use (Shisha Bar), the development:
 - 1.1 Would be inconsistent with the Objectives of the Regional Centre zone and subsequently Clause 18(4)(c) of the City of Vincent's Local Planning Scheme No. 2 and therefore not permitted. The development would be detrimental to the amenity of the adjoining properties because it would result in smoke, vapour and odour emissions associated with the use which would negatively impact adjoining properties;
 - 1.2 Would have an undue amenity impact on the adjoining residential and sensitive land uses, and would not be compatible with its setting in accordance with Clause 67(2)(m), (n), (r) and (x) of the *Planning and Development (Local Planning Schemes) Regulations 2015*;
 - 1.3 Would be inconsistent with the Aims of the City of Vincent's Local Planning Scheme No. 2, as the development would not protect and enhance the health, safety and general welfare of the City's inhabitants and the social, environmental and cultural environment, as the proposal has not demonstrated that the emissions associated with the use could be appropriately mitigated as outlined in reason 1.1 (Clause 67(2)(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015*); and
2. Pursuant to Schedule 2, Part 9, Clause 67(2)(g) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, the would not satisfy the Objectives of the City of Vincent Local Planning Policy: Restricted Premises – Smoking for the following reasons:
 - 2.1 The development would not reduce the number of businesses whose primary purpose is the use of tobacco; and
 - 2.2 The would negatively impact on the amenity of the area, including existing sensitive land uses, by means of associated emission of harmful smoke, vapours and odour.

At 7.25pm Manager Parks left the meeting and did not return.

At 7.26pm A/Manager Corporate Strategy & Governance left the meeting

At 7.29pm A/Manager Corporate Strategy & Governance returned to the meeting

MAYOR COLE:

Request for responses to the public questions on notice please be provided in the briefing notes.

MANAGER DEVELOPMENT & DESIGN:

Administration's responses to public questions are provided in line below in *italics*.

1. Chandra Woodley of Leederville

I'd just like to raise a concern about how the business will maintain the peace/noise at the venue please?

MANAGER DEVELOPMENT & DESIGN:

Administration has recommended that the application be refused. The applicant has not provided operational details to demonstrate that the venue would not adversely impact the amenity of the adjoining residential properties. Adverse impact on the amenity of nearby properties is included as a reason for refusal.

2. Anthony Dowling of Leederville

1. Can the City please explain how the **unauthorised** shisha lounge use **is able to continue to operate and carry on whilst it has no development approval from the City to do so?** If it is currently an unauthorised use surely it cannot continue until such time as the City has determined the development application, or the State Administrative Tribunal (SAT) has determined the application in the event that the applicant applies to the SAT to review a decision by Council to refuse to approve the development application?

The City has directed the operator to cease the use and has advised the operator that continued operation of the Shisha Bar constitutes an offence under Sections 214 and 218 of the Planning and Development Act 2005. The operator has continued to operate the unauthorised use irrespective of this. The City has commenced prosecution proceedings for this offence.

2. If Council – on the other hand - decides to ultimately approve the development application against the recommendation to refuse to approve it, **will Council provide reasons and/or the basis upon which approval is granted?**

Yes. If Council were to approve the application, reasoning for that decision would be provided.

3. We note from the administration's report on the application that the shisha lounge **holds a retail tobacco licence to sell shisha**. How can this be when the shisha lounge has **no development approval to carry out the smoking of shisha within its premises?**

Whilst this might be a question for the **Tobacco Compliance Branch** of the WA Department of Health to **specifically answer** has the City's administration queried or questioned the Tobacco Compliance Branch about this situation, and if so, what was its response?

Development approval is not required to first be obtained for the Tobacco Control Branch of the Department of Health to issue a tobacco licence. The Department of Health's tobacco licensing process does not include a referral to local governments for confirmation as to whether a premises has the appropriate approval under the Planning and Development Act 2005.

Administration has queried this with the Tobacco Control Branch that has confirmed that the operator 'MKZD Pty Ltd' has a current tobacco licence.

4. Based on the information provided on the WA Department of Health's 'Shisha and the Law' publication (copy attached), and given the shisha lounge's current set-up, we consider that the shisha lounge falls within the meaning of an '**enclosed public place**' and thus **would not be permitted**.

Has the City sought advice/confirmation from the WA Department of Health as to whether the proposed shisha bar is deemed an '**enclosed public place**' pursuant to the *Tobacco Products Control Act (2006)* and/or the *Tobacco Products Control Act Regulations 2006*?

With reference to the definition of an 'enclosed public place' in the attached WA Department of Health publication is **more than 50%** of the current shisha lounge enclosed by walls or other structures or

coverings?

In any event, would not the applicant's proposal to provide a 2.4 metre high barrier wall along the northern and western walls of the shisha lounge **constitute** the lounge being determined as an 'enclosed public place'?

Whether an area is an 'enclosed public space' is not an assessment under the planning framework, and is for the Tobacco Control Branch of the Department of Health to determine.

The Department has advised that they do not provide advice on development proposals. As such, Administration is unable confirm whether the Department would consider the Shisha Bar to be an enclosed public space after the installation of the acoustic barrier.

The Department has advised that they are unable to confirm if an assessment of whether the premises is an 'enclosed public space' has been undertaken.

Administration has referred the proposal and concerns about the current operations to the Tobacco Control Branch.

5. In assessing the development application against relevant local planning scheme/policy provisions why has the administration determined that **no additional onsite car bays are warranted**, and thus **have not been included as a ground of refusal**?

There would be no additional car parking demand generated as part of this application. This is because the rear alfresco area proposed to be used for smoking shisha has already previously been approved to accommodate the intended 50 patrons.

The subject site has development approval for an Eating House (Restaurant) use, including use of up to 130 square metres of the rear alfresco area. The plans approved by Council in 2000 showed seating for 64 patrons in this rear alfresco area, in addition to those within the building. Nil car parking bays being provided on site was approved as part of this.

This means that the proposal is not seeking to increase the number of patrons that would be accommodated within this area compared to what has previously been approved by Council and so no additional provision of car parking is required.

Pursuant to Clause 6 of the City's Policy 7.7.1 – Non-Residential Development Parking Requirements Policy, cash-in-lieu contributions are calculated based on the number of bays required on site, minus any previously approved car parking shortfalls. Council has previously approved a 41 car parking bay shortfall for the subject site and no cash-in-lieu contribution would be payable.

The Draft Leederville Precinct Structure Plan establishes a maximum car parking rate. There is no minimum standard prescribed. This means that it would allow for the provision of nil on site car parking bays.

- 6) Notwithstanding that the City does not accept the acoustic report accompanying the development application, wouldn't the City require the applicant to provide specific details as to the type of material the proposed extended barrier walls will be constructed of in order to assess whether noise generated from the shisha lounge use will accord with the assigned outdoor noise target level?

No, the City would not require specific details of the material if it was consistent with the recommendations of an acceptable acoustic report and where implementing the recommendations of that acoustic report was a condition of approval. This would ensure that noise target levels would be complied with.

The acoustic report that was submitted specified a variety of materials that would be capable of achieving the sound attenuation properties required, provided that a specific density of material was achieved. In this instance, Administration does not accept the recommendations of the acoustic report because it has not been prepared by a suitably qualified person and in the context of the subject site being located in close proximity (as near as 3 metres away) from noise sensitive residential land uses.

- 7) Similarly too, wouldn't the City assess the fire risk to both patrons of the shisha lounge, occupants of other adjoining and adjacent uses, and adjoining and adjacent properties from the flammable materials

currently used in the ceiling and along the walls of the shisha lounge?

No, this is because the combustibility of structures is not assessed at the development application stage, and rather is a matter to be assessed under building legislation.

The application does not include details of materials to the lining the underside of ceiling and walls. Such works not affecting the external façade of a development would be exempt from the need to obtain development approval under the Planning and Development (Local Planning Schemes) Regulations 2015.

If the application were approved, an occupancy permit for the premises would be required to be obtained. Compliance with the National Construction Code would need to be demonstrated as part of this, including fire safety.

- 8) Surely these assessments (in Q's 6 and 7) are required to inform Council as to whether the proposal is able to comply with clause 67(2)(r) of the Planning and Development (Local Planning Schemes) 2015 which concerns the 'suitability of the land for the development taking into account the possible risk to human health or safety'?

Noise emissions from the premises has been included as a reason for refusal recommended by Administration and in the consideration of Clause 67(2)(r) of the Planning and Development (Local Planning Schemes) 2015. This is due to the acoustic report submitted not being accepted and not being able to be relied upon by Administration, including the recommended acoustic barrier materials.

Compliance with the National Construction Code for the use of materials would be required if the development was approved and would not affect the consideration of the suitability of the land for the development.

However, the potential impact of the noise on the amenity of adjoining properties has been included in the reasons for refusal. The fire risk to human health and safety would be associated with the consideration of the building works rather than the land itself.

- 5.2 NOS. 103-105 (LOT: 38; D/P: 28) SUMMERS STREET, PERTH AND NO. 34 (LOT: 1; D/P: 62743) CHERITON STREET, PERTH - PROPOSED CHANGE OF USE TO CHILD CARE PREMISES (AMENDMENT TO APPROVED) TO INCORPORATE A CHANGE OF USE FROM SINGLE HOUSE TO CHILD CARE PREMISES INCLUDING ALTERATIONS AND ADDITIONS

Ward: South

- Attachments:
1. Location Plan & Advertising Area
 2. Development Plans
 3. Landscape Plan
 4. Acoustic Report
 5. Traffic Impact Statement
 6. Operation Management Plan
 7. Parking Management Plan
 8. Waste Management Plan
 9. Minutes of 20 September 2016 Ordinary Council Meeting - Item 9.1.1
 10. Minutes of 17 November 2020 Ordinary Council Meeting - Item 9.3
 11. Superseded Development Plans

RECOMMENDATION:

That Council, in accordance with the provisions of the City of Vincent Local Planning Scheme No. 2 and the Metropolitan Region Scheme, APPROVES the application for Change of Use to Child Care Premises (Amendment to Approved) at Nos. 103-105 (Lot: 38; D/P: 28) Summers Street, Perth, to incorporate a Change of Use from Single House to Child Care Premises including Alterations and Additions at No. 34 (Lot: 1; D/P: 62743) Cheriton Street, Perth in accordance with the plans shown in Attachment 2 dated 12 January 2023, subject to the following:

1. All conditions and advice notes detailed on development approval 5.2015.586.1 granted on 20 September 2016 and 5.2020.365.1 granted on 18 November 2020 continue to apply to this approval, except as follows:
 - 1.1 Condition 1 is to remain, except where amended to read as follows:
 - 1.1 A maximum of 90 children and 18 staff are permitted on site at any one time;
 - 1.3 The Child Care Premises subject to this approval must at all times be operated by the same proprietor on both properties, being Nos. 103-105 Summers Street, Perth and No. 34 Cheriton Street, Perth;
 - 1.4 The Child Care Premises must not operate independently of one another on the properties at Nos. 103-105 Summers Street, Perth or No. 34 Cheriton Street, Perth; and
 - 1.5 The Operation Management Plan shall be implemented at all times, to the satisfaction of the City;
 - 1.2 Condition 3 is to remain, except where amended to read as follows:
 - 3.1 A minimum of six car parking bays shall be provided on site;
 - 3.8 Prior to occupancy or use of the development on No. 34 Cheriton Street, Perth, the two on-site car parking bays shall be sealed, drained, paved and line marked in accordance with the approved plans, and completed to the satisfaction of the City. The two on-site car parking bays on No. 34 Cheriton Street, Perth, together with the existing four on-site car parking bays located on Nos. 103-105 Summers Street, Perth, as annotated on the approved plans, shall be maintained by the owner(s)/occupier(s);

1.3 Condition 4 is amended to read as follows:

4. External Fixtures

All external fixtures shall not be visually obtrusive from Cheriton Street, Summers Street and neighbouring properties. External fixtures are such things as television antennas (of a non-standard type), radio and other antennas, satellite dishes, external hot water heaters, air conditioners, and the like;

1.4 Condition 6 is amended to read as follows:

6. Parking Management Plan

The approved Parking Management Plan shall be implemented, and the development shall be carried out in accordance with the approved Parking Management Plan and approved plans, to the satisfaction of the City at the expense of the owners/occupiers;

1.5 Condition 7 is amended to include a new Condition 7.3 to read as follows:

- 7.3 Prior to the submission of a Building Permit for No. 34 Cheriton Street, Perth, an updated acoustic report shall be submitted to the City to demonstrate compliance with the City's Policy No. 7.5.21 – Sound Attenuation, and in order to assess compliance with the *Environmental Protection (Noise) Regulations 1997* for any selected plant, equipment and other potential noise sources. All recommended measures of the report shall be implemented during the operation of the subject site, to the City's satisfaction;

1.6 Condition 8 is amended to include new condition 8.3 to read as follows:

- 8.3 Prior to occupancy or use of the development on No. 34 Cheriton Street, Perth, all works shown in the approved landscaping plan dated 19 January 2023 shall be undertaken in accordance with the approved plans. Landscaping on No. 34 Cheriton Street, Perth, shall be maintained in accordance with the approved plans, to the satisfaction of the City at the expense of the owners/occupiers;

1.7 Condition 9 is replaced with the following:

9. Waste Management

The Waste Management Plan shall be implemented at all times during operation of the subject sites, to the satisfaction of the City; and

1.8 The following advice notes are added:

1. Any external artificial lighting installations, including in carparks and common areas, are to comply with Australian Standard AS 4282-1997 'Control of the obtrusive effects of outdoor lighting' and must not be permitted to shine or reflect into other properties, creating a nuisance.

NO QUESTIONS

7.5 OUTCOME OF ADVERTISING - YOUTH ACTION PLAN 2023-2026

- Attachments:**
- 1. Youth Action Plan 2023-2026 Actions and Deliverables**
 - 2. YAP Survey Responses Report**
 - 3. Summary of Community Consultation Comments Received**

RECOMMENDATION:

That Council ENDORSES the Youth Action Plan 2023-2026 at Attachment 1

NO QUESTIONS

Coordinator Community Development left the meeting at 7.34pm and did not return.

8.6 INFORMATION BULLETIN

- Attachments:**
1. Minutes of the Tamala Park Regional Council Meeting held on 16 February 2023
 2. Unconfirmed Minutes of the Mindarie Regional Council meeting held on 23 February 2023
 3. Statistics for Development Services Applications as at the end of January 2023
 4. Register of Legal Action and Prosecutions Monthly - Confidential
 5. Register of Legal Action - Orders and Notices Quarterly - Confidential
 6. Register of State Administrative Tribunal (SAT) Appeals - Progress report as at 23 February 2023
 7. Register of Applications Referred to the Metro Inner-North Joint Development Assessment Panel - Current
 8. Register of Applications Referred to the Design Review Panel - Current
 9. Register of Petitions - Progress Report - February 2023
 10. Register of Notices of Motion - Progress Report - February 2023
 11. Register of Reports to be Actioned - Progress Report - February 2023
 12. Council Workshop Items since 30 November 2022
 13. Council Meeting Statistics
 14. Council Briefing Notes - 7 February 2023

RECOMMENDATION:

That Council RECEIVES the Information Bulletin dated March 2023.

MAYOR COLE:

How many submissions had been received for the 139 – 141 Lake Street, Perth application?

MANAGER DEVELOPMENT & DESIGN:

The City has received 49 submissions - 34 objection, 14 in support and one providing comment only.

The City has also received a petition with 118 signatures.

**6.3 WASTE STRATEGY PROJECT - TWO BULK HARD WASTE OPTIONS APPRAISAL – UPDATE
VERGE VALET VINCENT TRIAL**

Attachments: Nil

RECOMMENDATION:

That Council:

1. **NOTES** the feedback from the Verge Valet Vincent Trial; and
2. **APPROVES** the extension of the current Verge Valet trial and contract for 12 months (July 2023- June 2024) noting that a further report will be presented to Council on the progress of the trial and associated bulk verge services in March 2024.

NO QUESTIONS

At 7.58pm CEO left the meeting.

At 8.00pm CEO returned to the meeting.

Manager Waste & Recycling left the meeting at 8.00pm and did not return.

5.4 ADVERTISING OF AMENDED POLICY NO. 7.7.1 - NON-RESIDENTIAL DEVELOPMENT PARKING REQUIREMENTS AND PAYMENT IN LIEU OF PARKING PLAN

- Attachments:
1. Local Planning Policy - Non-Residential Parking
 2. Payment in Lieu of Parking Plan

RECOMMENDATION**That Council PREPARES:**

1. an amendment to **Local Planning Policy: Non-Residential Parking**, included in Attachment 1, for the purpose of community consultation, pursuant to Schedule 2, Part 2, Clause 4(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*; and
2. the proposed **Payment in lieu of Parking Plan**, included in Attachment 2, for the purpose of community consultation, pursuant to Schedule 2, Part 9A, Clause 77K(1) of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

CR GONTASZEWSKI:

Can the objectives be amended to include a reference to residential streets not being impacted by commercial parking demand on-streets.

MANAGER POLICY & PLACE:

A new Policy objective is included to clarify that commercial development should not rely on on-street parking within residential streets to satisfy the parking demand of the development.

CR GONTASZEWSKI:

Questions around how to consider non-residential parking where a parking study puts forward on street, non paid bays in residential streets – reason to not pay cash in lieu or not provide parking. Public parking facilities it asks if any paid parking – is it intended that these will include local streets or only paid? Foreshadow an Amendment – clear where burden of non-residential parking should fall if not on site, or seek to have a cash in lieu.

MANAGER POLICY & PLACE:

Clause 7 of the draft Policy stipulates that payment in lieu of parking is to be in accordance with Clause 77 of the Planning and Development (Local Planning Schemes) Regulations 2015, and where the minimum on-site parking requirements are not met, a condition requiring payment in lieu of parking would be imposed.

Amendments to the policy (objective point 2, and Parking Management Plan – Public parking) stipulate that commercial development shall not rely on on-street parking within residential streets to satisfy their parking demand.

**5.5 MINOR AMENDMENT TO METROPOLITAN REGION SCHEME - LEEDERVILLE PARADE
PRIMARY REGIONAL ROAD RESERVE**

- Attachments:**
- 1. Metropolitan Region Scheme Map - Proposed Amendment**
 - 2. Aerial Map - Leederville Parade and Vincent Street**

RECOMMENDATION:**That Council:**

- 1. ENDORSES the current road width of Leederville Parade, adjacent to The Avenue carpark to be sufficient for future planning requirements; and**
- 2. REQUESTS that the Western Australian Planning Commission proceed with a Minor Amendment to the Metropolitan Region Scheme, pursuant to s.57 of the *Planning and Development Act 2005* to remove the Primary Regional Road reservation and zone land urban as illustrated in Attachment 1.**

NO QUESTIONS

5.6 AMENDMENT TO THE TREES OF SIGNIFICANCE INVENTORY TO INCLUDE THE JACARANDA TREE AT NO. 59 ELLESMERE STREET, MOUNT HAWTHORN

Attachments:

- 1. Nomination Letter**
- 2. Tree Assessment**

RECOMMENDATION:

That Council **APPROVES** an amendment to the City's Trees of Significance Inventory to include the Jacaranda tree (*Jacaranda mimosifolia*) at No. 59 Ellesmere Street, Mount Hawthorn.

NO QUESTIONS:

At 8:13 pm, Cr Dan Loden left the meeting.

5.7 COMMUNITY SPORTING AND RECREATION FACILITIES FUND AND CLUB NIGHTS LIGHTS PROGRAM - FEBRUARY SMALL GRANTS ROUND APPLICATION

Attachments: Nil

RECOMMENDATION:

That Council ENDORSES the:

- 1. Community Sporting and Recreation Facilities Fund – 2023/24 February Small Grants Round application for consideration by the Department of Local Government, Sport and Cultural Industries, as follows:**
 - 1.1 Priority 1 – Robertson Park Development Plan – Tennis Precinct – Multi Sports Courts conversion; and**
 - 1.2 Priority 2 – North Perth Bowling Club – Toilet Upgrade; and**
- 2. Club Night Lights Program – 2023/2024 February Small Grants Round application for consideration by the Department of Local Government, Sport and Cultural Industries, as follows:**
 - 2.1 Priority 1 – Robertson Park Development Plan – Tennis Precinct – Multi Sports Courts flood lighting.**

At 8.12pm Cr Worner left the meeting and did not return.

NO QUESTIONS

At 8.14pm Manager Policy and Place left the meeting and did not return

6.2 RFT IE190/2022 NORTH PERTH TOWN HALL TOILET AND KITCHEN RENEWAL**Attachments: 1. Evaluation Report - Confidential****RECOMMENDATION:****That Council;**

- 1. NOTES the outcome of the evaluation process for Tender IE190/2022 North Perth Town Hall Toilet and Kitchen Renewal; and**
- 2. ACCEPTS the tender submission of Budo Group Pty Ltd for Tender IE190/2022 North Perth Town Hall Toilet and Kitchen Renewal.**

NO QUESTIONS:

At 8.14pm Manager Policy & Place left the meeting and did not return.

At 8:14 pm, Cr Dan Loden returned to the meeting.

At 8.18pm Manager City Buildings left the meeting and did not return.

7.1 FINANCIAL STATEMENTS AS AT 31 JANUARY 2023

Attachments: 1. Financial Statements as at 31 January 2023

RECOMMENDATION:

That Council RECEIVES the Financial Statements for the month ended 31 January 2023 as shown in Attachment 1.

NO QUESTIONS

7.2 AUTHORISATION OF EXPENDITURE FOR THE PERIOD 1 JANUARY 2023 TO 31 JANUARY 2023

- Attachments:
1. Payments by EFT and Payroll January 23
 2. Payments by Cheque January 23
 3. Payments by Direct Debit January 23

RECOMMENDATION:

That Council RECEIVES the list of accounts paid under delegated authority for the period 1 January 2023 to 31 January 2023 as detailed in Attachments 1, 2 and 3 as summarised below:

EFT payments, including payroll	\$6,333,882.22
Cheques	\$804.70
Direct debits, including credit cards	\$209,786.19
Total payments for January 2023	\$6,544,473.11

NO QUESTIONS

7.3 INVESTMENT REPORT AS AT 31 JANUARY 2023

Attachments: 1. Investment Statistics as at 31 January 2023

RECOMMENDATION:

That Council NOTES the Investment Statistics for the month ended 31 January 2023 as detailed in Attachment 1.

NO QUESTIONS

7.4 MID YEAR BUDGET REVIEW 2022/23

- Attachments:**
1. **Statement of Comprehensive Income by Nature and Type**
 2. **Rate Setting Statement**
 3. **Cash Backed Reserves**
 4. **Capital Budget for MYBR**
 5. **Carry Forward Souce Funding**
 6. **Operating Budget Analysis**
 7. **Project Change Request - Beatty Park Leisure Centre Changeroom**

RECOMMENDATION:

That Council **BY ABSOLUTE MAJORITY APPROVES** the following amendments to the 2022/2023 Annual Budget:

- a) A net decrease in the Operating Budget of \$377,914 as per Attachments 1;
- b) A net increase in Cash Backed Reserves totalling \$4,599,869 as per Attachments 2 and 3;
- c) A net decrease in the Capital Expenditure Budget of \$3,097,572 as per Attachment 4 and Project Change Request as per Attachment 7; and
- d) A net increase in opening surplus of \$1,019,862, resulting in a forecasted year end surplus at 30 June 2023 of \$158,178, as per Attachment 2.

Dudley Maier Of Highgate:

How did the \$1m variance come about and when were the staff first aware of it?

CHIEF FINANCIAL OFFICER:

The City prepares an estimate of the closing position for the current financial year when finalising the Annual Budget. The estimated surplus position for 2021/22 of \$5,657,084 was calculated towards the end of June 2022 prior to all invoices and accounting adjustments being finalised.

A combination of a favourable operating result and accrual and prepaid adjustments resulted in the opening surplus being approximately \$1m higher than forecasted in June 2022. This variance represents approximately 1% of the City's annual operating and capital budget.

The majority of this amount was verified prior to the annual financial statements being submitted to the OAG on 30 September 2022 with some further minor adjustments posted prior to audit sign off in December 2022.

8.1 CITY OF VINCENT ORDINARY ELECTION 21 OCTOBER 2023 - APPOINTMENT OF ELECTORAL COMMISSIONER TO CONDUCT THE ELECTION BY POSTAL VOTE

- Attachments:
1. Letter from WA Electoral Commissioner dated 9 February 2023 - conduct of City's 2023 ordinary election
 2. Letter from Minister for Local Government

RECOMMENDATION:**That Council:**

1. **APPROVES BY ABSOLUTE MAJORITY**, in accordance with section 4.20(4) of the *Local Government Act 1995*, the Electoral Commissioner to be responsible for the conduct of the City of Vincent 2023 ordinary election, together with any other elections or polls which may also be required at this time;
2. **APPROVES BY ABSOLUTE MAJORITY**, in accordance with section 4.61(2) of the *Local Government Act 1995*, that the method of conducting the 2023 ordinary election will be as a postal election; and
3. **NOTES** that the estimated cost of the Electoral Commissioner conducting the City's 2023 ordinary election by postal vote is \$144,000 (including GST).

NO QUESTIONS

8.2 ADVERTISING OF AMENDED POLICY - LEGAL REPRESENTATION FOR COUNCIL MEMBERS AND EMPLOYEES (POLICY NO. 4.2.01)

Attachments: 1. Legal Representation for Council Members and Employees Policy - (marked up)

RECOMMENDATION

That Council APPROVES the proposed amendments to the Legal Representation for Council Members and Employees Policy, at Attachment 1, for the purpose of community consultation.

CR IOPOLO:

Requested clarification that in the event that the City determined, by review of the code of conduct, that an employee had acted in good faith and proceedings are undertaken and found they were not in good faith that this Policy would still protect them?

A/EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:

Section 9.56 of the Local Government Act 1995 (the Act) provides protection from actions of tort for anything a council member or employee has, in good faith, done in the performance or purported performance of a function under the act or under any other written law. However, the legislation does not preclude people taking action against individual council members or employees if they believe that the council member or employee has not acted in good faith.

The City is obliged to indemnify employees against liabilities, losses and expenses incurred as a result of performing their duties lawfully or even unlawfully, provided it was within the instruction to do so.

There is no definition of 'good faith' in the Act or Interpretation Act 1984. Good Faith has been defined in the legal dictionary as Honesty; a sincere intention to deal fairly with others and in Wikipedia as a sincere intention to be fair, open and honest, regardless of the outcome of interaction. A definition for clarification has been added to the Policy.

A Policy is required to set the circumstances under which funding will be provided, processes to be followed by the applicant when making a request and the processes to be followed by the assessor of each application.

In practice, the assessment of an Employee application, by the CEO, would include but is not limited to:

- *an investigation into whether the Employee had conducted their duties in accordance with the functions they are authorised to perform in their position description;*
- *whether the Employee has conducted their duties in accordance with the [Code of Conduct for City of Vincent Employees and Contractors](#);*
- *an assessment under the City's insurance scheme in accordance with clause 3.4; and*
- *consideration of conditions and a formal agreement, including security agreements, relating to the payment, and repayment, of legal representation costs, in accordance with clause 5.3.*

Clause 5.8 of the Policy permits the CEO to immediately withdraw assistance and seek repayment of any legal representation cost, should a determination, consistent with the findings of a court, tribunal, or inquiry, identify that the Employee had not acted reasonably or in good faith, or had acted unlawfully or in a way that constitutes improper conduct; or given false or misleading information in respect of the application.

CR GONTASZEWSKI:

Is the allocated budget for legal representation adequate?

A/EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:

The City has various budgets for legal expenses for planning matters, property matters, land matters, human resources, and general legal advice.

CR GONTASZEWSKI:

Could you confirm the extent that Council have approved the waiving of legal fees in recent times?

A/EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:

Employee applications, in respect of claims for any alleged wrongful acts arising out of official duties, would generally be covered by the City's management liability insurance.

Since its adoption in 2006 there has been one application for reimbursement of legal costs incurred by a Council Member as a consequence of receiving a summons to attend before the Court of Disputed Returns.

CR GONTASZEWSKI:

Is the removal of clause 7 sufficiently covered by clause 5.1 & 5.2?

A/EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:

Clause 5.2 of the Policy requires Council to determine any conditions and or formal agreements, including security agreements, relating to the payment, and repayment, of legal representation costs for application made by the Council Members or the CEO.

Clause 5.3 of the Policy requires the CEO to determine any conditions and or formal agreements, including security agreements, relating to the payment, and repayment, of legal representation costs for applications made by the Employees.

The Act sets out that Council Members have no direct authority over Employees with respect to the performance of their duties. The Act prescribes that the CEO is responsible for performance of Employees, determination of Employee applications (with the exception an application made by the CEO) should reside with the CEO.

CR GONTASZEWSKI:

Should the Policy countenance the idea of repayment, consider including some of clause 7 into clauses 5.1 & 5.2 instances where costs awarded.

A/EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:

Administration is recommending that clause 7 remains with a minor amendment to clause 7a. This clause has been updated to note that repayment of legal representation costs is to be in accordance with any formal agreement conditioning the application.

8.3 LOCAL GOVERNMENT STATUTORY COMPLIANCE AUDIT RETURN 2022**Attachments: 1. Compliance Audit Return 2022****RECOMMENDATION:****That Council:**

- 1. NOTES that the City of Vincent's Compliance Audit Return for the period 1 January 2021 to 31 December 2021 was reviewed by the Audit Committee at its 2 March 2023 meeting;**
- 2. ADOPTS the Compliance Audit Return for the period 1 January 2022 to 31 December 2022, at Attachment 1; and**
- 3. AUTHORISES the Compliance Audit Return in Recommendation 1. above to be certified by the Mayor and Chief Executive Officer in accordance with Regulation 15 of the *Local Government (Audit) Regulations 1996*.**

NO QUESTIONS

8.5 FY22 AUSTRALASIAN LOCAL GOVERNMENT PERFORMANCE EXCELLENCE PROGRAM - KEY FINDINGS OF BENCHMARKING REPORT

Attachments: 1. Local Government Performance Excellence Report 2022

RECOMMENDATION:

That Council RECEIVES the City of Vincent's FY22 Australasian Local Government Performance Excellence Report at Attachment 1.

CR HALLETT:

Queried nature of overtime undertaken by City officers.

A/EXECUTIVE DIRECTOR INFRASTRUCTURE AND ENVIRONMENT:

The following information is provided in respect to Infrastructure and Environment overtime access –

Waste and Recycling

Essential Service – works all public holidays (except Good Friday, Xmas Day and Boxing Day) to ensure collection schedules are completed.

Other overtime is associated with the weekend street cleaning function (particularly around town centres), servicing of litter bins, very occasional graffiti removal, and covering short term sickness absence. Working hours are monitored by Supervisors to ensure appropriate rest breaks/fatigue mgt., etc.

Parks

Weekend rubbish collection as well as some other programmed works including streetscape maintenance requiring traffic control (lane closures), reticulation mainline cleaning and events.

All weekly overtime is carried out as a planned roster to ensure staff have weekends off.

Engineering

Night Works (safety reasons due to high traffic volumes during the day and MRWA approvals which don't cover closure of roads during peak periods). Call out register (planned) for emergency works/requests.

Lighting inspection at night. Assisting Rangers during events. Active Transport (Bike Plan, community consultation etc) tasks at weekends and other community events.

Appropriate steps taken to manage breaks etc.

City Buildings and Asset Mngmt

Call out for building maintenance issues at facilities over the weekend.

Beatty Park and Community Facility Operations

- *Rostered staff attending mandatory training or meetings on RDO's or at end of normal shift (training sessions are planned at crossover of shifts where possible to minimise impact).*
- *Staff called in at last minute to cover for sick staff (every effort is made to find casual or other staff not at full hours but it is not always possible).*
- *Rostered staff required to stay behind after shift due to mechanical or safety issues (plant breakdown or medical emergency).*
- *Minor occurrences for planned cover of LSL, AL when no other options are available (minimised where possible).*
- *Events, Club liaison.*

Rangers

Overtime is accessed in the following circumstances -

1. *The On Call Senior Ranger needs to attend overnight for a security issue or dog attack.*
2. *When a late shift Ranger calls in sick, the other late shift Ranger has no one else to pair up with and the City cannot adjust the Roster in time.*

5 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

6 REPRESENTATION ON COMMITTEES AND PUBLIC BODIES

Nil

7 CONFIDENTIAL ITEMS/MATTERS FOR WHICH THE MEETING MAY BE CLOSED**17.1 Waste to Energy Tender (Waste Strategy Project 5 - Research into alternative waste treatment options)**

- Attachments:**
1. **Draft MRC Agenda Item – Waste to Energy – Confidential**
 1. **Waste Supply Agreement – Confidential Draft**
 2. **Participants Agreement – Confidential Draft**

NO QUESTIONS

At 7.42 Chief Financial Officer left the meeting.
At 7.46pm Chief Financial Officer returned to the meeting.

At 7.46pm Aaron Griffiths, Manager Projects and Procurement, Mindarie Regional Council left the meeting and did not return.

17.2 Waste and Recycling - Container Deposit Exchange Scheme Update

- Attachments:**
1. **City of Vincent – Contract RFQ 67.20 – CDS Revenue Share Dispute - Confidential**

NO QUESTIONS

At 7.52pm A/Executive Director Infrastructure & Environment left the meeting and did not return.

At 7.52pm Manager Engineering left the meeting and did not return.

At 7.52pm the livestream restarted after discussion of the confidential items.

12 CLOSURE

There being no further business the meeting closed at 8.58pm.