



**CITY OF VINCENT**

# **NOTES**

**Council Briefing**

**16 July 2024**

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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, 16 JULY 2024 AT 6.00PM**

<b>PRESENT:</b>	Cr Alex Castle Cr Ron Alexander Cr Suzanne Worner Cr Nicole Woolf Cr Jonathan Hallett Cr Ashley Wallace Cr Ashlee La Fontaine	North Ward (Acting Presiding Member) North Ward North Ward North Ward (electronically) South Ward South Ward South Ward
<b>IN ATTENDANCE:</b>	David MacLennan Peter Varris  Rhys Taylor  Jay Naidoo  Karsen Reynolds  Aaron Griffiths  Joslin Colli  Wendy Barnard	Chief Executive Officer Executive Director Infrastructure & Environment A/Executive Director Community & Business Services A/Executive Director Strategy & Development A/Manager Development & Design (left at 6.30pm after Item 5.1) Manager Waste & Recycling (left at 6.34 after Item 7.1) Executive Manager Corporate Strategy & Governance Council Liaison Officer
<b>Public:</b>	Approximately six members of the public.	

## **1 DECLARATION OF OPENING / ACKNOWLEDGEMENT OF COUNTRY**

The Acting Presiding Member, Alex Castle, 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**

Mayor Alison Xamon on approved leave of absence from 10 July 2024 to 17 July 2024.  
Cr Sophie Greer on approved leave of absence from 11 July 2024 to 03 August 2024.

## **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.

The following questions statements were received in writing prior to the meeting.

### 3.1 Gary Simmons of Perth – Item 5.1

Mr Simmons provided the following comments in writing and spoke to them. His full statement can be found [here](#).

#### Questions

##### Question 1

What level of evidence was provided by the applicant in satisfying the City of Vincent that the number of children (i.e. 7) were enrolled and continually cared for since 2018 to support the statement that there will be the same intensity of use of the land?

#### **Administration Response**

*The applicant has advised that the number of children in care at the existing Family Day Care on the subject site varies between four and seven. This is dependent on the time of year and the age of the children. The applicant confirmed that the subject site has regularly operated with seven children in care over the last five years.*

##### Question 2

Did the applicant demonstrate that the current building is fit for purpose as a Child Care Centre and satisfies the regulatory requirements to obtain a licence to operate administered by the Department of Communities?

#### **Administration Response**

*The application has been assessed against all relevant considerations required under the planning framework, as detailed within Administration's report.*

*Assessment of the proposal against legislation, specifically the National Education and Care Services Regulations 2012, is not a relevant consideration under the planning framework and does not form part of the City's assessment.*

*Separate to the planning approval process, the applicant is required to meet obligations of the National Education and Care Services Regulations 2012, which requires registration through the Department of Communities. The applicant is aware of these obligations that they will separately need to meet.*

##### Question 3

Why does the Executive summary in Recommendation 2.1 state "That the use of the subject land for any other land use may require further approval from the City"?

Should this recommendation say "shall require"?

#### **Administration Response**

*The wording as referenced within Condition 2.1 of the Administration's Recommendation is correct.*

*The intent of the condition is confirming the land use subject to the approval and to advise the applicant that any future change of use may require planning approval from the City.*

*The word 'may' is used because not all land uses require planning approval under the City's Local Planning Scheme No. 2 (LPS2). Some land uses are 'permitted' uses, meaning they do not require planning approval in accordance with the Planning and Development (Local Planning Scheme) Regulations 2015.*

*For example, if a proposed sought to change the property back to being used as a Single House, further planning approval would not be required from the City. This is because the Single House land use is permitted within the Residential zone, to which the subject site is located.*

*There are, however, a number of land uses that do require planning approval before a change of use can occur.*

Question 4

The Executive Summary in Paragraph 4 states “ *The applicant seeks this change of use due to restrictions they have experienced under the National Regulations 2012.*”

How has the applicant demonstrated greater flexibility in running their business given that the care of 7 children apply to both schemes (Family Day Care/Child Care Premise)? Have they provided running costs of a Child Care Premise?

**Administration Response**

*The applicant’s reason for the proposed change of use application is provided for background information only. This reason has no bearing on the acceptability of the proposal against the planning framework.*

*Instead, the City is required to consider the proposed land use on its merits under relevant planning framework, as provided within the Officer Report.*

*It is not a relevant planning consideration for the City to consider the financial implications of a proposal when determining a planning application.*

Question 5

Is the following current policy?

The Local Planning Authority Policy [Policy prepared under the provisions of Schedule 2, Part 2 and 3 of the *Planning and Development (Local Planning Schemes) Regulations 2015* by the CoV requires that:

- Centre-Based Child Care Services are to be located with a mixed use, Local centre, District Centre, Regional Centre or Commercial zone (Policy 3.1 Refers);
- Centre-Based Child Care Services are adjacent to and compliment other non-residential land uses, and are located so as to avoid non-residential development encroaching upon areas which are residential in nature and resulting in adverse impacts (Policy 3.2 refers); and
- The impacts to the amenity and property values of surrounding residents, in particular those immediately adjacent to the proposed facility (Policy 3.2 refers).

**Administration Response**

*No, the above is not consistent with the City of Vincent’s current Local Planning Policy. The above may have been extracted from a revoked policy. The planning assessment and decision shall have no regard to the above extract.*

*The City’s current Local Planning Policy that provides standard for education and care services within the City of Vincent can be found here: [Local Planning Policy: Child Care and Family Day Care](#).*

**Statement**

This written statement is intended to provide a response to and additional details from the perspective of residents that is not contained within the Executive Summary (ES) provided to Councillors for the Council Briefing Agenda dated 16 July 2024.

As per the ES the subject site and adjoining properties are zoned Residential R50 and within the Residential Built Form Area; the additional comments from residents are:

- **Paragraph 2** - approval of the Child Care Use, whether it is 7 children or more, is inconsistent with the Town’s *Local Planning Policy: Child Care and Family Day Care (2015)* as it establishes a non-residential use in a residential area that is not adjacent to any existing non-residential use. Approving this would pave the way for additional non-residential uses to be approved adjacent to it, as per the policy.
- **Paragraph 4** – the restriction the applicants refer to under the legislation is a minimal fee (14% of gross turnover) for the engagement of a Family Day Care Co-ordinator.

- **Paragraph 5** – in respect to the ES summary that there would be no change in the “intensity of use of the land”:
  - The Cao family and their 2 children currently live in the house used as a Family Day Care but are now proposing to move out of the house to establish a full-time dedicated Child-Care Centre; and
  - from 2018 the Cao family ceased operations for two 1-yr periods for the birth of their two children and also had to contend with the Covid 19 disruption. In any event they only ever catered for a small number of very young children that hardly ever used the backyard.

With this being the case “the intensity of use of the land” will likely increase and negatively impact the amenities of adjacent neighbours. Given that the Cao family will be moving out you cannot draw on similarities of the current “in home” Family Day Care business compared to the proposed dedicated Child Care Premises.

- **Paragraph 6** – due to not operating at capacity and the small number of children using the backyard the adjoining neighbours approached the Cao family directly with any concerns they had without lodging a formal complaint. In line with the “good neighbour principle” no formal complaints were made to CoV.
- **Paragraph 10** – See Paragraph 2 above.

The residents of Brisbane Street are pleased that Councillors have agreed to attend a site visit scheduled for Thursday 18 July at 5pm.

### 3.2 Robert Bowe of Perth – Item 5.1

His full statement can be found [here](#).

### 3.3 Megan Alwyn of Perth – Item 5.1

Her full statement can be found here [here](#).

There being no further speakers, Public Question Time closed at approximately 6.11pm.

## 4 DECLARATIONS OF INTEREST

Nil

## REPORTS

The Acting Presiding Member, Cr Alex Castle, requested Council Members to indicate:

**Items which Council Members wish to discuss which have not already been the subject of a public question/comment and the following was advised:**

COUNCIL MEMBER	ITEMS TO BE DISCUSSED
Cr Castle	7.1 and 8.2
Cr Worner	6.1
Cr La Fontaine	5.1

## REPORTS WITH DISCUSSION

### 5.1 NO. 235 (LOT: 4; D/P: 1189) BRISBANE STREET, PERTH - CHANGE OF USE FROM FAMILY DAY CARE TO CHILD CARE PREMISES

Ward: South Ward

- Attachments:
1. Location and Consultation Plan
  2. Development Plans
  3. Noise Management Plan
  4. Applicant's Justification
  5. Site Photographs
  6. Summary of Submissions - Administration's Response
  7. Summary of Submissions - Applicant's Response
  8. 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 application for the Change of Use from Family Day Care to Child Care Premises at No. 235 (Lot: 4; Plan: 1189) Brisbane Street, Perth, in accordance with plans provided in Attachment 2, subject to the following conditions, with the associated determination advice notes in Attachment 8:

#### 1. Development Approval

This approval is for a Change of Use from Family Day Care to Child Care Premises as shown on the plans dated 16 May 2024. No other development forms part of this approval.

#### 2. Use of the Premises

2.1. This approval is for Child Care Premises as defined in the City of Vincent Local Planning Scheme No. 2. The use of the subject land for any other land use may require further approval from the City.

2.2. The Child Care Premises shall be limited to the following hours of operation:

- Monday to Friday: 7:00am to 6:00pm
- Saturday, Sunday and Public Holidays: Closed

2.3. The Child Care Premises shall be limited to providing care for a maximum of seven children at any time.

2.4. The Child Care Premises shall have a maximum of two staff on site at any time.

#### 3. Landscaping

Trees within the external play area shall be maintained at the expense of the owners/operators to provide for a minimum of 30 percent of the external play area as canopy coverage at maturity, to the satisfaction of the City.

#### 4. Bicycle Parking

A minimum of two bicycle parking bays shall be provided on site prior to the commencement of the Child Care Premises use. The design and construction of the bike bays shall be in accordance with Australian Standards AS 2890.3:2015 Parking Facilities Part 3: Bicycle Parking, to the satisfaction of the City.

#### 5. Noise Management

The Child Care Premises shall at all times operate in accordance with the operational measures outlined in the approved Noise Management Plan dated 29 May 2024, to the satisfaction of the City.

## 6. Signage

**All signage shall be in strict accordance with the City of Vincent Local Planning Policy: Signs and Advertising, to the satisfaction of the City, unless further development approval is obtained.**

### CR CASTLE:

No complaints are listed, but the member of the public advised that they had raised concerns with the family day care directly to the applicant. Could the applicant please provide a response?

### A/MANAGER DEVELOPMENT & DESIGN:

*The applicant has provided advice to Administration that no concerns or complaints have been raised with them from surrounding community members regarding the operations of the Family Day Care since it commenced.*

*The applicant's proposed Noise Management Plan includes a procedure to manage any future complaints or concerns raised by surrounding community members.*

### CR WALLACE:

The application includes a Noise Management Plan rather than an Acoustic Report. Can Administration please provide more detail on how it was determined that an acoustic report was not required?

### A/MANAGER DEVELOPMENT & DESIGN:

*In assessing the need for an acoustic report, Administration considered the intensity and scale of the proposed use and the management controls proposed in the Noise Management Plan (NMP). This assessment has had regard to the objectives of the City's [Sound Attenuation Policy](#).*

The primary reason an acoustic report is not required in this particular instance is because the scale of the proposed use for the care of up to seven children is consistent with the scale and intensity of a Family Day Care that is permitted to operate in a Residential zone without planning approval, and for which an acoustic report is not required (as per exemption within the [Planning Exemptions Policy](#)).

*In addition to this, the following measures were considered to assist in reducing noise impacts:*

- *The use would only operate on weekdays, when surrounding residents could reasonably be expected to be at work.*
- *The NMP includes operational measures to minimise the impact of the operations on the amenity of the surrounding residential properties. These include:*
  - *Advice to parents and caregivers to avoid:*
    - *Slamming of car doors and premises doors and gates.*
    - *Loud conversations outside of the building.*
  - *Limitation of outdoor play to two one-hour sessions daily, after 9:00am, during normal business hours.*
  - *Operational measures to redirect children away from the fence shared with the adjoining property.*
  - *Restrictions on the types of play equipment, including no use of hard-wheeled or percussive toys.*

*These measures would appropriately mitigate any the amenity impact to the adjoining properties. The development would also still be covered by the Environmental Protection (Noise) Regulations 1997 with which it would need to always comply with.*

### CR LA FONTAINE:

The site has capacity for 13 children, but Condition 2.3 limits the number of children in care to seven. If the operator proposed to increase the number of children in care, would that decision come back to Council for determination?

### A/MANAGER DEVELOPMENT & DESIGN:

*Yes. If the subject application were approved, any future proposal to increase the number of children in care to more than seven would require a further development application to amend Condition 2.3.*

*An amended development application would require re-assessment against the relevant planning framework*



and would be presented to Council for decision, as per the current Register for Delegations, Authorisations and Appointments.

**CR WORNER:**

Request for clarification about the extent of change proposed in this application, and whether the change is purely administrative or if it would change the purpose of the existing building?

**A/MANAGER DEVELOPMENT & DESIGN:**

Further to the response provided at Council Briefing, the applicant has advised that No. 235 Brisbane Street is not their current primary place of residence. There is also no requirement under the planning framework or the Education and Care Services National Law (WA) Act 2012 and associated regulations for an operator to reside at a Family Day Care.

The lack of a residential component to the proposed use would not:

- Impact upon the proposed the operations of the facility due to the daytime operating hours proposed; or
- Adversely impact the amenity of surrounding properties; or
- Reduce the compatibility of the proposal with the surrounding properties.

In assessing the acceptability of the land use proposal, the decision maker is to consider various elements with appropriate weighting.

While it is important to understand the site history of the proposal in considering how the child care centre may operate and any changes to previous and future operation, the decision of this application must be grounded in how the proposed land use meets the relevant planning framework. This is specifically the City's Local Planning Policy: [Child Care and Family Day Care](#), the objectives of Residential zone, and Clause 67 matters, as detailed in Administration's report.

The proposed scale and operations of the use would ensure that it is consistent with and complementary to the established residential neighbourhood. This is because of the following elements of the application:

- Scale and Intensity: The City's planning framework identifies that proposals that involve the care of up to seven children represents an appropriate scale and intensity within the Residential Zone. This acceptance is regardless of any management measures required to mitigate impacts to surrounding properties. The proposed application is consistent with this accepted scale and intensity and provides management plans to preserve the amenity of adjoining properties.
- Low Traffic Generation: Low intensity childcare uses are identified in the City's planning framework as not resulting in excessive traffic generation and would be compatible with the traffic expected in a residential area. All vehicle access is provided from Brisbane Street, reducing impacts to the rear ROW.
- Protection of Amenity: In conjunction with the low scale and intensity of the proposal, the amenity of surrounding properties would be protected by the operational measures included in the NMP which include:
  - Notification to parents and caregivers on behaviours required when bringing children to site.
  - Restriction to two hours of outdoor play after 9:00am.
  - Use of soft materials and play equipment.

At 6.30pm A/Manager Development & Design left the Meeting and did not return.

**6.1 VERGE VALET SERVICE REVIEW**

**Attachments:** Nil

**RECOMMENDATION:**

**That Council:**

- 1. NOTES the feedback from the Verge Valet Vincent trial; and**
- 2. APPROVES the adoption of pre-booked bulk verge collections as a standard service offering.**

**CR CASTLE:**

Will detail be determined by Administration? Number of days, collections etc.

**MANAGER WASTE & RECYCLING:**

*The adoption of the recommendations will be determined by Administration and added to the contract.*

**CR CASTLE:**

Page 69 refers to 2023/24 financial year and on page 70 current trial concluded on 30 June 2024.

**MANAGER WASTE & RECYCLING:**

*The report has been updated.*

**7.1 FINANCIAL STATEMENTS AS AT 31 MAY 2024****Attachments: 1. Financial Statements as at 31 May 2024****RECOMMENDATION:****That Council RECEIVES the Financial Statements for the month ended 31 May 2024 as shown in Attachment 1.****CR CASTLE:**

Page 74 – unpaid infringements – do we have an indication of what the Registry's recovery rate is?

**EXECUTIVE DIRECTOR INFRASTRUCTURE & ENVIRONMENT:***Should an infringement remain unpaid after the 90 day period has expired, the debt is lodged with the Fines Enforcement Registry.**In respect to recovery rates, the last two financial years reflect the following –**FY23 (1/7/22 - 30/6/23) - received in total \$513,887.50. Total written off as irrecoverable \$118,702.30**FY24 (1/7/23 - 30/6/24)\* - received in total \$843,552.96. Total written off as irrecoverable \$114,995.06**\*Note – Increased penalties from local law revision came into effect.*

At 6.34pm Manager Waste and Recycling left the meeting and did not respond.

**8.2 INFORMATION BULLETIN**

- Attachments:**
1. **Confirmed Minutes of the Mindarie Regional Council Meeting held on 30 May 2024**
  2. **Unconfirmed Minutes of the Mindarie Regional Council Meeting held on 27 June 2024**
  3. **Minutes of the Catalina Regional Council meeting held on 20 June 2024**
  4. **Statistics for Development Services Applications as at the end of June 2024.**
  5. **Register of Legal Action and Prosecutions Monthly - Confidential**
  6. **Register of State Administrative Tribunal (SAT) Appeals - Progress Report as at 28 June 2024**
  7. **Register of Applications Referred to the Metro Inner-North Joint Development Assessment Panel (DAP) - Current**
  8. **Register of Applications Referred to the Design Review Panel (DRP) - Current**
  9. **Council Meeting Statistics**
  10. **Register of Petitions - Progress Report - July 2024**
  11. **Register of Notices of Motion - Progress Report - July 2024**
  12. **Register of Reports to be Actioned - Progress Report - July 2024**
  13. **Council Workshop Items since 29 May 2024**
  14. **Council Briefing Notes - 11 June 2024**

**RECOMMENDATION:**

That Council **RECEIVES** the Information Bulletin dated July 2024.

**CR CASTLE:**

Could we please request an update on the State Administrative Tribunal (SAT) Application on No. 5 Berryman Street?

**EXECUTIVE MANAGER CORPORATE STRATEGY & GOVERNANCE:**

*Following the directions hearing held on 5 July 2024, the SAT issued orders inviting Council to reconsider its decision, pursuant to s.31(1) of the State Administrative Tribunal Act 2004, on or before 29 October 2024.*

*The SAT invited Council to reconsider its decision as the applicant seeks to submit additional/amended information in relation to the proposal.*

*The application is intended to be presented to the 22 October 2024 Ordinary Meeting of Council for reconsideration.*

*The matter is also listed for a further Directions Hearing on 1 November 2024.*

**ADDITIONAL INFORMATION:**

- *The SAT register in respect to appeals for No. 5 Berryman Street, Nos. 41-43 & 45 Angove Street and Nos. 37-43 Stuart Street have been updated.*
- *The DAP register in respect to the application for No. 299 Charles Street has been updated.*

**REPORTS WITH NO DISCUSSION****5.2 NO. 3 (LOT: 0; D/P 10569) LAWLEY STREET, WEST PERTH - SOCCER NET ADDITION TO RECREATION FACILITY (DORRIEN GARDENS) (UNAUTHORISED EXISTING DEVELOPMENT)****Ward:** South**Attachments:**

1. Location and Consultation Plan
2. Development Plans
3. 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 application for a Soccer Net Addition to Recreation Facility (Dorrien Gardens) (Unauthorised Existing Development) at No. 3 (Lot: 0; D/P 10569) Lawley Street, West Perth, in accordance with the plans shown in Attachment 1, subject to the following conditions, with the associated determination advice notes in Attachment 3:

**1. Development Plans**

This approval is for a Soccer Net Addition to Recreational Facility (Dorrien Gardens) as shown on the approved plans dated 16 April 2024. No other development forms part of this approval.

<b>NO QUESTIONS</b>
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**7.2 AUTHORISATION OF EXPENDITURE FOR THE PERIOD 01 MAY 2024 TO 31 MAY 2024**

- Attachments:
1. May 2024 Payments by EFT and Payroll
  2. May 2024 - Payments by Direct Debit
  3. May 2024 - Payments by Cheques
  4. May 2024 Payments Fuel cards

**Recommendation:**

That Council RECEIVES the list of accounts paid under delegated authority for the period 1 May 2024 to 31 May 2024 as detailed in Attachments 1, 2 and 3 as summarised below:

EFT payments, including payroll		\$8,068,989.92
Cheques	82771-82773	\$900.30
Direct debits, including credit cards		\$121,492.63
<b>Total payments for May 2024</b>		<b>\$8,191,382.85</b>

<b>NO QUESTIONS</b>
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**7.3 INVESTMENT REPORT AS AT 31 MAY 2024**

**Attachments: 1. Investment Statistics as at 31 May 2024**

**RECOMMENDATION:**

**That Council NOTES the Investment Statistics for the month ended 31 May 2024 as detailed in Attachment 1.**

**NO QUESTIONS**

**8.1 REPORT AND MINUTES OF THE AUDIT AND RISK COMMITTEE MEETING HELD ON 27 JUNE 2024**

- Attachments:**
1. **Audit and Risk Committee Minutes - 27 June 2024**
  2. **Attachment Item 5.1 OAG Planning Summary - Confidential**
  3. **Attachment Item 5.5 - Audit Log - Confidential**

**RECOMMENDATION:****That Council:**

1. **RECEIVES** the minutes of the Audit and Risk Committee Meeting of 27 June 2024, at Attachment 1 and Confidential Attachments at Attachment 2 and Attachment 3; and
2. **APPROVES** the recommendations from the Audit Committee as follows:
  - 2.1 **DEFER** consideration of the Integrity Framework until the Integrity, Fraud and Corruption Risk Assessment is discussed with the CEO. Updated Integrity Framework to be presented to the October meeting of the Audit and Risk Committee;
  - 2.2 **APPROVES** progressing with the internal audit of the swimming pool inspection process;
  - 2.3 **REQUESTS** Administration review Corporate Risk Register and identify three priority audits for the remainder of the internal audit program. Having regard to audits already completed and feedback of Elected Members on the Audit and Risk Committee, to be tabled at the October Audit and Risk Committee Meeting;
  - 2.4. **APPROVES** the risk management actions for the high and extreme risks; and
  1. 2.5. **APPROVES** closure of action items noted within the City's Audit Log.
3. **NOTES**
  - 3.1 The Audit Planning summary for the 2023/2024 financial year;
  - 3.2 The progress of the Fraud and Corruption Prevention Plan Actions;
  - 3.3 The summary of the Internal Audit Program for years 1 and 2;
  - 3.4 The alignment of Corporate Risks to risk appetite and tolerance ratings;
  - 3.5 The Audit and Risk Committee Forward Agenda; and
  - 3.6 The status of the City's Audit Log.
4. **RECEIVES**
  - 4.1 The Local Government 2022-23 Financial Audit and Information System Audit Results reports from the Officer of the Auditor General; and
  - 4.2 The City's Corporate Risk Register at Attachment 1.

<b>NO QUESTIONS</b>
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**9 MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

Nil

**10 REPRESENTATION ON COMMITTEES AND PUBLIC BODIES**

Nil

**11 CONFIDENTIAL ITEMS/MATTERS FOR WHICH THE MEETING MAY BE CLOSED**

Nil

**12 CLOSURE**

There being no further business the meeting closed at 6.36pm.