

## **M I N U T E S**

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## **ORDINARY COUNCIL MEETING**

**Minutes of the Ordinary Meeting of the City of South Perth Council  
held in the Council Chamber, Sandgate Street, South Perth  
Tuesday 28 November 2006 commencing at 7.00pm**

- 1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**  
The Mayor opened the meeting at 7.00pm and welcomed everyone in attendance.
- 2. DISCLAIMER**  
The Mayor read aloud the City's Disclaimer.
- 3. RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE**

Present

Mayor J Collins, JP (Chairman)

Councillors:

J Best	Civic Ward
G W Gleeson	Civic Ward (from 7.33pm)
B W Hearne	Como Beach Ward
L M Macpherson	Como Beach Ward
L J Jamieson	Manning Ward
L P Ozsdolay	Manning Ward
C A Cala	McDougall Ward
R Wells, JP	McDougall Ward
R B Maddaford	Mill Point Ward
D S Smith	Mill Point Ward
S Doherty	Moresby Ward
K R Trent, RFD	Moresby Ward

Officers:

Mr C Frewing	Chief Executive Officer (until 12.25am)
Mr S Cope	Director Strategic and Regulatory Services (until 12.25am)
Mr G Flood	Director Infrastructure Services (until 12.25am)
Mr M Kent	Director Financial and Information Services (until 12.25am)
Mr R Bercov	Manager Development Services (until 12.25am)
Mr S Camillo	Manager Environmental Health & Regulatory Services (until 9.30pm)
Ms D Gray	Manager Financial Services (until 12.25am)
Mr N Kegie	Manager Community, Culture and Recreation (until 9.45pm)
Ms A Spaziani	Manager Human Resources (from 11.45pm)
Mr S McLaughlin	Legal and Governance Officer (until 12.30am)
Ms R Mulcahy	City Communications Officer (until 12.25am)

Mrs K Russell Minute Secretary

Gallery

Approximately 20 members of the public and 1 member of the press present

**4. DECLARATION OF INTEREST**

The Mayor reported receipt of a Declaration of Interest from the Chief Executive Officer in relation to Agenda Items 11.7 and 13.1.1. He then read aloud the Declaration as detailed in the Minutes before Items 11.7 and 13.1.1

**5. PUBLIC QUESTION TIME**

**5.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

At the Council meeting held 24 October 2006 the following questions were taken on notice:

**5.1.1. Mr Alan Ashby, Hensman Street, South Perth**

Summary of Question

1. There was a lot of activity in the park after hours and that whilst incidents of anti-social behaviour may be reported to the Rangers, does that information get 'logged' with the City Administration?
2. In relation to concerns about the traffic along Hensman Street and being frustrated by the lack of action by the City and the police we asked John McGrath MLA for help. He wrote advising us that following meetings with residents and the City that traffic counters were put in place to monitor volume and speed of traffic. Could you please tell me the results of the monitoring and what has been done about this matter?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 7 November, a summary of which is as follows:

1. Yes, all after hours calls that are received by the City's after hours Call Centre are logged and referred to the relevant Departments accordingly.
2. The traffic counts along Hensman Street are consistent with any inner city street system of the traditional "grid" form. It is generally recognised nationally by Planning Authorities that 1600vpd on a residential street is "the limit at which traffic management/calming needs to be considered/incorporated". It does not mean the upper limit of traffic in a street is that figure and therefore all other traffic must be directed elsewhere, it simply means that lower than the prescribed limit traffic calming/management is not a requirement. The City however has adopted to lesser figure of 1000vpd before traffic calming/management becomes a consideration.

The works in Hensman Street is a reflection of that practice and the traffic calming in the street does everything expected of it. The data obtained from the traffic counts reveals typically:

- the 85% percentile speed at all sections other than the first section (up hill from Labouchere Road) at 53.3kph or less;
- the 85% percentile speed in the section Coode Street to Sandgate Street is 51.1kph or less;
- traffic volume along Hensman Street peaks at 2169vpd (Coode Street to Anstey Street);
- traffic volume in the section Sandgate Street through to Forrest Street (with the exception of the above) is about 1500vpd;

- within the section Coode Street to Sandgate Street the percentage of east bound traffic exceeding 60kph was on average no more than 1.2% of traffic (approximately 10 vehicles) with no more than 2% (approximately 14) west bound.
- the above traffic volumes reduce to approximately to 0.2% of all traffic (i.e. 3 vehicles each direction) exceeding 70kph.

While it is clear the traffic calming measures have had a positive impact on overall driver behaviour with a reduction in vehicle speeds to the now posted speed limit of 50kph a very small number of drivers continue to exceed the speed limit before and after the devices. No amount of engineering will eliminate this behaviour and more treatment will simply impact on the wider community who abide by the posted speed limit.

The “anti hoon legislation” and vehicle confiscation remains the most positive means to modify this unsociable and highly dangerous practice of street racing. While it is acknowledged a police presence is not always possible reporting the registration of an offending vehicle to the Police will be beneficial.

Statistics supplied by Main Roads for the intersection of Coode street and Hensman Street indicate a reduction in overall crashes in the six year period to 2005. In the three year period from 1 January 2003 there has been four crashes at the intersection compared to six crashes in the previous three year period. Two thirds of all the crashes were property damage only not requiring medical attention.

It is interesting to note that as a recent owner within the street you are experiencing the benefits achieved by nearly 20 years of traffic calming in the street, to the extent today that no further works should be contemplated for this section of street other than some minor edge line marking in the vicinity of the Bowling Club to more clearly define the carriageway.

<b>5.1.2. Mr Barrie Drake, 2 Scenic Crescent, South Perth</b>
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Summary of Question

If the building at No. 11 Heppingstone Street complies with the current Town Planning Scheme No. 6 why did the SAT find that the City has failed to enforce effectively the observance of its Town Planning Scheme?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 13 November, a summary of which is as follows:

The State Administrative Tribunal (SAT) only dealt with the issue of plot ratio. Therefore, their concluding statement was made in the context of plot ratio only, based upon the previous No. 5 Town Planning Scheme provisions. In relation to the current No. 6 Scheme, there is no conflict regarding plot ratio because there is no prescribed plot ratio limit for areas coded R15/40.

**5.1.3. Mr Geoff Defrenne, 24 Kennard Street, Kensington**

Summary of Question

In line with the motives of Cities for Climate Protection, will the City be introducing a policy in respect to the City's passenger vehicle fleet that:

- (a) Passenger vehicles have a maximum stated fuel consumption (eg 9 litres per 100 km)
- (b) the passenger fleet fuel consumption average is not to exceed a certain consumption figure (eg 7.5 litres per 100 km)?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 9 November, a summary of which is as follows:

There are no plans to introduce such a Policy. The guiding adopted Council imperative is, through a range of initiatives, to achieve the greenhouse gas emission reduction targets as set out in the Cities for Climate Protection Campaign Action Plan, and these are currently being achieved.

Summary of Question

This month's Agenda states that there was a briefing session on managing the City's Fringe Benefits Tax liability:

- (a) would the Fringe Benefit Tax liability be reduced by only purchasing 4 cylinder vehicles costing under \$20,000?
- (b) would the cost of running the City's passenger fleet be reduced by adopting such a policy?
- (c) would the management of the City be adversely affected by adopting such a policy?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 9 November, a summary of which is as follows:

The topic of the City's FBT liability was discussed at a recent briefing session and approaches discussed. A report addressing this issue will be prepared when external independent specialist advice has been obtained.

ANNUAL ELECTORS' MEETING 6.11.2006

At the Annual Electors' Meeting held 6 November 2006 the following questions were taken on notice:

**5.1.4. Mr Allan Richardson, 7/357 Canning Highway, Como**

Summary of Question

Who decides where cycleways are put, is it Council or Main Roads? Mr Richardson referred to the cycleway in Thelma Street and to his letter to Council last year pointing out the stupidity of the proposal particularly in peak times because the cycleway reduced the carriageway to one lane.

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 9 November, a summary of which is as follows:

Your letter was in two parts, the first part referring to the vegetation in the centre of a number of roundabouts. The routine and cyclic nature of garden maintenance, removed from the roundabouts the hazard to which you referred. The other matter related to the edge line markings in Thelma Street. Please note that the edge lines do not signify a cycle lane but simply a part of the road in which vehicles ought not to travel. The Road Traffic Code clearly identifies the difference between a cycle lane and continuous edge line. Under the Code it is possible to cross a continuous edge line to park, to avoid an obstruction or to turn left at an intersection or as directed by signage.

Thelma Street is listed on the Perth Bicycle Network and the edge lines reflect the importance of this route to cyclists. Thelma Street operates as a single five metre wide lane (each direction) with limited on street parking. The marking of the continuous edge line simply formalised the single lanes to be standard 3.3 metres. The capacity of Thelma Street has not been compromised by the edge line and the road continues to have excess capacity.

The intersection at Canning Highway is at capacity occasionally during peak times resulting in extended queues up Thelma Street. As already stated the Road Traffic Code allows for the stacking of vehicles over the continuous edge line. The provision of a continuous edge line at all other times provides cyclists with a convenient unencumbered area of pavement on which to ride, only inconvenienced by the occasional parked vehicle. The edge lining is a contemporary view in line with the TravelSmart initiative to provide the community with alternative transport choices and in particular cycling. Your comment has been noted but the commitment given under the PBN route marking meant that the edge lining would proceed.

**5.1.5. Ms Clare McBeath, 5/202 Coode Street, Como**

Summary of Question

In relation to parking problems in upper Coode Street and in our current climate of water restrictions could Council consider installing more embayments in upper Coode Street as a way of cutting down verge watering and addressing parking issues?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 10 November, a summary of which is as follows:

The City does not as current practice, provide embayed parking on the street to meet the shortfall in onsite parking for grouped dwellings. While this may have occurred in the past and invariably at the full cost of the developer or strata owner, the City will not permit the paving of a street verge for off street parking except where street parking has been lost as a result of the introduction of traffic management measures.

**5.1.6 Mr Barrie Drake, 2 Scenic Crescent, South Perth**

Summary of Question

At the last Council meeting I had five questions relating to No. 11 Heppingstone Street, South Perth. I was only permitted to asked two of the five questions. I now ask the remaining three questions:

- Question 3. What is the maximum permissible height of a building built on this site?
- Question 4. Is a Multiple Dwelling allowed on this site?
- Question 5. In the CEO's letter to me dated 12 October 2006 re questions I asked at the 26 September 2006 Council meeting, your response to my last question was: *As the building at 11 Heppingstone Street complies with the current Town Planning Scheme No. 6.....*". Is this statement correct? Do you still maintain that it complies?



Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 14 November 2006, a summary of which is as follows:

- Question 3 - 7.0 metres under the current No. 6 Town Planning Scheme.  
Question 4 - Multiple Dwellings are not permitted under the current No. 6 Town Planning Scheme, however the existing Multiple Dwellings have non-conforming use rights under TPS6.

Question 5

Yes. The statement only relates to plot ratio, as this was the only matter dealt with by the State Administrative Tribunal.

**5.1.7. Mr Geoff Defrenne, 24 Kennard Street, Kensington**

Summary of Question

No. 180 Mill Point Road is deemed to be a 'grouped dwelling' development but the R-Codes state: "A dwelling that is one of a group of two or more dwellings on the same lot such that no dwelling is placed wholly or partly vertically above another.....".

Is there other information relating to one building being built over another where it is deemed a Grouped Dwelling rather than a Multiple Dwelling?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 14 November 2006, a summary of which is as follows:

Yes. The full definition as contained in the R-Codes reads as follows:

*"A dwelling that is one of a group of two or more dwellings on the same lot such that no dwelling is placed wholly or partly vertically above another, except where special conditions of landscape or topography dictate otherwise, and includes a dwelling on a survey strata with common property."*

The Council approved the dwellings as 'Grouped Dwellings', having regard to the topography of the site.

**5.2 PUBLIC QUESTION TIME : 28.11.2006**

Opening of Public Question Time

The Mayor advised that Public Question Time would be limited to 15 minutes, that 2 minutes would be allowed to formulate questions, not statements, and that questions must relate to the area of Council's responsibility. He further stated that questions would be taken from the gallery on a rotational basis, with written questions being dealt with first and requested that speakers state their name and residential address. The Mayor then opened Public Question Time at 7.05pm.

**5.2.1. Mr Geoff Defrenne, 24 Kennard Street, Kensington**

The following questions were provided in writing at the commencement of the meeting. The Mayor read the questions aloud.

Summary of Question

1. Last month I asked questions regarding FBT for vehicles. This month's Agenda states there was a Briefing session on managing the City's Fringe Benefits Tax liability.
  - (a) Would the Fringe Benefit Tax liability be reduced by only purchasing 4 cylinder vehicles costing under \$20,000?

- (b) Would the cost of running the City's passenger fleet be reduced by adopting such a policy?
  - (c) Would the management of the City be adversely affected by adopting such a policy?
2. Question (b) and (c) have not been answered, could these please be answered this month?
3. In respect to (a) will such vehicles be considered by the external consultant?

Summary of Response

Director Financial and Information Services stated that as the question was hypothetical with a number of different factors having an impact, including the cost of vehicles, employment contracts etc that he would prefer not to give a definitive answer.

The Chief Executive Officer stated that the intention is to eliminate FBT rather than reduce it.

**5.2.2 Mr Barrie Drake, 2 Scenic Crescent, South Perth**

Summary of Question

At the Council meeting held 26 September I asked: *Why hasn't the City of South Perth issued the property owners of No. 11 Heppingstone Street, South Perth with a Section 10 to remedy the breach of the Grant of Planning Consent?*

The response from the CEO states: *As the building at 11 Heppingstone Street complies with the current Town Planning Scheme No. 6 the City has no reason to issue a notice under section 214 of the Planning and Development Act 2005.*

Since then I have received another letter stating that the building at No. 11 Heppingstone Street: *only complies with the plot ratio requirements.* I believe the response the CEO provided to me was misleading and the letter he sent to Minister Alannah MacTiernan deceived the Minister the same way as the CEO has deceived me.

Will the CEO write to the Minister, as he did to me, clarifying that this compliance is only with respect to the plot ratio component?

Summary of Response

The Chief Executive Officer stated that he rejected the statement that he had been deceitful and said he took exception to the comment as it was unjustified. He further stated that he would like to view the letters Mr Drake was referring to in order to be able to answer the question fully.

Mayor Collins stated that the issue in relation to No. 11 Heppingstone Street is with the Minister. He said that irrespective of what the City said to the Minister that she will make a decision as to what conforms and while she is making that decision it is not appropriate to debate this matter.

**5.2.3. Mr Geoff Defrenne, 24 Kennard Street, Kensington**

The following questions were provided in writing at the commencement of the meeting. The Mayor read the questions aloud.

Summary of Question

In the past months I have asked a series of questions on No. 180 Mill Point Road.

1. How many dwellings can be accessed directly from ground level.
2. Has the City renegotiated a new lease for the area of Sir James Mitchell Park being used?
3. What is the lease fee?
4. At the June 2002 Council meeting when this development was approved there was no mention of any special topography so it would be difficult to explain how the Council approved a development that appears very much to be a multiple dwelling:
  - (a) Would the Council consider the current building under construction a 'Multiple Dwelling' or a 'Grouped Dwelling' if an application was made today?
  - (b) Who was the acting CEO of the City in June 2002?

Summary of Response

The Mayor stated that in response to the question: *who was the acting CEO in June 2002* - that it was the current CEO of the City.

Director Infrastructure Services advised that the issue of re-negotiating a lease for Sir James Mitchell Park is currently underway.

Manager Planning Services said that the dwellings were approved as 'Grouped Dwellings' having regard to the topography of the site and that has been advised to Mr Defrenne in a letter and is also contained in the original report to Council.

The Mayor stated that the questions in relation to No. 180 Mill Point Road have been asked previously and answered and that a copy of the response was included in the November Agenda paper.

Summary of Question

It was reported in the Southern Gazette recently that the CEO had stated that the new arrangements for employing temporary staff would result in considerable savings. What saving does the CEO anticipate for the cost of temporary staff for the 2006/07 financial year compared to the 2005/06 financial year?

Summary of Response

The Mayor advised that the question was taken on notice.

Summary of Question

In relation to the recent Red Bull Air Race:

1. How many parking infringement notices were issued on the day?
2. What was the value of the infringements issued?
3. Of the vehicles in violation of the parking laws, what percentage does the City believe received infringement notices?
4. Does the City believe the parking and traffic management on the day was a success.

Summary of Response

The Mayor stated that 202 parking infringements were issued which amount to a monetary value of \$16160. In relation to question 3 he said it would be impossible to confirm that everyone that violated the parking laws was issued with a ticket.

In response to question 4 the Chief Executive Officer said that given the volume of spectators and vehicles at the Red Bull event, estimated to be in the order of two hundred thousand people, and the issues associated with such a volume of vehicles that he believed the arrangements in place were successful. He further stated that the arrangements will be reviewed prior to next year's event.

Summary of Question

Last November I asked if the Mayor was going to invite residents to some Christmas cheer after the December Council meeting. The question was taken on Notice. At the February Council meeting I asked why the Mayor had taken the question on notice and the response was that he had to think about it. Has the Mayor thought about it and will the Mayor be inviting residents to some Christmas cheer after the December Council meeting?

Summary of Response

The Mayor said he believed that something could be arranged this year after the December Council meeting.

Close of Public Question Time

There being no further questions from the public gallery the Mayor closed Public Question Time at 7.20pm.

**6. CONFIRMATION OF MINUTES / BRIEFINGS**

**6.1 MINUTES**

**6.1.1 Ordinary Council Meeting Held: 24.10.2006**

MOTION

Moved Cr Trent, Sec Cr Ozsdolay

That the Minutes of the Ordinary Council Meeting held 24 October 2006 be taken as read and confirmed as a true and correct record.

AMENDMENT

Cr Jamieson moved the following Amendment:

That the Minutes of the Ordinary Council Meeting held 24 October 2006 be amended for Agenda Item 9.5.2 by all comments and questions on pages 75, 76 and 77 being deleted from the Minutes leaving the officer's report including the modified recommendation, the Motion and the voting; and with the foregoing amendment be taken as read and confirmed as a true and correct copy.

The Amendment Lapsed for want of a Seconder.

LAPSED

<b>COUNCIL DECISION ITEM 6.1.1</b>
------------------------------------

The Mayor put the Motion

That the Minutes of the Ordinary Council Meeting held 24 October 2006 be taken as read and confirmed as a true and correct record.

CARRIED (12/1)

**NOTE: CR JAMIESON REQUESTED HE BE RECORDED AS HAVING VOTED AGAINST THE MOTION**

**6.1.2 Special Council Meeting Held: 31.10.2006**

MOTION

Moved Cr Trent, Sec Cr Ozdolay

That the Minutes of the Special Council Meeting Held 31 October 2006 be taken as read and confirmed as a true and correct record.

AMENDMENT

Moved Cr Jamieson, Sec Cr Maddaford

That the Minutes of the Special Council Meeting held 31 October 2006 be amended by the 'Note' after the 'Lost' vote for Item 7.1 on page 3:

**NOTE:** CRS CALA, MADDADFORD, MACPHERSON AND MAYOR COLLINS REQUESTED THEY BE RECORDED AS HAVING VOTED FOR THE MOTION.

being replaced with the following:

**NOTE:** Cr Smith requested the votes of all members be recorded:  
AGAINST THE MOTION: CRS BEST, HEARNE, JAMIESON, WELLS, SMITH, DOHERTY, TRENT  
FOR THE MOTION: CRS CALA, MADDADFORD, MACPHERSON, MAYOR COLLINS

and with the foregoing amendment be taken as read and confirmed as a true and correct record.

Cr Jamieson for the Amendment

Currently the draft Minutes are non-compliant with *Local Government Act* section 5.21.(4)(b) since Cr Smith requested the votes of **all** Members be recorded. If the change is not made the City would have to report the non-compliance in the 2006 Compliance Audit Return.

The Mayor put the Amendment.

CARRIED (13/0)

**COUNCIL DECISION ITEM 6.1.2**

The Mayor put the Amended Motion

That the Minutes of the Special Council Meeting held 31 October 2006 be amended by the 'Note' after the 'Lost' vote for Item 7.1 on page 3:

**NOTE:** CRS CALA, MADDADFORD, MACPHERSON AND MAYOR COLLINS REQUESTED THEY BE RECORDED AS HAVING VOTED FOR THE MOTION.

being replaced with the following:

**NOTE:** Cr Smith requested the votes of all members be recorded:  
AGAINST THE MOTION: CRS BEST, HEARNE, JAMIESON, WELLS, SMITH, DOHERTY, TRENT  
FOR THE MOTION: CRS CALA, MADDADFORD, MACPHERSON, MAYOR COLLINS

and with the foregoing amendment be taken as read and confirmed as a true and correct record.

CARRIED (13/0)

**6.1.3 Annual Electors' Meeting Held: 6.11.2006**

**COUNCIL DECISION ITEM 6.1.3**

Moved Cr Trent, Sec Cr Ozsdolay

That the Minutes of the Annual Electors' Meeting Held 6 November 2006 be received.

CARRIED (12/1)

**NOTE: CR JAMIESON REQUESTED HE BE RECORDED AS HAVING VOTED AGAINST THE MOTION**

AMENDMENT ANNUAL ELECTORS MINUTES

The Mayor advised Mr Defrenne that his 'tabled' comments in relation to his proposed amendments to the Annual Electors Minutes of 6 November 2006 would be brought forward next year.

**6.2 BRIEFINGS**

The following Briefings which have taken place since the last Ordinary Council meeting, are in line with the 'Best Practice' approach to Council Policy P516 "Agenda Briefings, Concept Forums and Workshops", and document to the public the subject of each Briefing. The practice of listing and commenting on briefing sessions, not open to the public, is recommended by the Department of Local Government and Regional Development's "*Council Forums Paper*" as a way of advising the public and being on public record.

**Note:** As per Council Resolution 11.1 of the Ordinary Council Meeting held 21 December 2004 Council Agenda Briefings, with the exception of *Confidential* items, are now open to the public.

**6.2.1 Agenda Briefing - October Ordinary Council Meeting Held: 17.10.2006**

Officers of the City presented background information and answered questions on specific items identified from the October Council Agenda. Notes from the Agenda Briefing are included as **Attachment 6.2.1.**

**6.2.2 Workshop - Multi-Purpose Community Centre Study Held : 13.11.2006**

Officers of the City and facilitator Ms L Whitehead of CATALYSE 'workshopped' the Multi-Purpose Community Centre proposal with Council Members. Notes from the Workshop are included as **Attachment 6.2.2.**

**6.2.3 Concept Forum: George Burnett Leisure Centre; and Disability Access and Inclusion Plan Held : 14.11.2006**

Officers of the City presented background information and answered questions on the George Burnett Leisure Centre proposal and the City's Disability Access Plan. Notes from the Concept Forum are included as **Attachment 6.2.3.**

**6.2.4 Concept Forum: Public Open Space Review and Waterford Triangle Held : 15.11.2006**

Officers of the City presented background on the proposed study process for review of Public Open Space in the City of South Perth. Representatives from the Alcoa Research Centre for Stronger Communities - Curtin University of Technology then presented background information and answered questions on the Waterford Triangle draft Study Report. Notes from the Concept Forum are included as **Attachment 6.2.4.**

**COUNCIL DECISION ITEMS 6.2.1 TO 6.2.4 INCLUSIVE**

Moved Cr Doherty, Sec Cr Maddaford

That the comments and attached Notes under Items 6.2.1 to 6.2.4 inclusive on Council Agenda Briefings held since the last Ordinary Meeting of Council on 24 October 2006 be noted.

CARRIED (13/0)

**7. PRESENTATIONS**

**7.1 PETITIONS -** A formal process where members of the community present a written request to the Council

Nil

**7.2 PRESENTATIONS -** Formal or Informal Occasions where Awards or Gifts may be Accepted by the Council on behalf of the Community.

Nil

**7.3 DEPUTATIONS -** A formal process where members of the community may, **with prior permission**, address the Council on Agenda items where they have a **direct** interest in the Agenda item.

Opening of Deputations

The Mayor advised that speakers are permitted 10 minutes each to address the Council with the exception of those speakers for Item 9.0.1. He said that as there were six people that had indicated they wished to make a Deputation on Item 9.0.1 that he would allow them 5 minutes each. He then opened Deputations at 7.33pm.

**Note:** Cr Gleeson joined the meeting at 7.33pm

**7.3.1. Mr Jim McAvoy, 24 Brandon Street, South Perth      Agenda Item 9.0.1**

Mr McAvoy spoke for the officer recommendation but against some of the Conditions of approval relating to:

- alfresco dining
- opening hours
- removal of shed
- sealing car park / driveway

**Note:** Cr Jamieson left the Chamber at 7.35pm and returned at 7.42pm

**7.3.2. Mr Ryan Sedgwick, 80 Banksia Terrace, Kensington      Agenda Item 9.0.1**

Mr Sedgwick, also representing Mrs Audrey Rozario of 76 Banksia Terrace, Kensington, spoke against the officer recommendation on the following topics:

- proposal not a 'coffee shop' / will be serving alcohol
- trading hours
- amenity of local residents reduced
- car parking / garage / parking bays
- garage difficult to manoeuvre around
- traffic/external parking
- proposal fraught with danger
- does Kensington need a restaurant within a residential area and opposite a school

**Note:** Legal and Governance Officer left the Chamber at 7.50pm and returned at 8.00pm

**7.3.3. Mr Chris Groom, 5 Hovia Terrace, South Perth      Agenda Item 9.0.1**

Mr Groom spoke for the officer recommendation and in particular the following topics:

- car park
- accessway
- existing garage

**7.3.4. Mr Alan Holding, 86 Brandon Street, Kensington      Agenda Item 9.0.1**

Mr Holding spoke against the officer recommendation on the following points:

- impact on surrounding area
- give due consideration to professional standards
- traffic management plan
- acoustic report
- lighting management strategy

**7.3.5. Mr David Leigh, Kensington Community Assoc.      Agenda Item 9.0.1**

Mr Leigh spoke for the officer recommendation and in particular the following points:

- importance of café to community
- against limitation of extended opening
- against paving requirement
- against demolition requirement
- ask Members to favourably consider proposal

**7.3.6. Mr Jason Saunders representing Kevin and Michele Bond, 95 Angelo Street, South Perth      Agenda Item 9.3.6**

Mr Saunders spoke against the officer recommendation on the following points:

- block - R Code density issues
- boundary wall - adverse impact issues
- site coverage
- court yard issues
- planning officer recommendation

**Note:** Director Infrastructure Services and Manager Environmental Health and Regulatory Services left the Chamber at 8.12pm and returned at 8.18pm.

**7.3.7. Mr Rod Dixon, 38 Hampden Street, South Perth      Agenda Item 9.3.7**

Mr Dixon spoke against the officer recommendation as follows:

- house has been designed to address energy-efficiency and solar passive design
- the use of a lighter roof colour is a key part
- there are numerous examples of lighter coloured roofed houses in Hampden and adjoining Lawler and Angelo Streets the same as proposed
- Hampden Street itself has many mature trees, including two at the front of our narrow 10m wide lot meaning any roofing will be largely screened



**7.3.8. Mr John Hughes, representing Kensington Primary School Council  
Agenda Item 9.0.1**

Mr Hughes spoke in favour of the officer recommendation on the following points:

- support café proposal
- taken into consideration vehicle movements
- consultation with school community
- proposal supports school 'healthy eating / healthy lifestyle policy'
- School Council believe recommendation adequately addressed all concerns raised

Close of Deputations

The Mayor closed Deputations at 8.30pm and thanked the speakers for their comments.

**7.4 DELEGATE'S REPORTS** Delegate's written reports to be submitted to the Minute Secretary prior to  
**10 November 2006** for inclusion in the Council Agenda.

Nil

**8. ANNOUNCEMENTS FROM THE CHAIRPERSON**

**8.1 Method of Dealing with Agenda Business**

The Mayor advised the meeting of the en bloc method of dealing with the items on the Agenda. He then sought confirmation from the Chief Executive Officer that all the en bloc items had been discussed at the Agenda Briefing held on 21 November 2006.

The Chief Executive Officer confirmed that this was correct.

**COUNCIL DECISION ITEM 8.1- EN BLOC RESOLUTION**

Moved Cr Cala, Sec Cr Wells

That the officer recommendations in relation to Agenda Items 9.0.3, 9.1.1, 9.3.1, 9.3.3, 9.3.4, 9.3.5, 9.3.9, 9.3.11, 9.4.1, 9.5.1, 9.5.2, 9.5.3, 9.6.1, 9.6.2 and 9.6.4. be carried en bloc.  
CARRIED (13/0)

**Note:** Cr Jamieson left the Chamber at 8.30pm.

**9. REPORTS**

**9.0 MATTERS REFERRED FROM PREVIOUS COUNCIL MEETINGS**

**9.0.1 Proposed change of use from Shop to Café / Restaurant. Lot 192 (No. 78)  
Banksia Terrace, Kensington (Item 9.3.2 referred August Council Meeting)**

Location:	Lot 192 (No. 78) Banksia Terrace, Kensington
Applicant:	Anne Janett McAvoy
Lodgement Date:	27 June 2006
File Ref:	11/1577 11.2006.313.GJF BA2/78
Date:	1 November 2006
Author:	Gina Fraser, Senior Planning Officer
Reporting Officer:	Steve Cope, Director, Strategic and Regulatory Services

### Summary

This application for planning approval was first considered at the August 2006 Council meeting. A decision was deferred pending further investigation of certain aspects of the proposal. Following completion of these investigations, the proposal is now presented for the Council's determination. The application relates to the conversion of an existing Shop and House to a Café / Restaurant. The proposal is classified as a 'DC' (discretionary with consultation) use in the Local Commercial zone, and the neighbour consultation has resulted in several objections. The Council's consideration is sought in regard to this discretionary classification, the concerns expressed by some neighbours, and a setback variation. The recommendation is for approval, subject to a number of standard and special conditions.

### Background

The development site details are as follows:

Zoning:	Local Commercial
Density coding:	R15
Lot area:	737 sq. metres
Building height limit:	7 metres
Development potential:	The requested use of <i>Café / Restaurant</i> is a 'DC' (Discretionary with Consultation) use. The current use of Shop is a 'D' (Discretionary) use in this zone.

This report includes the following attachments:

- **Confidential Attachment 9.0.1(a)** Plans of the proposal.
- **Attachment 9.0.1(b)** Minutes dated 22 August 2006.
- **Attachment 9.0.1(c)** City's Environmental Health Department comments.

The application was received on 27 June 2006. It was advertised for neighbours' comments during July and was considered at the Council meeting held on 22 August 2006. At that meeting, the Council resolved:

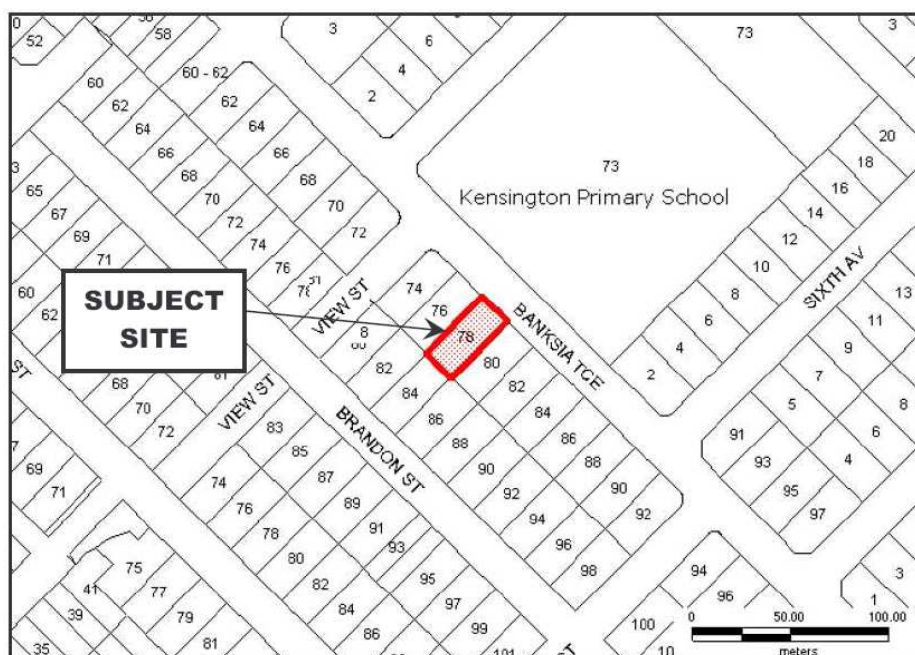
*"That this application for planning approval for proposed change of use from House and Shop to Café / Restaurant of Lot 192 (No. 78) Banksia Terrace, Kensington, be deferred pending further investigation as to the possible 'change of use' being to "Tea Room"."*

At the August Council meeting, several issues arose which needed further investigation, although the Council resolution only required *investigation as to the possible 'change of use' being to "Tea Room"*. Other associated matters that were of concern to the Council and to some neighbours, have also been investigated. These matters relate to:

- serving of alcohol on the site;
- whether hours of operation may be effectively restricted while enabling the establishment to serve the community in the most appropriate manner; and
- whether access to the rear car park may be closed at a particular time, while the Café / Restaurant continues to operate to a later time.

These investigations have now been completed. All of the matters listed above are discussed below.

The location of the development site is shown below.



As explained in the August 2006 report, refer **Attachment 9.0.1(b)**, in accordance with Council Delegation DC342, the proposal was referred to Council because it falls within the following categories described in the Delegation:

3. *The Exercise of a Discretionary Power* (with respect to significant departures from the No. 6 Scheme - the change of use and existing zero front setback).
6. *Amenity Impact* (issues raised by neighbours include late trading, serving of alcohol on the premises, noise, fumes, and inconvenience of access past an existing garage / shed on the site).
7. *Neighbour Comments* (the City advertised the proposal between 3 July and 24 July 2006, and neighbours' comments were discussed in the August report).

#### **Comment**

In response to the Council's August resolution, and to other concerns raised directly by neighbours at a meeting at the City offices also attended by the applicant and two Council Members, the following matters have been further examined and are presented for consideration as part of the Council's determination process.

#### **(a) Change of Use to Café / Restaurant or Tea Room**

##### **(i) Café / Restaurant**

The proposal, as described on the application form, is for a "change of use to Café" and "minor alterations". The applicant advises that it is not the intention to operate the establishment as a 'restaurant', but as a low-key café for the local community and for the Kensington Primary School. The proposal would be classified as a 'Class 3 Food Premises' under the relevant Health regulations, with limited food preparation being carried out on the premises, most of the food being pre-prepared. The proposed establishment would be similar to a lunch bar.

Under Town Planning Scheme No. 6 (TPS6) any kind or size of sit-down eating place where the food is predominantly eaten on the premises, is classified as a 'Café / Restaurant'. This use is defined in TPS6 as follows:

*“ ‘Café / Restaurant’ : means any land or building used primarily for the preparation and serving of meals or refreshments for consumption on the premises.”*

**(ii) Tea Room**

At the August meeting, the Council deferred its decision pending “*further investigation as to the possible ‘change of use’ being to ‘Tea Room’.*”

The use of land is regulated by clause 3.3 and Table 1 of TPS6. Clause 3.3(6) reads as follows:

*“Where a particular Use is defined in Schedule 1 it is deemed to be excluded from any other Use which by its more general terms might otherwise include such particular Use.”*

This means that even if the proposed establishment only serves tea, coffee, cakes and the like for consumption on the premises, it would still fall within the definition of ‘Café / Restaurant’ and would have to be processed as such under TPS6. The use cannot have a different name, such as ‘tea room’ because the operation of the place would exactly match the definition of ‘Café / Restaurant’. In order for it to be processed under TPS6 as a different use, the operation of the ‘tea room’ would need to be significantly different from that defined above, other than by way of its menu - that is, its primary activity would need to be other than *the preparation and serving of meals or refreshments for consumption on the premises.*

Based on the information provided to the City, the current application has been assessed as a ‘Café / Restaurant’. In considering an application for a the discretionary use of ‘Café / Restaurant’, the Council has the option to approve it with or without conditions, or to refuse it. The recommendation is for approval with a range of conditions relating to its operation, mainly to the protection of the amenity of the surrounding locality.

**(b) Serving of alcohol on the premises**

In response to concerns raised by neighbours, the City has obtained legal advice regarding the serving or sale of liquor from a Café / Restaurant.

The sale, supply and consumption of alcohol is not regulated by the City, but by the Licensing Authority under the *Liquor Licensing Act 1988*. Under that Act, a person may apply for a ‘restaurant licence’ which would permit the sale of alcohol to a customer who is taking a meal on the premises.

A person wishing to obtain a restaurant licence must file with the licensing authority, a Section 39 Local Government Certificate (relating to Health Act matters) and a Section 40 Planning Authority Certificate (relating to compliance with ‘Planning’ legislation). If there are ‘Planning’ issues, they may be raised by the City during the preparation of the Section 40 Certificate.

TPS6 cannot be used to prevent the serving of alcohol, however the provisions of TPS6 may be used to impose conditions (under clause 7.5) to limit any possible detrimental impact on the amenity of the locality, such as by:

- (i) a limitation on the hours of operation;
- (ii) a limit on the number of patrons; and
- (iii) prevention of use of on-site parking bays during night-time hours.

The issues identified above are addressed by way of conditions of planning approval in the recommendation of this report.

**'BYO' liquor**

Whilst under Section 51(2) of the *Liquor Licensing Act 1988* it is an offence to supply liquor for consumption in an unlicensed restaurant, section 51(3) provides that:

*Where a person is charged with a contravention of subsection (2) it shall be a defence to show that the liquor was brought to the restaurant, in such a quantity only as was reasonable in the circumstances, by a customer of the restaurant for consumption ancillary to a meal supplied at that restaurant to, and eaten by, that customer or a guest of that customer there.*

So whilst it is an offence to supply liquor in an unlicensed restaurant, it is permissible for customers to consume alcohol which they have brought with them to have with their meal.

As TPS6 does not contain any provisions dealing with liquor, legal advice obtained by the City advises that it is unlikely that the City would be able to impose a condition preventing the consumption of BYO alcohol on the premises where that occurs in accordance with section 51(3) of the *Liquor Licensing Act*.

**(c) Core trading hours**

Hours of operation of the proposed Café / Restaurant can be set by way of a condition of planning approval under clause 7.5 of TPS6 as an amenity consideration. The applicant's original proposal was for the café to operate from 8:00am to 10:00pm every day of the week to enable local community groups to hold evening meetings on the premises at their convenience. The officer's August recommendation in response to neighbours' concerns about late trading, was for opening hours to be confined to the hours between 8:00am to 9:00pm. A suitable closing time can be determined as any mutually acceptable time that would satisfy the neighbours' concerns regarding possible disturbance into the night, while also enabling the Café / Restaurant to operate viably. A closing time of, say 6:00pm, would serve this purpose, and would also meet the objective of the applicant's offer to close the driveway entrance gate at 6:00pm (See relevant discussion below). Therefore, it is suggested that the core limits of the operating hours should be no earlier than 7:00am and no later than 6:00pm daily. The general daily operating times would need to fit within these core times, however limited extended trading hours on certain evenings could be allowed by way of a suitably framed condition of planning approval. The recommended conditions reflect these arrangements.

**(d) Extended trading hours**

The applicant has requested Council's permission to extend the opening hours of the Café / Restaurant on an occasional basis. While primarily serving the community during the core hours between 7:00am and 6:00pm, the applicant is interested in providing an additional facility to the community by catering for occasional evening meetings or events. This element of the operation has been part of the application from the time it was lodged, and is seen by the applicant as a key part of the service of the establishment. While some neighbours are concerned that consistently late hours of trading could cause a noise disturbance to some of the young children in the area, the proposal for extended trading hours on an occasional basis could be 'triallyed' over a twelve month period. A condition of approval relating to extended trading hours would be applied as part of the current (recommended) approval, but would expire at the end of twelve months from the date of grant of planning approval. Towards the

end of this period, the applicant could apply to the Council pursuant to clause 7.9(7) of the Scheme to vary the conditions of approval with the object of having the operational effect of this 'twelve month' condition extended for a further period as may be agreed by the Council at the time. The Council could then take into account the manner in which the operation of the extended trading hours condition had impacted on the amenity of the locality and any related social issues, as provided by Scheme sub-clauses 7.5(i) and 7.5(p), during its consideration of the application to vary the conditions of the approval.

On this basis it is suggested that the Café / Restaurant be permitted to remain open until 10:00pm on any two evenings per month.

**(e) Closure of driveway during Café / Restaurant trading**

Some neighbours have expressed concern regarding the applicant's preferred trading hours to 10:00pm, and the resultant noise disturbance caused by customers and vehicles leaving the rear car park at a late hour. In response to this, the applicant has offered to lock the front gates of the driveway which leads to six of the seven car bays on the development site, to prevent night-time use of the rear car park.

In the interests of preserving neighbours' amenity, the Council could impose a condition to ensure that the car park is not accessible after 6:00pm. The rear car park contains six car bays, while there are nine marked car bays in the same section of the street adjacent to the Primary School. These public bays are not used intensively after school activities have ceased for the day, and would form a useful occasional substitute for car parking on the development site.

The gates may also be closed when the Café / Restaurant is not operating, for security reasons. The suggestion to close the gate at 6:00pm daily, irrespective of a possible evening event, is supported.

**(f) Other matters discussed in the August 2006 Report**

Various other issues were also discussed in detail in the officer's August report. **Attachment 9.0.1(b)** refers. Most of the comments on these issues are still valid and the previous report should be referred to for the relevant discussion on each. For convenience, however, the matters are summarised below:

**(i) Parking**

A total of seven car bays are available on site. Six of the bays are to be in a car park at the rear, and one bay exists at the front of the site. This number of bays meets the parking ratio prescribed in Table 6 of TPS6 for the size of the Café / Restaurant being proposed.

**(ii) Floor space and seating capacity**

By virtue of the parking ratio contained in Table 6 of TPS6, the seven proposed car bays would support up to 35 sq. metres of dining area. This would be a total dining area, whether located inside or outside the building. The application indicates only interior seating. No alfresco areas are indicated. Neighbours have expressed concern relating to possible noise interference from alfresco dining.

Seating capacity is calculated according to Table D1.13 of the Building Code of Australia (BCA), which is used in the absence of any similar TPS6 provision. The BCA prescribes a capacity of one person per square metre for a Café / Restaurant, resulting in a maximum of 35 patrons at any time for the current proposal. A recommended condition of planning approval relates to this maximum capacity.

**(iii) Existing garage / shed**

The rear parking area is accessed from a driveway running down the side of the building adjacent to No. 80 Banksia Terrace. It deviates around an existing detached brick storage garage / shed at the head of the driveway before reaching the car park at the rear of the site, impeding drivers' view and access. Although the resulting 'zig-zag' manoeuvre can be made comfortably and complies with Australian Standards in terms of turning movements, this outbuilding is considered to be inappropriately situated, for reasons explained in the August report. Such an arrangement would not be permitted if the application were for the construction of a new building. Against the applicant's preference, it is recommended that the garage be removed. If the Council decides to allow retention of the garage / shed, then safety measures should be implemented, and signs installed indicating a customer car park behind the shed. Further discussion on this matter is contained in the August report. **Attachment 9.0.1(b)** refers.

**(iv) Turning bay**

If the garage / shed is to remain, a marked and dedicated turning bay should be provided within the car park, to enable all vehicles to return to the street in a forward gear. A dedicated turning bay would not be required if the garage is demolished and the parking bays are reconfigured in a more orderly layout with sufficient turning space for all vehicles.

**(v) Materials of car park construction**

A car park currently exists at the rear of the site. It is surfaced with a layer of loose blue-metal stones compacted into the earth. The applicant proposes to resurface the car park with the same material, and to mark the car bays by rows of bricks inset into the surface. The City consistently requires any car park to be constructed of a permanent hard-standing material such as brick, concrete, bitumen, or the like, with drainage into soak wells on site or directly into the City's street drainage system. The driveway also needs repair. Both the car parking area at the rear and the driveway leading to it, should be properly paved, delineated, marked, drained and maintained.

There is a difference of professional opinion as to the suitability of the proposed surface material. The City's engineering staff have expressed concern regarding the durability and drainage capacity of the loose gravel-like material. However, the applicant has obtained advice from a senior civil engineer which was provided to the Council in August, indicating that the proposed material would be dust-free, self draining, and adequate for the purpose.

The matter has again been referred to the Manager, Engineering Infrastructure for confirmation of the City's position. The City's responsibility is to ensure that any car park will be constructed such that:

- there will be no stormwater run-off onto the street or adjoining properties;
- no loose material will be transported across paths, onto the street, into the street drainage system or onto surrounding properties;
- it will not develop potholes under continuous use; and
- is clearly identifiable, accessible and safe for all users.

The material proposed by the applicant cannot be guaranteed to achieve all of the above and would require regular maintenance at a greater level and frequency than other paving materials to ensure its ongoing absorption capability for stormwater. The current application, for the first time, converts the property to a wholly commercial use which increases its use by external customers.

In the face of the conflicting advice referred to above, the reporting officer has taken the advice of the City's Infrastructure Engineers, and recommends that the car parking area and accessway be paved and drained according to the City's usual specifications. This is covered by relevant conditions of approval.

**(vi) Car park design**

The construction of the existing garage / shed 'at grade' with the driveway causes a difference in level with the rising ground behind it where the car park is located. There is a difference of approximately 500mm which is retained by a brick retaining wall of the same height. A car parking bay is proposed to be located directly adjacent to this retaining wall. Protective marking or a safety barrier along the retaining wall should be required if the garage / shed remains on site. The removal of the outbuilding would enable a more appropriate car park design.

If the Council supports the applicant's request for retention of the loose surface paving material, the car park should be regraded or designed to ensure that all stormwater run-off is contained on site and appropriate drainage provided.

**(vii) Setbacks**

Under Table 3 of TPS6, buildings in the Local Commercial zone are required to be set back 1.5 metres from the street. In the current application, the building has, in part, a zero setback from Banksia Terrace. This requires the Council's discretionary approval under clause 7.8 of TPS6. It is considered that the existing zero setback of the front wall of the building should be accepted.

**(viii) Fencing**

Existing fencing is predominantly in reasonable condition, and with minor repair and additional capping of super-six fencing, and increasing the height of portion of the limestone block fencing along the north-western side, would be acceptable. The recommendation in this report includes a condition relating to this matter.

**(h) Scheme Objectives: Clause 1.6 of No. 6 Town Planning Scheme**

All of the Scheme objectives were examined in the officer's August 2006 report. (**Attachment 9.0.1(b)** refers) and it was found that, with appropriate conditions of planning approval, the objectives would be satisfactorily met.

**(i) Other Matters to be Considered by Council: Clause 7.5 of No. 6 Town Planning Scheme**

In addition to any other matter, the Council is required to have due regard to, and may impose conditions with respect to, matters listed in clause 7.5 of TPS6 which are, in the opinion of the Council, relevant to the proposed development. These matters were considered in the officer's August 2006 report, and the recommendation reflects those matters.



**(j) Local Commercial Strategy**

The proposal has been assessed against the strategy for Local Commercial Centres set out in the Council's Local Commercial Strategy (LCS) which was adopted in March 2004. The proposal is considered to meet relevant objectives of the Local Commercial Strategy.

**Consultation**

**(a) Design Advisory Consultants**

The proposal to convert the existing House and Shop to a Café / Restaurant was not required to be referred to the Design Advisory Consultants for comment.

**(b) Neighbour Consultation**

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Council Policy P104 'Neighbour and Community Consultation in Town Planning Processes'. The owners of properties within 'Area 2' as identified in Policy P104 were notified and invited to comment. Owners at Nos. 76 and 80 Banksia Terrace; Nos. 82, 84 and 86 Brandon Street; and the Principal, Kensington Primary School were invited to inspect the application and to submit comments during a 21-day period between 3 July and 24 July 2006. In line with Policy P104, neighbours could inspect the application up to the date of the relevant Council meeting.

In addition, a sign was placed on the site inviting comment from any other interested person. The applicant also distributed an information sheet, including plans, to the same immediate neighbours, inviting inspection of and comment on the application.

During the advertising period, six submissions were received by the City, two in favour of, and four against the proposal. The applicant has also provided the City with further comments which she had received from the neighbours in response to her own consultation process. The submissions were summarised and responses provided in the August report. **Attachment 9.0.1(b)** refers.

The comments in favour of the proposal generally refer to:

- Provision of a much needed facility in the area;
- Fostering of a community spirit in Kensington;
- No objection, or support for, the proposal generally; and
- A detailed professional analysis of why the proposal should be approved.

The comments objecting to the proposal can be categorised into the following general topics:

- Parking, traffic, access and safety issues
- Increased noise - cars, patrons, restaurant operations generally
- Patron behaviour, particularly if alcohol is available
- Loss of vegetation from the site
- Cooking fumes
- Long trading hours
- Proposed location of bins near bedroom windows
- Increase in vermin
- Change of character from residential to commercial

All of these matters were dealt with in the August report. However, since that time, officers and two Council members have met with a group of neighbours and the applicant at the Civic Centre on 29 August 2006. At the meeting, various concerns and ideas were discussed, and it was decided that the following matters would be further examined:

- (i) Change of use to Café / Restaurant or Tea Room;
- (ii) The possibility of prohibition of alcohol from the site;
- (iii) Restriction of hours of operation and number of patrons; and
- (iv) Closure of driveway during Café / Restaurant trading.

Accordingly, each of these matters has been discussed above.

**(c) Manager, Engineering Infrastructure**

In preparation of the officer's August report, the City's Engineering Infrastructure officers were consulted and provided comment on the applicant's preferred car parking pavement material. Their advice was that compacted blue metal or any road base is not desirable due to problems of durability and unreliable drainage. This advice was in conflict with advice provided by the applicant from an independent civil engineer. However, the City's advice has since been reconfirmed and forms the basis of the relevant recommendations of this report.

**(d) Environmental Health Department**

The City's Manager, Environmental Health Services has provided detailed comments on the proposal [Refer to **Attachment 9.0.1(c)**].

**(e) Legal Advice**

Legal advice on various aspects of the proposal has been obtained from the City's Legal and Governance Officer and from the City's external legal advisers. This advice is incorporated in the discussion within this report.

**(f) Meetings with Applicants**

The applicant has met with members of the City's Administration to discuss various aspects of the application on different occasions. These discussions have assisted in the finalisation of this report.

**Policy and Legislative Implications**

Comments in relation to various relevant provisions of the No. 6 Town Planning Scheme, Council policies and strategies and State legislation have been provided elsewhere in this report.

**Financial Implications**

The issue has no impact on this particular area, other than the Planning Fee imposed according to the City's adopted Fee Schedule.

**Strategic Implications**

This matter relates to Goal 3 "Environmental Management" identified within the Council's Strategic Plan. Goal 3 is expressed in the following terms:

*To effectively manage, enhance and maintain the City's unique natural and built environment.*

**Conclusion**

Having regard to the discussion contained both in this report and in the August 2006 report, the conclusion drawn is that the proposal should be conditionally approved. Since August, additional research has been undertaken which strengthens the City's original position that

the proposal should be approved provided that it is subject to a range of stringent conditions. The conditions have been formulated to accommodate the findings of the additional research. The proposed Café / Restaurant will provide a facility which will service the needs of the local community. Amenity concerns are adequately addressed by way of the recommended conditions of approval.

**OFFICER RECOMMENDATION ITEM 9.0.1**

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for proposed change of use from House and Shop to Café / Restaurant of Lot 192 (No. 78) Banksia Terrace, Kensington, **be approved**, subject to:

(a) **Standard Conditions**

352, 354, 445, 455 (north-western, south-western and south-eastern), 456, 470, 505, 507, 508, 660, 664.

**Footnote:** A full list of Standard Conditions and Important Notes is available for inspection at the Council Offices during normal business hours.

(b) **Specific Conditions:**

- (i) The dining area of the proposed Café / Restaurant shall not exceed 35 sq. metres.
- (ii) There shall be no alfresco seating area.
- (iii) The number of patrons shall not exceed 35 people at any time.
- (iv) The core opening hours of the proposed Café / Restaurant shall be no longer than 7:00am to 6:00pm on any day, as provided by clause 7.5(i) of Town Planning Scheme No. 6.
- (v) Extended opening hours of the proposed Café / Restaurant are permitted on any two days per calendar month. On such days, the opening hours of the Café / Restaurant shall be no longer than 7:00am to 10:00pm. This condition shall expire twelve months after the date of grant of planning approval.
- (vi) The car parking area at the rear of the site shall be closed at 6:00pm every night, irrespective of any extended operating hours, as provided by clause 7.5(i) of Town Planning Scheme No. 6.
- (vii) A rubbish storage area shall be provided at the rear of the building not adjacent to any lot boundary, located and screened from view from the street, and such area shall be provided with a gate [Refer also to Condition (xiii)(A)].
- (viii) The car parking area at the rear of the site and the access way leading to it from the street, shall be:
  - (A) repaved using brick, block or other segmented paving material, bitumen or concrete;
  - (B) graded and drained into soak wells on the site or into the street drainage system;
  - (C) clearly marked on site to delineate the parking bays in accordance with an approved plan; and
  - (D) maintained in good condition at all times;as required by clause 6.3(10) of Town Planning Scheme No. 6.
- (ix) Having regard to clause 6.3(6) of Town Planning Scheme No. 6, the existing brick garage / shed shall be demolished due to its unsuitable location in relation to:
  - (A) visibility of the car park from the street;
  - (B) visibility of the street and the accessway from the car park; and
  - (C) the resultant safety hazard and adverse effect upon orderly movement of vehicles within the car park caused by the physical and visual obstruction of the garage / shed.

- (x) The masonry fence along the north-western side boundary of the site shall be raised to 1.8 metres in height, so as to provide adequate visual privacy to the adjoining neighbour. The fence height at any point shall be measured from the higher ground level adjacent to the fence. The material used to raise the height of the fence shall be selected in discussion with the adjoining neighbour or in the case of a dispute, in discussion with the City.
  - (xi) 1.5 metre x 1.5 metre visibility truncations shall be provided by way of modifications to the existing fences and the building; or alternatively, one or more mirrors shall be provided at the driveway entrance to assist drivers exiting the site to see approaching pedestrians.
  - (xii) The height of any letterbox, electricity installation, bin enclosure, or other structure, fence, wall or hedge within 1.5 metres of any vehicle driveway where it meets a street alignment shall not exceed 0.75 metres, under the provisions of clause 7.5(s) of Town Planning Scheme No. 6.
  - (xiii) Revised drawings shall be submitted for approval by the City, and such drawings shall incorporate the following:
    - (A) The rubbish storage area shall be relocated to, designed and constructed at the rear of the building, not adjacent to any lot boundary. In addition to any other requirements, the rubbish storage area shall be in accordance with the specifications of the Manager, Environmental Health and Regulatory Services, as described in **Attachment 9.0.1(c)**.
    - (B) The existing garage / shed shall be removed.
    - (C) The land occupied by the existing garage / shed which is to be removed, shall be regraded. The revised drawings shall include details relating to the removal of the low brick retaining wall alongside the adjacent car bay No. 3 and the regrading of the land as part of the reconstruction of the car park as required under Condition (b)(viii).
    - (D) The car parking area and access way shall be redesigned to facilitate greater ease of vehicle manoeuvre.
    - (E) In order to demonstrate compliance with the intent of conditions (b)(xi) and (b)(xii) of this Planning Approval, the revised drawings shall show that at the north-western intersection of the driveway and the street alignment, where a 1.5 metre x 1.5 metre truncation area cannot be provided adjacent to the existing building, adequate measures are taken to ensure the safety of:
      - (1) all customers and visitors to the site using the vehicular accessway and car park on the site; and
      - (2) all pedestrians, cyclists and motorists in the street;such measures including the lowering of the boundary fencing as required by condition (b)(xi) or installation of signs and/or mirrors to provide warning of, and to, vehicles using the driveway.
    - (F) An area of 94 sq. metres or 10% of the site, comprising landscaped area shall be provided, as prescribed by Table 3 of Town Planning Scheme No. 6.
- (c) **Standard Important Footnotes**  
645, 646, 647 [Condition (b)(xiii)], 648, 651.
- |  |
|--|
| <b>Footnote:</b> A full list of Standard Conditions and Important Notes is available for inspection at the Council Offices during normal business hours. |
|--|
- (d) the applicant be advised that:
- (i) In relation to conditions (b)(xi) and (b)(xii) above, concerning the existing fence along the south-eastern side boundary of the site, the applicant is encouraged to liaise with the owners of the property at No. 80 Banksia Terrace to achieve the

required visual truncation for fencing where a driveway meets the street boundary. Reference to the installation of a mirror indicates a safety measure to be implemented only if the required visual truncation cannot be achieved by modification of the existing fencing. No fencing or other obstruction on either property is permitted to be higher than 750mm within 1.5 metres of the point at which the applicant's driveway meets the street boundary.

- (ii) This planning approval does not relate to any signs. A separate application for planning approval is required to be submitted for any proposed signs. A Signs Licence is also required to be obtained prior to erection of any proposed sign.
- (iii) It is the applicant's responsibility to liaise with the City's Environmental Health department to ensure satisfaction of all of the relevant requirements.
- (iv) If any significant changes to the operation of the Café / Restaurant are proposed in relation to any aspect of the approved application, including the number and layout of car bays on site, size and layout of seating areas, numbers of patrons, hours of operation, or any other conditions of planning approval, then Council approval is to be obtained under clause 7.9(7) of Town Planning Scheme No. 6 prior to any such changes being implemented. In the event that a modification to the approved application is sought, the Council would consider requiring further neighbour consultation at that time.
- (v) An application for a Building Licence is required, indicating all changes proposed internally and externally in converting the building to a Café / Restaurant.
- (vi) It is the owner's responsibility to manage patron behaviour to reduce disturbance to neighbours on any extended trading occasion.
- (vii) In relation to condition (b)(v) above, the applicant may apply to the Council to vary this condition of approval, pursuant to clause 7.9(7) of the Scheme. To enable the matter to be determined by the Council prior to the condition expiring, any such application should be made after nine months from the date of grant of planning approval.

#### COMMENT ON DEPUTATION ITEM 9.0.1

The Mayor requested an officer comment on the Deputation.

The Director Strategic and Regulatory Services stated that most issues raised in the Deputation are covered in this report and in the August report. Since August, additional research has been undertaken which strengthens the City's original position that the proposal should be approved provided that it is subject to a range of stringent conditions. The conditions have been formulated to accommodate the findings of the additional research. The proposed Café / Restaurant will provide a facility which will service the needs of the local community. Amenity concerns are adequately addressed by way of the recommended conditions of approval. In relation to the suggested traffic study the officers considered the need but in view of the fact that we are talking about an 'existing use' and the number of vehicles would be low plus the fact that any extension of the business would require Council approval it was concluded a traffic study was not needed. An acoustic report in the August report noted noise would be to a minimum. In relation to the suggested lighting strategy it is not proposed to light the car park.

#### MOTION

Cr Ozsdolay moved the officer recommendation. Sec Cr Cala

#### MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

##### Cr Ozsdolay opening for the Motion

- believe this matter has been debated enough
- understand objectors concerns
- outcome officers have developed in consultation with applicant is fair and reasonable

**Note:**Cr Jamieson returned to the Chamber at 8.35pm

Cr Cala for the Motion

- support in principle approval
- issues raised / discussed / addressed
- contribution of much needed facility in Kensington area

AMENDMENT

Move Cr Doherty, Sec Cr Trent

That part (b) of the officer recommendation be amended to read as follows:

**(b) Specific Conditions:**

- (i) The dining area of the proposed Café / Restaurant shall not exceed 35 sq. metres.
- (ii) There shall be no alfresco seating area on Lot 192 (No.78) Banksia Terrace
- (iii) The number of patrons shall not exceed 35 people at any time.
- (iv) The core opening hours of the proposed Café / Restaurant shall be no longer than 7:00am to 6:00pm on any day, as provided by clause 7.5(i) of Town Planning Scheme No. 6.
- (v) Extended opening hours of the proposed Café / Restaurant are permitted on any four days per calendar month. On such days, the opening hours of the Café / Restaurant shall be no longer than 7:00am to 10:00pm. This condition shall expire twelve months after the date of grant of planning approval.
- (vi) The car parking area at the rear of the site shall be closed at 6:00pm every night, irrespective of any extended operating hours, as provided by clause 7.5(i) of Town Planning Scheme No. 6.
- (vii) A rubbish storage area shall be provided at the rear of the building not adjacent to any lot boundary, located and screened from view from the street, and such area shall be provided with a gate [Refer also to Condition (xiii)(A)].
- (viii) The car parking area at the rear of the site and the access way leading to it from the street, shall be:
  - (A) clearly marked on site to delineate the parking bays in accordance with an approved plan; and
  - (B) maintained in good condition at all times;as required by clause 6.3(10) of Town Planning Scheme No. 6.
- (ix) The masonry fence along the north-western side boundary of the site shall be raised to 1.8 metres in height, so as to provide adequate visual privacy to the adjoining neighbour. The fence height at any point shall be measured from the higher ground level adjacent to the fence. The material used to raise the height of the fence shall be selected in discussion with the adjoining neighbour or in the case of a dispute, in discussion with the City.
- (x) 1.5 metre x 1.5 metre visibility truncations shall be provided by way of modifications to the existing fences and the building; or alternatively, one or more mirrors shall be provided at the driveway entrance to assist drivers exiting the site to see approaching pedestrians.
- (xi) The height of any letterbox, electricity installation, bin enclosure, or other structure, fence, wall or hedge within 1.5 metres of any vehicle driveway where it meets a street alignment shall not exceed 0.75 metres, under the provisions of clause 7.5(s) of Town Planning Scheme No. 6.

- (xii) Revised drawings shall be submitted for approval by the City, and such drawings shall incorporate the following:
- (A) The rubbish storage area shall be relocated to, designed and constructed at the rear of the building, not adjacent to any lot boundary. In addition to any other requirements, the rubbish storage area shall be in accordance with the specifications of the Manager, Environmental Health and Regulatory Services, as described in **Attachment 9.0.1(c)**.
- (B) In order to demonstrate compliance with the intent of conditions (b)(xi) and (b)(xii) of this Planning Approval, the revised drawings shall show that at the north-western intersection of the driveway and the street alignment, where a 1.5 metre × 1.5 metre truncation area cannot be provided adjacent to the existing building, adequate measures are taken to ensure the safety of:
- (1) all customers and visitors to the site using the vehicular accessway and car park on the site; and
- (2) all pedestrians, cyclists and motorists in the street; such measures including the lowering of the boundary fencing as required by condition (b)(xi) or installation of signs and/or mirrors to provide warning of, and to, vehicles using the driveway.
- (C) An area of 94 sq. metres or 10% of the site, comprising landscaped area shall be provided, as prescribed by Table 3 of Town Planning Scheme No. 6.
- (xiii) Signs shall be provided, clearly visible from the street, indicating the location of the customer car park at the rear of the site, and warning of the unusual driveway manoeuvre ahead.

Cr Doherty opening for the Amendment

- application for café generated considerable interest in community
- focus on key issues and support amended Motion
- venue proposed to cater for Mothers Groups/ meetings etc
- August Council endorsed deferral pending investigation re ‘tea rooms use’
- believe my role is to represent all ratepayers
- aim is to remain objective for all in South Perth
- Ward Councillors have spoken to Council officers to obtain a win win for all
- consulted with adjoining neighbours in an endeavour to reach compromise for all parties
- believe key issues raised have been addressed - reflected in officer recommendation
- process open and accountable
- applicant had option of taking to SAT - chose not to
- applicant chose to work with Council

EXTENSION OF TIME

Moved Cr Cala, Sec Ct Trent - That Cr Doherty be granted an extension of time of 5 minutes.

CARRIED (13/0)

- nine parking bays originally approved - no issues raised re surface of car park
- no evidence of problems with run off into the street
- parking and access-way compliant with the Australian Standards
- garage blocks the view of parked cars does not significantly block the view of vehicles moving in the access-ways in the rear area
- view of manoeuvring is principally obscured by rear corner main building

- shed hides the view of the cars from the street
- shed acts as a deterrent to drive quickly in and out of the car parking area
- reasonable to extend the opening hours of the proposed Café / Restaurant
- maximum of four (4) days per calendar month to provide a reasonable test / trial
- hours of operation times can be reviewed after 12 months- modified if necessary
- previous tenants operated from 6-10pm with up to 38 people in attendance
- commend applicant for energy put into application

Cr Trent for the Amendment

- concerns raised by some about car parking / manoeuvrability - believe no issue
- endorse Cr Doherty's comments - nothing further to add
- ask Members support the Amendment to the Motion

Cr Gleeson against the Amendment

- against rezoning from shop to café/restaurant
- spoken to neighbours affected
- received a letter from the applicant - perception I am in 'cahoots' with neighbours
- perceived I am the 'bad guy' because I spoke to neighbours
- once a Café is approved there could be alcohol in close proximity to school / children
- alcohol together with traffic congestion / children crossing roads spells problems
- against the Motion

Cr Smith for the Amendment

- had some disquiets about alcohol
- commend officers for considering concerns of neighbours who could be impacted by proposal
- believe officer report has done a fine job for both parties
- looking purely at alcohol, ask: could you run it in a feasible and profitable way? No
- issue if business was sold on - could new owner run in profitably - No
- we have control with conditions of approval
- support Amendment

Cr Ozsdolay against the Amendment

- moved original Motion and commend officers on hard work
- officers have come up with position that is workable and subject to review
- safety issue re garage - listened to proponents and have concerns
- against Amendment

Cr Macpherson point of clarification - Regarding the extension to opening hours who determines the four days, how will they be publicised and will the gates be opened then?

Mayor Collins stated the Amendment indicates that the days can be interchanged.

Mayor Collins against the Amendment

- issues for / against proposal
- cannot vote for a BYO café with young children across the road
- school has a drug and alcohol awareness program
- you cannot dictate how much people drink
- intention may be correct but no one has spoken about the children
- people are going to sit a drink alcohol right across from the school
- if no alcohol involved proposal would be assessed on planning issues
- by bringing alcohol into it do not believe is a message to give our children



Cr Doherty point of clarification - Page 12 of the officer report talks about a café/restaurant as a 'Class 3 Food Premises' whereas during Deputations it was stated the proposal could go from a Class 3 to a Class 1 - How does this happen?

Director Strategic and Regulatory Services stated that 'Class 3 Food Premises' was consistent with the use-class of a low key café similar to a lunch bar and is classified as café/restaurant under TPS6.

Manager Environmental Health and Regulatory Services stated that the change of a food premises classification is determined under the Health (Food Hygiene) Regulations and is dependant on the amount of food handling being conducted within the premises. He said that a Class 3 food premises is limited by the amount of food handling being conducted on the premises. For example a tearoom is where minimal food handling like sandwich making and re-heating pre packaged foods is permitted but when the menu is extended to include more extensive food handling and preparation or cooking is carried out then it becomes Class 1 Food Premises under the regulations, for example a Cafe or Restaurant.

Cr Doherty closing for the Amendment

- proximity to school/alcohol - Kensington Primary School supports conditions put in place by officers to limit alcohol
- need to encourage responsible use of alcohol
- Kensington School Fete had a wine tasting stall
- support Amendment

The Mayor put the Amendment.

CARRIED (9/4)

<b>COUNCIL DECISION ITEM 9.0.1</b>
------------------------------------

The Mayor put the Amended Motion

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for proposed change of use from House and Shop to Café / Restaurant of Lot 192 (No. 78) Banksia Terrace, Kensington, **be approved**, subject to:

(a) **Standard Conditions**

352, 354, 445, 455 (north-western, south-western and south-eastern), 456, 470, 505, 507, 508, 660, 664.

<b>Footnote:</b>	A full list of Standard Conditions and Important Notes is available for inspection at the Council Offices during normal business hours.
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(b) **Specific Conditions:**

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- (iii) The number of patrons shall not exceed 35 people at any time.
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- (vii) A rubbish storage area shall be provided at the rear of the building not adjacent to any lot boundary, located and screened from view from the street, and such area shall be provided with a gate [Refer also to Condition (xiii)(A)].
- (viii) The car parking area at the rear of the site and the access way leading to it from the street, shall be:
  - (A) clearly marked on site to delineate the parking bays in accordance with an approved plan; and
  - (B) maintained in good condition at all times;as required by clause 6.3(10) of Town Planning Scheme No. 6.
- (ix) The masonry fence along the north-western side boundary of the site shall be raised to 1.8 metres in height, so as to provide adequate visual privacy to the adjoining neighbour. The fence height at any point shall be measured from the higher ground level adjacent to the fence. The material used to raise the height of the fence shall be selected in discussion with the adjoining neighbour or in the case of a dispute, in discussion with the City.
- (x) 1.5 metre x 1.5 metre visibility truncations shall be provided by way of modifications to the existing fences and the building; or alternatively, one or more mirrors shall be provided at the driveway entrance to assist drivers exiting the site to see approaching pedestrians.
- (xi) The height of any letterbox, electricity installation, bin enclosure, or other structure, fence, wall or hedge within 1.5 metres of any vehicle driveway where it meets a street alignment shall not exceed 0.75 metres, under the provisions of clause 7.5(s) of Town Planning Scheme No. 6.
- (xii) Revised drawings shall be submitted for approval by the City, and such drawings shall incorporate the following:
  - (A) The rubbish storage area shall be relocated to, designed and constructed at the rear of the building, not adjacent to any lot boundary. In addition to any other requirements, the rubbish storage area shall be in accordance with the specifications of the Manager, Environmental Health and Regulatory Services, as described in **Attachment 9.0.1(c)**.
  - (B) In order to demonstrate compliance with the intent of conditions (b)(xi) and (b)(xii) of this Planning Approval, the revised drawings shall show that at the north-western intersection of the driveway and the street alignment, where a 1.5 metre x 1.5 metre truncation area cannot be provided adjacent to the existing building, adequate measures are taken to ensure the safety of:
    - (1) all customers and visitors to the site using the vehicular accessway and car park on the site; and
    - (2) all pedestrians, cyclists and motorists in the street;such measures including the lowering of the boundary fencing as required by condition (b)(xi) or installation of signs and/or mirrors to provide warning of, and to, vehicles using the driveway.
  - (C) An area of 94 sq. metres or 10% of the site, comprising landscaped area shall be provided, as prescribed by Table 3 of Town Planning Scheme No. 6.
- (xiii) Signs shall be provided, clearly visible from the street, indicating the location of the customer car park at the rear of the site, and warning of the unusual driveway manoeuvre ahead.

- (c) **Standard Important Footnotes**  
645, 646, 647 [Condition (b)(xiii)], 648, 651.

<b>Footnote:</b> A full list of Standard Conditions and Important Notes is available for inspection at the Council Offices during normal business hours.
--

- (d) the applicant be advised that:
- (i) In relation to conditions (b)(xi) and (b)(xii) above, concerning the existing fence along the south-eastern side boundary of the site, the applicant is encouraged to liaise with the owners of the property at No. 80 Banksia Terrace to achieve the required visual truncation for fencing where a driveway meets the street boundary. Reference to the installation of a mirror indicates a safety measure to be implemented only if the required visual truncation cannot be achieved by modification of the existing fencing. No fencing or other obstruction on either property is permitted to be higher than 750mm within 1.5 metres of the point at which the applicant's driveway meets the street boundary.
  - (ii) This planning approval does not relate to any signs. A separate application for planning approval is required to be submitted for any proposed signs. A Signs Licence is also required to be obtained prior to erection of any proposed sign.
  - (iii) It is the applicant's responsibility to liaise with the City's Environmental Health department to ensure satisfaction of all of the relevant requirements.
  - (iv) If any significant changes to the operation of the Café / Restaurant are proposed in relation to any aspect of the approved application, including the number and layout of car bays on site, size and layout of seating areas, numbers of patrons, hours of operation, or any other conditions of planning approval, then Council approval is to be obtained under clause 7.9(7) of Town Planning Scheme No. 6 prior to any such changes being implemented. In the event that a modification to the approved application is sought, the Council would consider requiring further neighbour consultation at that time.
  - (v) An application for a Building Licence is required, indicating all changes proposed internally and externally in converting the building to a Café / Restaurant.
  - (vi) It is the owner's responsibility to manage patron behaviour to reduce disturbance to neighbours on any extended trading occasion.
  - (vii) In relation to condition (b)(v) above, the applicant may apply to the Council to vary this condition of approval, pursuant to clause 7.9(7) of the Scheme. To enable the matter to be determined by the Council prior to the condition expiring, any such application should be made after nine months from the date of grant of planning approval.

CARRIED (10/3)

**NOTE: MAYOR COLLINS AND CR GLEESON REQUESTED THEY BE RECORDED AS HAVING VOTED AGAINST THE MOTION**

Reasons for Change

1. *Requirement to upgrade the parking surface.* The florist was granted planning approval in 1996 under TPS5 where 9 parking bays were approved (the requirements of TPS5 and TPS6 are identical in respect to parking surface). To date there has been no issues raised with the surface of the car park, or evidence of problems with run off into the street. The council retains the right to ensure "maintained in good condition at all times".

2. *Requirement to remove the shed* The parking and access-way as per the Officer's report indicates the proposal is compliant with the Australian Standard. However, I acknowledge that Council has the capacity to impose conditions or standards greater than the Australian Standards, in this situation whilst the garage blocks the view of the parked cars it does not significantly block the view of vehicles moving in the access-ways in the rear area. The view of the manoeuvring is principally obscured by the rear corner main building. The shed is a positive in two ways. Firstly it hides the view of the cars from the street (a requirement of the R Codes for significant residential developments) and secondly it acts as a deterrent to drive quickly in and out of the car parking area.
3. *Extension of opening hours.* It is reasonable to extend the opening hours of the proposed Café / Restaurant up to a maximum of four (4) days per calendar month to provide a reasonable test of the impact of the extended hours. These times can then be fully reviewed at the end of the 12 month planning approval period. During the 12 month period impacts on the surrounding neighbourhood will be monitored and should there be any adverse effects then Council will require modifications to the hours of operation."

<b>9.0.2 Sewerage Disposal Options Sir James Mitchell Park - Appointment of Engineering Consultant</b> <i>(Item 9.0.1 referred Council Meeting 26.9.2006)</i>
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Location: Sir James Mitchell Park  
Applicant: Council  
File Ref: RC/112  
Date: 10 November 2006  
Author: Sebastian Camillo  
Manager Environmental Health and Regulatory Services  
Reporting Officer: Steve Cope, Director, Strategic and Regulatory Services

### **Summary**

The purpose of this report is to appoint an Engineering Consultant to investigate options for the disposal of sewerage at Sir James Mitchell Park and to generally progress the work of the Sir James Mitchell Park, Sewerage Disposal Working Group

### **Background**

A progress report was presented to the September 2006 Council meeting. At that meeting it was resolved:

#### ***That...***

- (a) *the City appoint an Engineering Consultant to advise an indicative cost and design for the installation of connection points into the Water Corporations Sewerage network which meets Water Corporations design guidelines;*
- (b) *costs incurred for the research and design of the connection points into the Water Corporation's Sewerage network be made available from the Waste Management Reserve; and*
- (c) *the Working Party provides a further report on its findings to the soonest Ordinary meeting of Council.*

**Comment**

Parsons Brinkerhoff is a firm of Civil Engineering Consultants that has representatives on the Sir James Mitchell Park, Sewerage Disposal Working Group (the working group) for this project. Parsons Brinkerhoff has had a past involvement in the design and construction of sewerage works on the South Perth foreshore and are currently undertaking the design and construction of capital works at Mends Street for Water Corp. They were requested by the working group to provide an indicative cost for the design and management of the installation of gravitational connection points into the Water Corporations sewerage network following an analysis of suitable options.

The Engineering Consultants have already undertaken preliminary inspections of the foreshore area, identifying six (6) possible locations which would suit gravitational connection points. When they have been given approval from the City to proceed with the design of the connection points they will seek input from the working group to determine the preferred locations and the types of facilities that need to be connected.

The following tasks have been identified and costed for the role out of the project:

**Task 1 - Design and approvals (\$12,000)**

- Liaise with the City of South Perth and working group to determine and confirm the number and location of gravitational connection points.
- Obtaining existing as-constructed information and liaison with service authorities.
- Obtain preliminary and final approvals from Water Corporation.
- Obtain quotation from Western Power for any power services required.
- Finalise design parameters
- Provide indicative estimate of total work involved

**Task 2 - Calling Tenders (\$4,000)**

- Preparation of tender documents.
- Calling tenders from selected contractors.
- Tender analysis and recommendation to working group.

**Task 3 - Project Management for Construction Phase (\$10,500)**

- Superintendence.
- Contract administration.
- Site inspections.
- Payment certification.
- Liaison with service authorities site representatives.

The break up of the project timeline reported in September is indicative as the City or its consultant does not have any control over the time taken by the various authorities to approve or review the project design or proposal. Particularly, delays may be encountered with Western Power in installing new power supply points where required as they can take up to 3 months to install power from the application date.

To progress the project, Council should determine the costs having regard for the proposed final installation of the gravitational connection points and seek contributions from other relevant authorities.

Since preparing this report the consultant has provided advice on the indicative cost for the construction and installation of the gravitational connection points. This means that the progress achieved on this project to date is consistent with the indicative project timetable which was previously reported to Council in September.

The Consultants have now provided indicative costs and these are estimated at being in the order of \$13,000 plus GST for each gravitational connection point or \$78,000 for the connection of six (6) points. The estimate allows for Western Power and Water Corporation connection fees, trenching and pipe/cable laying costs (including fittings) and the reinstatement of the reserve.

The estimate is based on the proposed gravitational connection point being within approximately 20 metres of the existing Water Corporation Sewerage network and subject to the appropriate geological ground levels to allow sufficient gravitational fall. This should be the case in most of the of the proposed sites. The costs would increase if the gravitational connection points are situated further away from the existing sewerage network.

The consultant will be in a better position to accurately estimate the costs once commencement of the proposed design work has commenced.

The working group will now reconvene at the earliest possible time to consider the consultants indicative cost advice, review the project design and discuss the funding options for the project, prior to proceeding to complete Task 2 as mentioned in this report.

It is also considered that other relevant State Authorities should be approached to make contributions to this project as it is unreasonable for the City of South Perth ratepayers to bear the total cost involved. Authorities such as the Department of Environment, Department of Health, Department of Planning and Infrastructure, Swan River Trust and the Water Corporation should be requested to consider making contributions to the project. When resolved, Council should determine the funding sources for its contribution either in the current budget, if sufficient funds are available, or by including them within the future capital items in the 2007/2008 budget.

It is considered that the Consultants should be formally appointed to complete Task 1 detailed above and for the first part of Task 2 ie the preparation of tender documents, which can reasonably occur while approaches are made to other State authorities for funding support. Tenders should only be called when Council is aware of its likely contribution to the project.

#### **Consultation**

Consultation has occurred with the working group representatives of the following external organisations:

- Water Corp
- Department of Health
- Department of Water
- Department of Environment
- Parsons Brinkerhoff - Civil Engineering Consultants
- ITT Flygt - Pump Station Providers

#### **Policy and Legislative Implications**

Report consistent with Council resolution

**Financial Implications**

The initial recommended course of action will have financial implications for the City totaling \$12,000. Funding of \$10,000 has been allocated for this project in the first quarter budget review.

Additional funds will need to be allocated should Council wish to proceed with this project but the amount of funding is unknown at this time until costs are received, contributions committed by other authorities and tenders called and assessed.

**Strategic Implications**

In accordance with Goal 3 of the City's Strategic Plan, Environmental Management. In particular, reference is made to Strategy 3.2 which involves *the development and implementation of a sustainability strategy and management system to co-ordinate initiatives contained in associated management plans and to ensure City's environment is managed in a sustainable way.*

<b>OFFICER RECOMMENDATION ITEM 9.0.2</b>
--

That...

- (a) the City formally appoint Parsons Brinkerhoff - Civil Engineering Consultants to carry out Task (1) as detailed in report at a total cost of \$12,000 and for the first part of Task (2) at an estimated cost of \$2,000;
- (b) the working group be authorised to consider and approve the design plans and review the indicative costs;
- (c) on completion of part (b) above:
  - (i) the City:
    - (A) submit the submission to the Water Corporation / Swan River Trust for approval; and
    - (B) approach the Department of Environment, Department of Health, Department of Planning and Infrastructure, Swan River Trust and the Water Corporation seeking contributions for the installation of the sewerage connection points;
  - (ii) the Consultants be authorised to proceed to preparation of tender documents stage;
- (d) additional funds totalling \$4,000 be allocated to the project from the Waste Management Reserve; and
- (e) a further report be provided to the earliest meeting of Council when all the relevant information detailed in recommendations (a) to (c) has been obtained.

*(Note: An Absolute Majority is Required to re-allocate funds)*

MOTION

Cr Trent moved the officer recommendation, Sec Cr Ozsdolay

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Trent opening for the Motion

- have promoted concept of tapping into sewers to allow human waste to be removed from Sir James Mitchell Park for many years
- support Feasibility Study
- once Study complete will know where to go from here
- commend recommendation to Councillors

Cr Ozsdolay for the Motion

- endorse Cr Trent's comments
- commend good work by City Officers / Councillors
- support Motion being next step in process

Cr Glesson point of clarification - There are advantages of having direct connections to Water Corp, as waste would be taken away immediately, would not require pump trucks to remove waste. What are the disadvantages?

Manager Environmental Health and Regulatory Services stated that the toilet blocks rely on gravitation therefore the positioning of them would be limited.

Cr Gleeson point of clarification - If this proposal takes place and we 'plug in' is there a possibility this connection could get blocked?

Manager Environmental Health and Regulatory Services said yes, just like any normal facility and with large numbers of people there is the occasion when they block.

Cr Gleeson against the Motion

- very limited places we could position facilities on Sir James Mitchell Park
- advantage with current porta-loos City does not hire them
- hirer pays for porta-loos and hirer takes them away along with effluent
- will not be compulsory to 'plug in' to existing connection
- in practical terms modern functions will have porta-loos
- against the Motion

AMENDMENT

Moved Cr Jamieson, Sec Cr Wells

That...

(a) new part (c), as follows, be included and the existing clauses re-indexed accordingly:

*(c) a further two banks of toilets be provided for 2007; and*

(b) the re-indexed part (f) be amended to read as follows:

*(f) a further progress report be provided to the February 2007 meeting of Council.*

Cr Jamieson opening for the Amendment

- amendment of trial evaluation - we can use to tap into existing lines
- trial evaluation to get recommendation as to how to proceed

Cr Wells for the Amendment

- endorse Cr Jamieson's comments
- sensible idea
- support Amendment

Mayor Collins against the Amendment

- need to establish - are we going to let the hirer of the park be responsible for toilets; or are we going to outlay in the vicinity of \$150,000 to proceed with this proposal
- in terms of sewerage - there are areas of Waterford where there is no sewerage
- once you put money in to test an idea you need a clear indication that you will fully endorse the concept for major events



Cr Maddaford point of clarification - I thought the purpose of forming a Working Party with other authorities was to investigate and come back before we endorse anything?

Mayor Collins confirmed that this was correct. The recommendation before us is to endorse \$12,000 to investigate the proposal.

Cr Ozsdolay - request for comment on the proposed Amendment

Chief Executive Officer stated that there needed to be clarification in relation to the purpose of the report which is to look at ways and means of improving infrastructure at Sir James Mitchell Park and that would be the role of the Working Party to review costs and whether to proceed and if so at what cost, bearing in mind there are other players involved. With respect to the Amendment he said that whilst related it does not help the City in improving the infrastructure of SJMP. He stated that the Skyshow is organised by the City of Perth and the two additional toilets, paid for by the City of Perth, would not be connected to the sewer. All it would mean is the truck would pump from one unit rather than say 16 units. Currently there are two permanent connection points to the sewer and they are currently used to provide toilet blocks on Skyshow night.

Mayor Collins requested that copies of the Minutes of the meetings of the Working Party formed to investigate sewerage options for Sir James Mitchell Park be provided to all Members.

Manager Environmental Health and Regulatory Services confirmed that he would arrange for copies of the Minutes to be circulated to Members.

Cr Jamieson closing for the Amendment

- what are we actually doing? - getting authorisation for next stage of report
- do next stage then come back to Council to determine way forward
- purpose of amendment to get all information to consultant
- get trial evaluation and move forward
- support Amendment

The Mayor put the Amendment.

LOST (6/7)

Cr Trent closing for the Motion

- 12 months ago had not heard of Red Bull Air Race and then it came to South Perth
- Skyshow attracts two to three hundred thousand people
- residents biggest fear of these large events is the denigration of their front gardens
- appoint Consultant and come back to see 'where to from here'
- support Motion

**OFFICER RECOMMENDATION AND  
COUNCIL DECISION ITEM 9.0.2**

The Mayor put the Motion

That...

- (a) the City formally appoint Parsons Brinkerhoff - Civil Engineering Consultants to carry out Task (1) as detailed in report at a total cost of \$12,000 and for the first part of Task (2) at an estimated cost of \$2,000;
- (b) the working group be authorised to consider and approve the design plans and review the indicative costs;
- (c) on completion of part (b) above:
  - (i) the City:
    - (A) submit the submission to the Water Corporation / Swan River Trust for approval; and
    - (B) approach the Department of Environment, Department of Health, Department of Planning and Infrastructure, Swan River Trust and the Water Corporation seeking contributions for the installation of the sewerage connection points;
  - (ii) the Consultants be authorised to proceed to preparation of tender documents stage;
- (d) additional funds totalling \$4,000 be allocated to the project from the Waste Management Reserve; and
- (e) a further report be provided to the earliest meeting of Council when all the relevant information detailed in recommendations (a) to (c) has been obtained.

CARRIED BY REQUIRED ABSOLUTE MAJORITY (12/1)

**NOTE:** CR GLEESON REQUESTED THAT HE BE RECORDED AS HAVING VOTED AGAINST THE MOTION.

**Note:** Manager Environmental Health and Regulatory Services left the meeting at 9.30pm

**9.0.3 Junior Player Fees - Primary Schools located within City of South Perth** *(Item 9.2.1 referred from September 2006 Council Meeting)*

Location:	City of South Perth
Applicant:	Council
File Ref:	GS/102
Date:	9 November 2006
Author:	Neil Kegie, Manager Community Culture and Recreation
Reporting Officer:	Steve Cope, Director Strategic and Regulatory Services

**Summary**

To consider extending the exemption of junior player fees to include Primary Schools located within City of South Perth.

**Background**

At its September 2006 meeting Council considered a report to increase the City's support for junior sport by waiving fees for casual usage of reserves by community based sporting clubs; schools and colleges based in the City and by waiving junior players fees for regular usage of reserves by community based sporting clubs based in the City of South Perth. Council discussed extending the waiver of junior player fees to include Primary Schools and resolved as follows:

*That the City...*

- (a) *waives immediately the fee for casual hiring of active reserves for the purposes of junior sporting activities to schools and colleges within the City of South Perth with additional charges associated with extra bins or rangers services still applicable;*
- (b) *waives immediately junior player fees for community based sporting clubs based in the City of South Perth;*
- (c) *contacts all schools and community based junior sporting organisations in the City advising of this decision;*
- (d) *takes into account the findings of the Western Australian Local Government Association's review of junior player fees in the 2007/08 budgeting process; and*
- (e) *consider a further report to the earliest available Council Meeting to include primary schools within the City of South Perth receiving exemption as per part (b) above.*

This report provides information relating to part (e) of that decision.

**Comment**

Officers contacted the eleven primary schools in the City of South Perth to inform them of councils decision and to ascertain:

- If schools currently use the City's reserves for regular sporting activities;
- What comments schools had about the current fee structure;
- If schools would use the City's reserves more if junior player fees were waived; and
- If schools hire out their own reserves to external users, and if so under what conditions.

Responses were received from six of the eleven primary schools contacted:

- Five respondents indicated that they currently used City reserves for one-off events;
- Three commented that the City should not charge fees for the use of reserves;
- Two indicated that they may use City reserves more if fees were waived; and
- Three indicated that external groups used their reserves from time to time although none had a formal fee structure. One indicated that they requested a small donation. The remaining respondents indicated that usage was by special arrangement but did not nominate fees, if any that were charged.

The City's records indicate that while a number of primary schools in the area use City reserves for some one-off sporting activities such as interschool sports carnivals, cross country runs or one off sports days there is very little regular ongoing usage by primary schools for activities which attract junior player fees. Typically this would be for regular training or games fixtures. A number of the larger schools that comprise both junior and secondary components are using City reserves for activities that attract junior player fees, however the City's records do not indicate whether usage is for secondary or primary aged students. While none of the six schools that responded to the City's request for information indicated that they used reserves regularly it is possible that some of those that did not respond do use reserves for regular primary school sports activity. If so however, the usage would be very low and the amount received by the City in junior player fees from primary schools would be minimal, counted in the low hundreds of dollars at most.

An issue that was raised in the September Council report on junior player fees in relation to regular usage by schools was the potential for increased regular usage as a result of a fee waiver and a corresponding increase in maintenance costs. The report also noted that the Western Australian Local Government Association has formed a Recreation and Leisure Group that is consulting with a range of stakeholders with a view to providing Local Government Authorities with some guiding principles in this area. Local Government

Authorities have identified a range of related issues with many looking to review their fee charging models, and the relationship between fees and the costs associated with facility development and maintenance. These issues include:

- The development of new reserves and sporting facilities in growth areas;
- Maintenance and upgrading costs associated with ageing facilities;
- Costs associated with statutory requirement to modify facilities (eg disability access);
- Capacity of schools and sporting organisations to pay;
- Increased usage of council facilities by schools as a result of amalgamations of schools or the sale of school reserves and facilities;
- LGAs assisting organisations to increase their capacity to contribute rather than assuming responsibility for additional costs
- Increased pressure on rates as a result of reducing or waiving fees

While it is the recommendation of this report to waive junior player fees for primary schools based in the City of South Perth there is merit in considering the findings of the WALGA review when they are known and to report any pertinent findings back to Council for further consideration if necessary.

#### **Consultation**

The eleven primary schools based in the City of South Perth were consulted during the preparation of this report.

#### **Policy and Legislative Implications**

No policy implications

#### **Financial Implications**

There would be a minimal (if any) reduction in revenue to the City if junior player fees for primary schools were waived. Any additional usage by primary schools, particularly of a regular basis may however result in increased reserve maintenance costs.

#### **Strategic Implications**

The contents of this report relate to the following aspects of the City's Strategic Plan 2004 - 2008:

Strategy 2.7

*"Develop strategic directions for events, arts including public art, leisure, recreation and heritage that encourages a vibrant and participative community. This includes initiatives relating to the George Burnett Leisure Centre, libraries, parks, river and other community programs."*

Strategy 6.3

*"Identify opportunities to introduce a 'user pays' fee charging model and develop strategies to implement this philosophy where appropriate, whilst continuing to recognise community service obligations."*

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.0.3</b>
---

That the City....

- (a) waives immediately junior player fees for primary schools based in the City of South Perth;
- (b) takes into account the findings of the Western Australian Local Government Association's review of junior player fees in the 2007/08 budgeting process; and
- (c) monitors usage of reserves by primary schools based in the area and informs Council of any increased maintenance costs resulting from increased usage by primary schools based in the City of South Perth.

CARRIED EN BLOC RESOLUTION

## **9.1 GOAL 1 : CUSTOMER FOCUS**

<b>9.1.1 Annual Electors Meeting held 6 November 2006</b>
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Location:	City of South Perth
Applicant:	Council
File Ref:	A/ME/1
Date:	9 November 2006
Author:	Kay Russell
Reporting Officer:	Cliff Frewing, Chief Executive Officer

### **Summary**

The Annual Electors meeting was held on 6 November 2006 to discuss the Annual Report, Financial Statements and the Auditor's Report for the year ended 30 June 2006.

### **Background**

Following completion of the City's Annual Report an Annual Electors' Meeting is called which must be within 56 days of acceptance of the Annual Report. The meeting was held on 6 November 2006.

### **Comment**

Council is required to consider any Motions passed at an Annual Electors Meeting. At the meeting held on 6 November 2006 there were no Motions passed that required a determination by Council.

The Mayor tabled the Annual Report. The Chief Executive Officer gave a powerpoint presentation on the Annual Report and Financial Statements for the year ended 30 June 2006. He identified the highlights / achievements for the year and the opportunities for the current financial year.

### **Consultation**

Notice of the Annual Electors' meeting was lodged in the Southern Gazette newspaper with copies of the Agenda being provided to the Libraries, Heritage House, the Council noticeboards and website.

### **Policy Implications**

Council is required to hold an annual meeting of electors and consider and resolutions passed at the Annual Electors' Meeting at a subsequent Council meeting.

### **Financial Implications**

N/A

### **Strategic Implications**

This report deals with matters which directly relate to Goal 1 of the City's Strategic Plan –

*'To be a customer focused organisation that promotes effective communication and encourages community participation.'*

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.1.1</b>
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That the Minutes of the Annual Electors Meeting held on 6 November 2006, **Attachment 9.1.1** be received.

CARRIED EN BLOC RESOLUTION

## **9.2 GOAL 2: COMMUNITY ENRICHMENT**

<b>9.2.1 Sporting and Recreational Facilities</b>
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Location:	City of South Perth
Applicant:	Council
File Ref:	CS/302
Date:	16 November 2006
Authors:	Neil Kegie, Manager Community Culture and Recreation Mark Taylor, Manager City Environment
Reporting Officer:	Steve Cope, Director Strategic and Regulatory Services

### **Summary**

The purpose of this report is to outline the development of a strategy for the sustainable development and maintenance of the City's sporting and recreational facilities in order that they meet the current and future needs and aspirations of the City's sporting and recreational clubs.

### **Background**

Sporting and recreational clubs are integral to the social fabric of the City of South Perth community. They provide opportunities for people to collectively participate in a range of sport and recreational activities. It is through this collective participation that people connect with others, make friends, socialise, undertake physical activity, learn new skills, make a contribution to the local community and gain a sense of belonging.

In recognition of the important role played by sporting and recreational clubs the City maintains buildings and reserves for use by community groups including sporting and recreational clubs. The purpose of developing a strategy for the maintenance and development of sporting and recreational facilities is to ensure the City optimises its maintenance budget while ensuring that its facilities meet current and future needs.

The sporting and recreation facilities that are the subject of this report are aged between 12 and 60 years and are in varying states of repair. The needs and expectations of user clubs has changed over that time and new requirements for facilities such as improved disability access must now be met. While the City undertakes regular maintenance of its facilities, officers have identified the need to consider current needs and future trends when establishing maintenance schedules and in particular when prioritising proposals for more significant upgrades of these facilities.

It is envisaged that this information can be used to assist Council when considering submissions from sporting and recreational clubs for facility development, including under the Community Sporting and Recreational Facilities Fund. The information can also be used to develop strong evidence based arguments for funding to complement the City's financial commitment to major facilities development projects.

Accordingly, in September 2005 the City commissioned the community development organisation *Creating Communities* to undertake a study to;

- Identify current and future trends relating to sporting and recreational clubs in the City of South Perth
- Determine optimum usage for facilities identified in the specification to meet current and future trends
- Establish a policy framework to guide the City in the allocation of resources to sporting and recreational clubs based on a strong sustainable community

The scope of the study included sixteen sporting and recreational facilities owned by the City and leased and/or used by a total of twenty two sporting and recreational clubs. Eight of the facilities are used on a seasonal basis by one or more clubs and eight are exclusive use facilities used throughout the year by one club. The following table details the facilities and clubs included in the study.

Multi Use or Seasonally Used Facilities	User Clubs
Ernest Johnson Pavilion Ernest Johnson Reserve SOUTH PERTH	South Perth Cricket Club Western Australian Football Commission Umpies South Perth Junior Football Club
WCG Thomas Pavilion Richardson Park SOUTH PERTH	South Perth Cricket Club Wesley and South Perth Men's Hockey Club South Perth Women's Hockey Club
Bill Grayden Pavilion Bill Grayden Reserve COMO	South Perth Baseball Club Trinity Aquinas Amateur Football Club
George Burnett Pavilion George Burnett Park KARAWARA	South Perth Rugby League Club Southern Districts Touch Association South Perth Junior Cricket Club
Morris Mundy Pavilion Morris Mundy Reserve KENSINGTON	Kensington Cricket Club South Perth Junior Cricket Club
Collier Pavilion Collier Reserve COMO	South Perth Baseball Club WA Gaelic Athletic Association
Challenger Pavilion Challenger Reserve MANNING	South Perth United Football Club
James Miller Pavilion James Miller Reserve MANNING	Manning Rippers Amateur Football Club
Exclusive Use Facilities and Clubs	
Manning Tennis Club	Griffin Crescent MANNING
South Perth Lawn Tennis Club	Murray Avenue COMO
Hensman Park Tennis Club	Anstey Street SOUTH PERTH
Kensington Tennis Club	Bradshaw Crescent MANNING
South Perth Bowling Club	Mends Street SOUTH PERTH
Manning Memorial Bowling Club	Murray Street COMO
Como Bowling and Recreation Club	Hensman Street SOUTH PERTH

The report *Future Directions and Needs Study for Sporting and Recreational Clubs* (2006 ) was completed in March 2006 and presented to elected members at a briefing in May 2006. The study details the findings of extensive consultation including consultation with the twenty two sporting and recreational clubs that use the facilities in the scope of the study and makes recommendations aimed at achieving a sustainable approach to facility maintenance and development while providing ongoing support for local sporting and recreational clubs.

The significant body of information gathered will provide sound direction for a number of City departments including the Community Culture and Recreation department which maintains close contact with the sporting clubs in the area, the City Environment Department which manages maintenance and upgrade works associated with the facilities and the Financial Services department which coordinates the leasing arrangements with the clubs. Since the presentation of the study to elected members officers from these departments have been considering the implications of the study and are confident that a sound and practical strategy can be developed that will provide benefits to local clubs, the City and the broader community.

Since May 2003 three initiatives have been considered by Council that relate to the findings of the study. These are:

- Waiving of junior player fees for sporting clubs
- Upgrade of the WCG Thomas Pavilion on Richardson Reserve
- Upgrading of lighting on Challenger Reserve for use by the South Perth United Soccer Club

In these cases the officer recommendations and decisions taken have been consistent with the findings of the study.

This report recommends that Council receives *Future Directions and Needs Study for Sporting and Recreational Clubs (2006)* prior to a period of public consultation and the development of a *Sporting and Recreational Facilities Development Strategy*.

### Comment

The report *Future Directions and Needs Study for Sporting and Recreational Clubs (2006)* defined the facilities included in the study in three categories;

#### 1. District Sporting Pavilions

Characteristics	Examples
Basic pavilion buildings located on district active reserves: <ul style="list-style-type: none"> <li>• Used by one or two sporting clubs</li> <li>• Used on a seasonal basis</li> <li>• Maintenance shared by clubs and Council</li> <li>• Operated and managed by clubs</li> <li>• May include separate bar facilities</li> </ul>	<ul style="list-style-type: none"> <li>• Morris Mundy Pavilion</li> <li>• Collier Pavilion</li> <li>• Challenger Pavilion</li> <li>• James Miller Pavilion</li> </ul>

#### 2. Regional Sporting Pavilions

Characteristics	Examples
Large pavilion buildings located on regional active reserves: <ul style="list-style-type: none"> <li>• Used by two or more sporting clubs</li> <li>• Used on a seasonal basis</li> <li>• Maintenance shared by clubs and Council</li> <li>• Operated and managed by clubs</li> <li>• Incorporate separate bar facilities</li> </ul>	<ul style="list-style-type: none"> <li>• George Burnett Pavilion</li> <li>• Bill Grayden Pavilion</li> <li>• Ernest Johnson Pavilion</li> <li>• WCG Thomas Pavilion</li> </ul>



3. Exclusive Use Facilities

Characteristics	Examples
<p>Clubroom buildings located with single purpose playing areas:</p> <ul style="list-style-type: none"> <li>• Used by one sporting club</li> <li>• Used all year round</li> <li>• Maintained and operated by clubs in accordance with lease agreements</li> <li>• Incorporate separate bar facilities</li> </ul>	<ul style="list-style-type: none"> <li>• 4 Tennis Clubs</li> <li>• 3 Bowling Clubs</li> <li>• Como Croquet Club</li> </ul>

The report recommends a model for the maintenance and future development of these facilities that takes into account anticipated trends in the various sports, general trends in facility development and is based on a shared approach to facility usage including increased usage by non sporting community based groups. The model outlines general characteristics of the three facility categories as follows:

District Pavilions

- Four toilet change rooms
- Equipment storage rooms
- Kitchen/Kiosk
- Social/meeting room (no function facilities)
- Shaded spectator seating
- Managed by Council
- Seasonal hire agreements
- Hire agreements with non sporting groups

Regional Pavilions

- Four toilet change rooms
- Equipment storage rooms
- Kitchen – suitable for professional catering
- Function room with bar facilities
- Administration office
- Meeting room
- First aid room
- Shaded spectator seating
- Leased to sporting associations

Exclusive Use Facilities

- Female and Male toilet change rooms
- Equipment storage rooms
- Kitchen – suitable for professional catering
- Function room with bar facilities
- Administration office
- Meeting room
- First aid room
- Shaded spectator seating
- Leased to sporting clubs

The recommendations of the report, **Attachment 9.2.1** refers, relate to the three objectives of the study, which are to:

- Identify current and future trends relating to sporting and recreational clubs in the City of South Perth;
- Determine optimum usage for facilities to meet current and future trends; and
- Establish a policy framework to guide the City in the allocation of resources to sporting and recreational clubs based on a strong sustainable community.

It is envisaged that a *Sporting and Recreational Facilities Development Strategy* will clearly articulate the City's commitment to the ongoing support and development of sporting and recreational clubs in the City, including a clear understanding, based on all of the information gathered of the level to which the City will fund facility development.

Integral to such a strategy will be the City's role in proactively seeking external funding in partnership with resident clubs to complement the existing capital works budget. This would be predominantly through the *Community Sport and Recreation Facility Fund (CSRFF)* which is administered through the Department of Sport and Recreation. Other opportunities for funding also exist through Lotterywest and the Department of Community Development.

It is important to note that this strategy relates solely to the pavilions themselves and does not extend to playing surfaces, floodlighting, wickets etc. It would be expected that the clubs would continue to apply for funding through the CSRFF program for these additional elements. Through such a strategy the City would commit, over a period of time to developing the facilities to a set standard utilising the three category model comprising the District, Regional and Exclusive use facilities. Clubs may, at the City's discretion add to the basic model, however would be expected to fund additional elements themselves.

Consultation with representatives from the Department of Sport and Recreation indicates that the City would be in a strong position to argue for funds using a well developed and researched *Sporting and Recreational Facilities Development Strategy*. Utilising the strategy in this way, it would be expected that the City would be able to access the CSRFF to a far greater degree than in the past.

In addition the strategy, based on the *Future Directions and Needs Study for Sporting and Recreational Clubs (2006)* report would provide Council with appropriate information to consider requests for funding from sporting and recreation clubs either through the CSRFF program or those made directly to the City.

Full implementation of a *Sporting and Recreational Facilities Development Strategy* is estimated to take approximately 10 years.

### **Consultation**

Council received a briefing on the report *Future Directions and Needs Study for Sporting and Recreational Clubs (2006)* on 3 May 2006.

The development of the report involved the following consultation strategy:

### **Literature Review:**

- City of South Perth Strategic Plan 2004 - 2008
- City of South Perth Strategic Financial Plan 2005/2006 - 2009/2010
- City of South Perth Connected Community Plan 2005 - 2008
- Community Facilities Needs Study (Creating Communities Inc, March 2004)
- City Building Condition Asset Management Strategy (Tungsten Group September 2004)
- City of South Perth Community Safety and Crime Prevention Plan (Arid Group August 2005)

- City of South Perth Sustainability Strategy (September 2005)
- Now and in the Future (Barbara Gatter, January 2003)
- Strategic Directions for Lawn Bowls (Department of Sport & Recreation, March 2003)
- South East Regional and Recreational Facility Strategy (ABV, June 2004)
- Draft Tennis West Perth Metropolitan Strategic Plan (Department of Sport and Recreation, January 2006)

**Consultation meetings with sporting club user groups of each facility:**

- In December 2005 a survey questionnaire was distributed to the 22 sporting club user groups of the 16 facilities included in the study. Nineteen questionnaires were returned, a response rate of 86%.
- Sixteen meetings were held in February 2005 with the user groups. Wherever possible individual meetings included users of one facility.
- Meetings were held with representatives from City of Melville, City of Stirling, City of Gosnells, City of Canning and Town of Victoria Park
- A City of South Perth staff focus group was conducted with representatives from all departments involved in the management and maintenance of sporting and recreational facilities.

In addition, the Department of Sport and Recreation have been consulted regarding the potential for CSRFF funding through the development of a *Sporting and Recreational Facilities Development Strategy* as has the Department of Community Development.

**Policy and Legislative Implications**

No policy implications

**Financial Implications**

The City currently provides for the ongoing maintenance and upgrading of its sporting facilities through the forward capital works program which progresses through Council's normal budgeting process. Included in a *Sporting and Recreational Facilities Development Strategy* will be an indicative schedule of works over a 10 year period indicating the scale of works required on each of the facilities. While it is unlikely that accurate estimates of building costs can be made for this period of time, significant cost items can be identified with detailed information for projects proposed for the shorter or medium term. In order to respond effectively to any changes in trends or in the circumstances of clubs a degree of flexibility should be built into the strategy to allow for the reprioritisation of maintenance and upgrade projects while working within the three facility categories framework.

As outlined in this report, additional funding would be expected from external sources such as:

- *Community Sport and Recreational Facilities Fund* grants through the Department of Sport and Recreation: for elements of projects that will enhance sporting and recreation participation
- Lotterywest: for elements of projects that will increase access to facilities by non sporting community groups
- Department of Community Development: for elements that align with DCD objectives such as programs activities for young children
- Clubs: where associated works combines with other work requested through CSRFF projects

The development of a strategy will also consider the financial implications of the recommendations relating to the City coordinating the use of the four district level pavilions. This would include the benefits of an improved administrative process and the additional community benefits to be gained from having more suitable and more widely accessible facilities.

### **Strategic Implications**

This report is complimentary to the following aspects of the City's Strategic Plan 2004 - 2008

Goal 1 - Customer Focus

*'To be a customer focused organisation that promotes effective communication and encourages community participation'*

Strategy 1.5

*'Develop and implement internal and external customer satisfaction surveys to improve the effectiveness of organisational processes'*

Strategy 1.7

*'Establish consultative community mechanisms in order to involve the community in the planning and development of local area precincts'*

Goal 2 - Community Enrichment

*'To foster a strong sense of community and a prosperous business environment'*

Strategy 2.4

*'Review the current use and suitability of our community buildings and develop a strategy to ensure that the buildings meet current and future requirements, are environmentally sound and their use is maximised'*

Goal 4 - Infrastructure

*'To sustainably manage, enhance and maintain the City's infrastructure assets'*

Strategy 4.2

*'Review and prioritise the Forward Capital Works Program taking into account the outcomes of the Community Needs Survey to ensure works are aligned with community needs'*

Goal 6 - Financial Viability

*'To provide responsible and sustainable management of the City's financial resources'*

Strategy 6.1

*'Ensure appropriate sources of funding can be accessed when required to fund identified priorities included in the Strategic Financial Plan and Annual Budget'*

Strategy 6.2

*'Maximise community benefit and value for money from City expenditures and use of our assets'*

<b>OFFICER RECOMMENDATION ITEM 9.2.1</b>
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That...

- (a) the report 'Future Directions and Needs Study for Sporting and Recreational Clubs' (Creating Communities 2006) be received;
- (b) the report is made available on the City's website and the community asked for comment on the recommendations of the report, including the sporting and recreational clubs mentioned in the report; and
- (c) submissions received during the public consultation be taken into consideration in the preparation of a **draft** *Sporting and Recreational Facilities Development Strategy* to be presented to Council for consideration.

MOTION

Cr Maddaford moved the officer recommendation, Sec Cr Ozsdolay

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Jamieson against the Motion

- not enough in the way of vision
- submitted my vision statement - do not know if my vision has been taken forward
- CEO assured me my vision statement had been passed on
- 5 - 10 year plan for City - expect that my vision is considered
- July 2005 presented my vision statement for sporting areas

(Cr Jamieson read aloud from his Vision document.)

- would like to see proposed Study investigated in a bigger cycle

**Note:** Cr Gleeson left the Chamber at 9.35pm and returned at 9.38pm

Cr Macpherson suggested Cr Jamieson's Vision Statement be forwarded as a submission and form part of the public consultation process.

Chief Executive Officer stated that in response to Cr Jamieson's Vision Statement that the issues raised in the report differ to Cr Jamieson's proposal. He said that this particular Study comments on maintenance and future development of the City's various sporting club buildings. The City has some good facilities and the Study conducted in consultation with users of the 16 sporting facilities has provided valuable feedback which is contained within the report. What we are seeking to do now is put the findings of the Study out to the wider community for comment and bring the outcome back to Council so that Councillors can then review the comments of the wider community. Some of the comments from Cr Jamieson have been addressed in the wider areas of the Study.

AMENDMENT

Cr Trent moved an Amendment: That the words *a 3 month public consultation period* replace the words *the public consultation* in the first line of part (c) of the Motion. Sec, Cr Best

Cr Hearne point of clarification I thought clubs were to be advised in writing - have concerns if this Study is just going on the website, believe it should be in writing.

Manager Community, Culture and Recreation and CEO confirmed that it was proposed to contact all of the sporting clubs in writing.

The Mayor put the Amendment.

CARRIED (7/6)

**COUNCIL DECISION ITEM 9.2.1**

The Mayor put the Amended Motion

That...

- (a) the report 'Future Directions and Needs Study for Sporting and Recreational Clubs' (Creating Communities 2006) be received;
- (b) the report is made available on the City's website and the community asked for comment on the recommendations of the report, including the sporting and recreational clubs mentioned in the report; and
- (c) submissions received during a 3 month public consultation period be taken into consideration in the preparation of a **draft** *Sporting and Recreational Facilities Development Strategy* to be presented to Council for consideration within the next 3 months.

CARRIED (13/0)

**Note:** Manager Community, Culture and Recreation left the meeting at 9.45pm

**9.3 GOAL 3: ENVIRONMENTAL MANAGEMENT**

**9.3.1 Approved Plans Proposed Refurbishment / Extensions Bellhouse Café on Mends Street Jetty and Construction of New Universal Access Public Transport Jetty**

Location: Mends Street Jetty and Reserve 28779 (Sir James Mitchell Park), South Perth  
Applicant: Department for Planning and Infrastructure (Asset Management) / Lessee - Mr Ian Love  
File Ref: IS/JT/4 - 11/2268  
Date: 14 November 2006  
Author: Rod Bercov, Manager, Development Services  
Reporting Officer: Steve Cope, Director, Strategic and Regulatory Service

**Summary**

This application was approved by the Minister for the Environment on 10 March 2006. Council was informed of the implications of that decision at a Concept Forum held on 13 June 2006. The purpose of this report is to clarify Council's position on Condition 3 where some discretion is available to Council.

**Background**

Council consideration of previous and current applications

The Mends Street Jetty, is situated within the Swan River Trust Management Area. Applications for development within the Trust Management Area are determined by the Minister for the Environment following receipt of recommendations from both the Swan River Trust and the affected local government.

In March 2003, the original proposal for substantial additions and alterations to the Bellhouse Café was refused by the (then) Minister for the Environment and Heritage. This was in line with recommendations from the Council and the Swan River Trust.

The proponents later lodged an amended application based upon an alternative design which confined the proposed additions to the southern end of the jetty, while at the same time expanding both eastwards and westwards. This amended proposal involved the construction of a second jetty for public transport. The new proposal was considered at the February 2005 Council meeting Council recommended refusal for a-number of reasons.

Prior to the Swan River Trust making a determination on the new proposal, further revised plans were submitted by the proponents. The Trust referred the modified proposal to the Council and this was considered at the August 2005 meeting. Council again recommended refusal.

Decision of Minister for the Environment approving the application

The Swan River Trust recommended to the Minister that the application be approved subject to a number of conditions. The new Minister, for the Environment approved the application subject to 26 conditions. The outcome of the most recent application was advised to Council at a Concept Forum briefing held on 13 June 2006. Attachment 9.3.1 to this report is the Determination of Development Application dated 10 March 2006 and accompanying letter dated 17 March 2006. Among the conditions of approval, some discretion is required to be exercised by Council on Condition 3 which reads as follows:

*“Prior to the commencement of the development, an amount of money to be provided to the City of South Perth as cash-in-lieu of vehicle parking to the equivalent of construction of twenty car parking bays and associated manoeuvring space (see **Advice Notes 1 and 2**).”*

The advice notes related to this condition read as follows:

- “1. In relation to Condition 3, the funds may be used to provide new capital works including pedestrian / cycle paths, pedestrian facilities, and bus embayments / shelters as alternative arrangements to the transport of patrons to the extended restaurant, or the reconfiguration of existing car parking areas within Crown Reserve 28779 and / or the adjacent road reserve to increase the number of bays.*
- 2. In relation to Condition 3, money received by the City of South Perth should be maintained in a separate Trust Account.”*

Condition 3 links the cash-in-lieu payment to the construction cost of 20 parking bays and associated access ways. It is noted that there is no requirement for the contribution of an amount of money equivalent to the value of the land that would be occupied by those parking bays and access ways. The provisions of the City's No. 6 Town Planning Scheme relating to cash-in-lieu payments, required that the calculation of cash in lieu payment takes into account both the construction cost and the land cost, the current application is not subject to TPS6.

Comment

The developer has requested that Council give consideration to providing an assessment of the monetary value associated with Condition 3.

In order to estimate the value of the cash contribution to the equivalent of 20 car parking bays, the City's Manager, Engineering Infrastructure has considered the options and prepared concept designs for 20 additional public car parking bays in the vicinity of the proposed restaurant, based upon ground level construction.

The options considered include:

1. Extending the existing off street car parking station to the west in a curvilinear fashion around South Perth Esplanade in a similar configuration to the existing car park. Cost \$90,000 (incl GST)
2. Extending the existing off street car parking station to the west in a straight line fashion into the South Perth Esplanade road carriageway; this would require some modification to the existing alignment of South Perth Esplanade and is the most expensive option. Cost \$140,000 (incl. GST)

3. Widening the existing off-street car parking station to the north to enable construction of a new row of car bays accessed from a central access aisle and is the preferred option for this purpose. Cost \$130,000 (incl. GST)

The three designs for car parking configurations are not final designs and are conceptual only. These designs were developed solely for the purpose of determining the cash in lieu contribution for car parking to satisfy Condition 3 of the Minister's approval.

It is noted that the adopted Sir James Mitchell Park Foreshore Management Plan recommends against creation of additional public car parking on Sir James Mitchell Park. It is also noted that if received in accordance with the Minister's approval, the payment in lieu is not required to be spent on provision of parking.

The Minister's decision is valid for two years from 10 March 2006. Within that period, the development must be substantially commenced or completed. It is not known how soon the lessee intends to proceed with the development. In relation to compliance with all of the Minister's conditions, including the cash-in-lieu payment, the next step is for the lessee to contact the City to establish what action he needs to take in order to comply.

#### **Policy and Legislative Implications**

The legislation governing the statutory procedure in this instance is the *Swan River Trust Act 1988*.

#### **Financial Implications**

This issue has implications in terms of the required cash payment in lieu of the provision of car parking, as discussed above.

#### **Strategic Implications**

This matter relates to Goal 3 "Environmental Management" identified within the Council's Strategic Plan. Goal 3 is expressed in the following terms:

*To effectively manage, enhance and maintain the City's unique natural and built environment.*

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.3.1</b>
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That in respect of the proposed refurbishment and extensions to the Bellhouse Café on Mends Street Jetty and Reserve 28779 (Sir James Mitchell Park), South Perth, and the construction of a new universal access Public Transport Jetty, Council advises that:

- (a) for the purpose of satisfying Condition 3 of the approval dated 10 March 2006 granted by the Minister for the Environment, the value of cash in lieu of vehicle parking to the equivalent of construction of twenty car parking bays and associated manoeuvring space is estimated at \$130,000 subject to payment being received by not later than 1 December 2006. Thereafter, this figure will be increased to reflect any increase in the Consumer Price Index; and
- (b) the 'cash-in-lieu' payment will not be expended on the construction of additional parking bays on the foreshore reserves as Council opposes expansion of car parking in this location. Council is mindful of Advice Note 1 attached to the approval of 10 March 2006 which refers to the option for the funds to be expended on capital works relating to other modes of transport, namely facilities for pedestrians, cyclists or bus passengers.

CARRIED EN BLOC RESOLUTION



**9.3.2 Proposed Relocation of State Herbarium to new Biodiversity Science Centre Hayman Road, Kensington.**

Location: Reserve 26916 Lot 1875 Location 4224 Hayman Road, Kensington  
 Applicant: Ferguson Architects for the Department of Environment and Conservation (DCE)  
 Lodgement Date: 6 September 2006  
 File Ref: 11/1431/66  
 Date: 3 November 2006  
 Author: Rajiv Kapur, Planning Officer  
 Reporting Officer: Steve Cope, Director Strategic and Regulatory Services

**Summary**

The application is for the proposed relocation of the State Herbarium into a new Biodiversity Science Centre for the Department of Environment and Conservation (DCE), earlier known as the Department of Conservation and Land Management (CALM). This application for planning approval is to be determined by the Western Australian Planning Commission (WAPC). Council’s recommendations are sought having regard to the City’s Scheme and Policy provisions. The recommendation is for refusal, noting that the proposed development does not conform to the Scheme provisions in relation to the building height and car and bicycle parking requirements.

**Background**

This report includes the following attachments:

- **Confidential Attachment 9.3.2(a)** Plans of the proposal.
- **Attachment 9.3.2(b)** Letter from Ferguson Architects, dated 20 September 2006.

The development site details are as follows:

Zoning:	Technology Park
Density coding:	Not applicable
Lot area:	93,171 sq. metres
Building height limit:	7.0 metres
Development potential:	Not applicable

In accordance with the advice contained in WAPC Planning Bulletin No. 53 “Development by Public Authorities on Land Reserved Under the Metropolitan Region Scheme”, the Western Australian Planning Commission will be the determining authority for the subject development as the works are “Public Works” and the Crown is the owner of the land.

In accordance with Council Delegation DC342, the proposal is referred to a Council meeting because it falls within the following category described in the Delegation:

- 1. Large Scale Development proposals**
  - (i) *Proposals involving non-residential development which, in the opinion of the delegated officer, are likely to have a significant effect on the City.*

The location of the development site is shown below. The site is adjoined by Hayman Road along its western and southern boundaries, Dick Perry Avenue along its northern boundary, and Kent Street along its eastern boundary. The subject site is bounded by non-residential development across these street boundaries. The closest residential development on the

western side of Hayman Road is approximately 100 metres away from the north-western corner of the subject site and approximately 200 metres away from the proposed buildings. Therefore, the proposed development is seen to be reasonably distant from this residential development, thus not having an adverse impact upon its amenity.



**Comment**

**(a) Description of the Proposal**

The proposal comprises relocation of the State Herbarium onto the subject site as a new Biodiversity Science Centre for the Department of Environment and Conservation (DCE). The applicant’s letter, **Attachment 9.3.2(b)**, does not describes the proposal in any more detail. However, the proposed use of the buildings as a Science Centre suggests that the buildings will be used primarily for the purposes of research and development. The land use “Research and Development” is defined under the Town Planning Scheme No. 6 as:

*“scientific and industrial research and the development, production and assembly of products associated with such research undertaken on any land or within a building designed and equipped for such activities”.*

The proposal complies with the requirements of the No. 6 Town Planning Scheme (TPS6) in terms of maximum plot ratio, minimum setbacks from lot boundaries and minimum landscaped area as prescribed by Table 3 of the Scheme. However, the proposed development does not comply with the building height limit, and, car and bicycle parking provisions of the Scheme. Design modifications, as discussed under the consultation section, have been recommended to ensure design consistency between various proposed buildings. Provisions of the Residential Design Codes and Council Policies are not relevant to this development.

**(b) Plot Ratio**

Table 3 of TPS6 prescribes a maximum plot ratio of 0.5 (in this instance equating to 46,586 sq. metres of plot ratio area). The proposed plot ratio area measures 5480 sq. metres. In the absence of any drawings of the existing development to measure from, or, any previous information on file records, the existing plot ratio area has been calculated on the basis that the proposed plot ratio area is observed to be approximately 85 percent of the proposed gross floor area. On this basis, having calculated the approximate existing gross floor area from the aerial photograph as 9220 sq. metres, the existing plot ratio area is calculated as 7840 sq. metres.

Therefore, the sum total of the existing and proposed plot ratio floor areas is 13320, which equates to a plot ratio of 0.14. Therefore, the proposed development complies with the TPS6 plot ratio requirement.

**(c) Landscaping**

Table 3 of TPS6 prescribes a minimum landscaped area of 25 percent, or, 23,293 sq. metres. The proposed development would allow at least 45,000 sq. metres of landscaped area which is nearly 48 percent of the site. Therefore, the proposed development complies with this requirement.

**(d) Setbacks**

Table 3 of TPS6 prescribes a 7.5 metre setback from the street frontages and 4.5 metres from other boundaries is required. Setbacks provided for the proposed development are greater than those required, hence comply with the requirement.

**(e) Building Height Limits**

TPS6 prescribes a Building Height Limit of 7.0 metres to the site. The proposed development has a building height of 11.5 metres which exceeds the permitted building height limit prescribed by Clause 6.2 of TPS6. The building height must be lowered to comply with this requirement. Due to the present building height conflict, the current application must be refused.

**(f) Car and Bicycle Parking**

Table 6 of TPS6 sets out the number of car and bicycle parking bays required for certain land uses. However, the parking requirement is not prescribed for the land use 'Research and Development'. Clause 6.3(2) states that in the case of uses not listed in Table 6, Council shall determine the number of car bays required in each case, having regard to the likely demand.

The proposal shows that a total of 90 car parking bays are being proposed while removing 32 existing car parking bays. Hence, the actual number of bays being proposed is 58. While noting that the existing as well as proposed development comprises office spaces for the use of scientists and administrative staff, meeting rooms, laboratories and herbarium vaults, office use forms a major component of the existing as well as proposed development. Since an office use has been found as the closest equivalent use for the development, the proposal has been assessed under the car and bicycle parking requirements of "Office" land use.

By comparison, the requirement for the use 'Office' is 1 car bay per 25 sq. metres gross floor area irrespective of the number of people employed, of which not less than 10 % (minimum 2 bays) are to be reserved for visitors to the site. On the assumption that most of the staff working in laboratories and herbarium vaults, and, using the cafe (canteen) facilities will be the same staff using the office facilities, there is no need to take the gross floor area of the whole development. Furthermore, areas of Plant Room and Boiler Rooms have not been taken into calculation. Rather, car parking requirement has been based upon the gross floor area of the office space alone. Noting that an existing building to the southern side of the existing main building is being demolished, gross floor area of that building has been subtracted. On this basis, the gross floor area of the proposed development is calculated to be 2390 sq. metres. This will generate a car parking requirement of 96 cars. The plan shows a total of additional 58 car parking bays being proposed. Therefore, based upon this rationale, the number of proposed car parking bays is deficient by 38 bays.

The site plan also does not nominate which of the bays are to be set aside for visitors' use. These must be located in a visible, easily accessible place towards the front of the site. Using the standard calculation of 10% of the total bays being reserved for dedicated visitor parking, 10 of the total 98 required car bays should be reserved for visitors' parking at the front of the site.

The site plan also does not incorporate a reticulated planting area, including shade trees, between every eight car bays, as required by clause 6.3 (12) of TPS6. This can be accommodated by an appropriate condition of approval, should a future modified application be approved.

In the case of the 'Office' land use, bicycle parking is prescribed in Table 6 as being:

- Staff: 1 per 200 sq. metres gross floor area
- Visitors: 1 per 750 sq. metres gross floor area

Using this as a guide for the subject application, the development would need 12 bicycle bays for staff, with complementary end-of-trip facilities, and a further 4 bicycle bays for visitors. The latter would need to be located near the front entrance to the building, while secure staff bays should be elsewhere on the site.

**(g) Design**

Issues related to design have been dealt with under the Design Advisory Consultants comments in the Consultation section.

**(h) Heritage**

The site of this complex of buildings is described in the Municipal Heritage Inventory 2000 as *"... a remnant of the former Collier Pine Plantation which used to extend along the southern side of Jarrah Road to Manning Road. With rezoning, many of the mature pines were left. The building complex comprises a series of single storey modules surrounding double storey modules set in this remnant pine forest. The building is very well finished and reflects a high standard of architectural design. The ambience created by the building set among the mature trees, so very rare in Western Australia, extends into the interesting courtyard spaces and adjoining alleyways between the building modules, resulting in a building of enduring qualities. Although set in an exotic former pine plantation, this building also accrues qualities of timelessness and mellowness through its understated appearance, interesting access and interconnecting spaces, well used simple materials, its attention to scale and the massing of its major elements. The building has very high architectural merit and streetscape values. As there are not many well designed and built structures in this style, the building is rare."*

The MHI entry relates mainly to the cluster of small buildings to the north of the proposed additions. The site has heritage significance at the local level, with a Category B classification.

In relation to "heritage" issues, the following advice should be conveyed to the applicant:

1. The site contains many individual pinus pinaster trees which are remnants of the former Collier Pine Plantation, planted progressively from 1926. Care should be taken to retain as many of these trees as possible on the site.

2. The proposal replaces the existing State Herbarium in Hayman Road. The old Herbarium is listed on the City's Municipal Heritage Inventory as being locally significant with a Category B classification. Care should be taken when vacating this building that it is not damaged or its integrity compromised. The future of the old Herbarium will need to be the subject of separate Council consideration at the appropriate time."

(i) **Scheme Objectives: Clause 1.6 of No. 6 Town Planning Scheme**

Scheme Objectives are listed in Clause 1.6 of TPS6. The proposal has been assessed according to the listed Scheme Objectives, as follows:

- (1) *The overriding objective of the Scheme is to require and encourage performance-based development in each of the 14 precincts of the City in a manner which retains and enhances the attributes of the City and recognises individual precinct objectives and desired future character as specified in the Precinct Plan for each precinct.*

The proposed development is considered to meet this overriding objective. The proposal has also been assessed under, and has been found to meet, the following relevant general objectives listed in clause 1.6(2) of TPS6:

**Objective (k)** *Recognise and preserve areas, buildings and sites of heritage value; and*

**Objective (l)** *Recognise and facilitate the continued presence of significant regional land uses within the City and minimise the conflict between such land use and local precinct planning.*

No Scheme Objectives have been identified that the proposal does not meet.

(j) **Other Matters to be Considered by Council: Clause 7.5 of No. 6 Town Planning Scheme**

In addition to the issues relating to technical compliance of the project under TPS6, as discussed above, in considering an application for planning approval, the Council is required to have due regard to, and may impose conditions with respect to, other matters listed in clause 7.5 of TPS6 which are, in the opinion of the Council, relevant to the proposed development. Of the 24 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (h) *the preservation of any object or place of heritage significance that has been entered in the Register within the meaning of the Heritage of Western Australia Act, 1990 (as amended), or which is included in the Heritage List under clause 6.11, and the effect of the proposal on the character or appearance of that object or place;*
- (j) *all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*
- (k) *the potential adverse visual impact of exposed plumbing fittings in a conspicuous location on any external face of a building;*
- (n) *the extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area, in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details;*

- (q) *the topographic nature or geographic location of the land;*
- (r) *the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;*
- (s) *whether the proposed access and egress to and from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvre and parking of vehicles on the site; and*
- (v) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserve.*

The proposed development meets all of the above listed matters except for matter (j) with respect to design compatibility of the proposed buildings with the existing buildings; and, matter (s) with respect to the provision of adequate parking facility on site. Details in relation to matter (k) are not available on the drawings at this stage and are shown at the building licence stage.

### **Consultation**

#### **(a) Design Advisory Consultants' Comments**

The design of the proposal was considered by the City's Design Advisory Consultants at their meeting held on 23 October 2006. Their comments are summarised below:

- (i) The Advisory Architects expressed concern about compatibility of the proposed buildings with the existing buildings. This concern related specifically to the roof design and roofing materials. To achieve sufficient compatibility, they considered that the proposed roofing material should be Swiss patterned tiles matching the existing roof tiles. Further, they considered that the form of the roofing over the various proposed buildings should be modified to achieve greater consistency and greater compatibility with the existing roof form.
- (ii) The car park should be relocated to the location of the existing sump near the western site boundary. This is the location which would cause the least disturbance to existing trees, unlike the proposed car park location. The car park could either displace the existing sump or be constructed over the top of the sump.
- (iii) It was noted that the height of the proposed buildings significantly exceeds the statutory 7.0 metre height limit. While it is appreciated that the prescribed height limit prevents the proposed building being approved, the Advisory Architects do not object to the proposed building height, noting the isolated nature of the development site and the suitability of the proposed height in relation to the height of the existing pine trees.

The comments of the Design Advisory Consultants in relation to achieving design compatibility between existing and proposed built forms, and, relocation of the car park over the existing sump are supported.

#### **(b) Neighbour Consultation**

Since the proposed development, by virtue of its central location on the subject site surrounded by existing buildings is reasonably distant from the residential development across Hayman Road as well as from surrounding non-residential development, no adverse amenity impact is perceived. Therefore, no neighbour consultation was undertaken for the proposed development.

(c) **City's Environmental Health Department**

Comments have also been invited from the City's Environmental Health Department. Health related comments are as follows:

(i) **Waste Disposal:**

The location of the Bins Enclosure (Refuse room) shall be to the satisfaction of Council's Manager, Environmental Health Services. The refuse receptacle area is to be provided with the following:

- A tap connected to an adequate supply of water;
- Smooth, impervious walls constructed of approved materials not less than 1.5 metres in height;
- An access way of not less than 1 metre in width for 240 litre MGB or 1.5 metre width for 1100 litre MGB, fitted with a self-closing gate;
- Smooth, impervious floor of not less than 74 mm thickness, evenly graded and adequately drained to a minimum 100 mm diameter industrial graded floor waste;
- Easy access to allow for the removal of containers;
- The floor area of rubbish room to be determined upon application, by Manager, Environmental Health Services;
- Internal bin areas to be sealed from other internal rooms and be provided with mechanical ventilation capable of exhausting not less than 5 litres of air per second per 1 square metre of floor area, ducted to the outside air.

(ii) **Public Building Requirements:**

This proposal relates to a Public Building as defined by the *Health Act (Public Buildings) Regulations 1992*. In accordance with the regulations, approval is subject to:

- the submission of a Form 1 - Application to Alter, Construct or Extend a Public Building (this relates to temporary structure); and/or
- submission of a Form 2 - Application for Certificate of Approval (prior to occupancy); and/or
- submission of a Form 5 - Certificate of Electrical Compliance. This form to accompany Electrical Installation plans and details, to be submitted by an authorised licensed electrical contractor certifying all electrical work of the public building conforms to the relevant provisions of the Health (Public Buildings) Regulations 1992 (as amended), the Building Regulations and the Electricity (Licensing) Regulations 1991; and
- provide Mechanical Services, Air Conditioning and Ventilation details for approval (where applicable).

Detailed plans to be provided for Public Building assessment upon submission of the Building Licence application.

(iii) **Food Premises / Cafe:**

Detailed plans and specifications of the kitchen, dry storerooms, cool rooms, bar and liquor facilities, staff change rooms, patron and staff sanitary conveniences and rubbish bin enclosures, are to be submitted to and approved by Council's Environmental Health Services prior to construction, manufacture and installation. The plans should include details of:

- the structural finishes of all floors, walls and ceilings;
- the position, type and construction of all fixtures, fittings and equipment (including cross-sectional drawings of benches, shelving, cupboards, stoves, tables, cabinets, counters, display refrigeration, freezers etc);

- all kitchen exhaust hoods (e.g., over cooking equipment) and mechanical ventilation systems (e.g., sanitary conveniences), mechanical services, hydraulic services, grease traps and provisions for waste disposal;
- construction and position of refuse enclosure;
- construction, position and drainage of cool rooms, if any; and
- all staff and patron sanitary conveniences and change rooms, if any.

(iv) Noise Generally:

All mechanical ventilation services, motors and pumps, e.g. air conditioners, swimming pools, to be located in a position so as not to create a noise nuisance as determined by the Environmental Protection Act, 1986 and Environmental Protection (Noise) Regulations 1997.

(d) **Director's Comments**

The Director Strategic and Regulatory Services notes that in August 2005, the State Government through the Department of Industry and Resources sought formal support and endorsement from Council of the draft Technology Precinct Master Plan 2004-2011.

The area encompassed within the Technology Precinct Master Plan includes Curtin University Canning College, CSIRO facility, the existing aged care facility, Ministry of Justice facilities, TAFE, high schools, Department of Agriculture and Department of Environment and Conservation (which includes the former Department of Conservation and Land Management).

Cabinet approval for the development of the concept Master Plan was given in late 2003.

Early in 2005, an Inter-agency Working Group was formed with representatives from the Cities of South Perth and Canning, Town of Victoria Park, Department of Planning and Infrastructure, Technology Precinct Management Board, Curtin University and the Department of Industry and Resources.

The Technology Precinct Master Plan proposes the preparation and adoption of a Structure Plan for the Precinct followed by the preparation and gazettal of a joint Town Planning Scheme Amendment by each of the local governments.

The proposed operational arrangements for the Structure Plan include formation of a Planning Panel with functions to include review of development applications and preparation of detailed area plans and development guidelines.

At its October 2005 meeting, Council resolved:

*That.....*

- (a) *Council note the progress on preparation of the Technology Precinct Master Plan 2004-2011 and advise the Department of Industry and Resources that it supports the continuation of the planning process involving finalisation of the Master Plan, and preparation of a Structure Plan and detailed local area plans subject to:*
- (i) *Clarification of compatibility with the City of South Perth draft Local Commercial Strategy.*
  - (ii) *Clearer definition within the draft proposed Town Planning Scheme Amendment of the range of land uses proposed to be permitted.*
  - (iii) *Clarification that the Master Plan is intended to evolve into a planning and design document setting out detailed plans and controls for separate sub-areas within the Precinct.*



- (b) *Council give further consideration for final approval of the proposed Structure Plan and Development Area Plans for the Technology Precinct prior to consideration of initiation of a Town Planning Scheme Amendment for the Technology Precinct;*
- (c) *the Department of Industry and Resources and the Technology Precinct Inter Agency Working Party be advised of (a) above; and*
- (d) *the City of South Perth write to the appropriate Government Minister requesting that representation from both the local government areas of Victoria Park and South Perth be included as permanent members of the Technology Precinct Board; and that the Town of Victoria Park be requested to support this position.*

Correspondence was received from the Department of Industry and Resources in July 2006 providing an update on the Master Plan and advising of the appointment of a new Project Manager for Stage 1 implementation of the Master Plan.

The proposed development does not comply with the Town Planning Scheme, and therefore should not be approved. The future planning arrangements proposed by the State Government for the Technology Precinct will ensure that future development is compatible with the area.

### **Conclusion**

Assessment of the proposal has identified serious concerns in terms of the development significantly exceeding the permitted building height limit as well as being deficient in the number of car and bicycle parking bays. Since the development does not comply with the Scheme provisions, the current application is recommended for refusal. However, if the applicant submits another application supported by suitably amended drawings demonstrating compliance with the building height limit and car parking provisions of the Scheme, the City would be supportive of the amended proposal. If suitably amended drawings are received, it would be appropriate for the Council to authorise the City officers to submit a supportive recommendation to the WAPC without referral to another Council meeting.

### **Policy and Legislative Implications**

As stated above under "Summary", this application is to be determined by the Western Australian Planning Commission (WAPC) following their receipt of the Council's recommendation. The legislative provisions relating to the approval process are contained in Section 6 of the *Planning and Development Act 2005*. The title of Section 6 is "Act does not interfere with public works" and the relevant parts of that section read as follows:

- "(1) Subject to ..... subsections (2) and (3) of this section, nothing in this Act interferes with the right of the Crown, or the Governor, or the Government of the State, or a local government:*
  - (a) to undertake, construct or provide any public work; and*
  - (b) .....*
- (2) Rights referred to in subsection (1) are to be exercised having regard to:*
  - (a) the purpose and intent of any planning scheme that has effect in the locality where, and at the time when, the right is exercised; and*
  - (b) the orderly and proper planning, and the preservation of the amenity, of that locality at that time.*
- (3) The responsible authority is to be consulted at the time when a proposal for any public work, ..... is being formulated to ensure that the undertaking, construction, or provision of, ..... the public work will comply with subsection (2)."*

Comments in relation to various relevant provisions of the No. 6 Town Planning Scheme have been provided elsewhere in this report.

**Financial Implications**

This issue has no impact on this particular area.

**Strategic Implications**

This matter relates to Goal 3 “Environmental Management” identified within the Council’s Strategic Plan. Goal 3 is expressed in the following terms:

*To effectively manage, enhance and maintain the City’s unique natural and built environment.*

<b>OFFICER RECOMMENDATION ITEM 9.3.2</b>
--

That .....

- (a) the Western Australian Planning Commission be advised that Council recommends refusal of the application for proposed relocation of the State Herbarium into a new Biodiversity Science Centre for the Department of Environment and Conservation on Reserve 26916 Lot 1875 Location 4224 Hayman Road, Kensington for the following reasons:
  - (i) The proposed development with a height of 11.5 metres significantly exceeds the maximum permitted building height limit of 7.0 metres prescribed by Clause 6.2 “Building Height Limit” of the City’s Town Planning Scheme No. 6 (TPS6).
  - (ii) The proposed development is deficient in terms of the number of car and bicycle parking bays prescribed by Clause 6.3 and Table 6 “Car and Bicycle Parking” of TPS6.
- (b) the applicant be advised of the areas of concern identified during the assessment and be invited to lodge a new application demonstrating compliance with the above matters; and
- (c) upon receipt of the new application, the Manager, Development Services be authorised to recommend to the Western Australian Planning Commission that the application be approved, subject to standard conditions together with special conditions relating to the need for the roof of the proposed development being modified to achieve strong design compatibility with the roofs of the existing buildings; and the car park being relocated so as to minimise the loss of existing pine trees.
- (d) the Western Australian Planning Commission be further advised that Council has been a participant in the State Government’s ongoing planning process for the Technology Precinct. The Technology Precinct Master Plan 2004-2011 advocates the preparation of a joint Town Planning Scheme Amendment involving land in each affected local government area. This Scheme Amendment is intended to include development guidelines addressing matters such as building height, bulk and scale.

MOTION

Cr Ozsdolay moved the officer recommendation, Sec Cr Macpherson

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

AMENDMENT

Moved Cr Doherty, Sec Cr Best

That the officer recommendation be amended by the inclusion of the following modified part (d):

- (d) the Western Australian Planning Commission be further advised that:
- (i) Council has been a participant in the State Government's ongoing planning process for the Technology Precinct. The Technology Precinct Master Plan 2004-2011 advocates the preparation of a joint Town Planning Scheme Amendment involving land in each affected local government area. This Scheme Amendment is intended to include development guidelines addressing matters such as building height, bulk and scale;
  - (ii) Council strongly encourages the design of the proposed development to incorporate 'Green Building' principles. In this regard, in addition to compliance with the Building Code of Australia's energy-efficiency requirements, the buildings should be designed to achieve the Green Building Council of Australia's 'Green Star' environmental rating; and
  - (iii) subject to the proposed development achieving the 'Green Star' environmental rating referred to in part (ii) above, Council would be prepared to consider a Town Planning Scheme Amendment which removes the current building height restriction, with the object of accommodating a building of the height proposed.

Cr Doherty opening for the Amendment

- believe this is an opportunity to 'walk the talk'
- refer point 8 under 'sustainable energy'
- opportunity to show leadership within community
- opportunity to address building height conflict

Cr Best for the Amendment

- concur with Cr Doherty's comments
- energy efficiency an important issue
- support the Amendment

The Mayor put the Amendment.

CARRIED (13/0)

**COUNCIL DECISION ITEM 9.3.2**

The Mayor put the Amended Motion

That .....

- (a) the Western Australian Planning Commission be advised that Council recommends refusal of the application for proposed relocation of the State Herbarium into a new Biodiversity Science Centre for the Department of Environment and Conservation on Reserve 26916 Lot 1875 Location 4224 Hayman Road, Kensington for the following reasons:
- (i) The proposed development with a height of 11.5 metres significantly exceeds the maximum permitted building height limit of 7.0 metres prescribed by Clause 6.2 "Building Height Limit" of the City's Town Planning Scheme No. 6 (TPS6).
  - (ii) The proposed development is deficient in terms of the number of car and bicycle parking bays prescribed by Clause 6.3 and Table 6 "Car and Bicycle Parking" of TPS6.

- (b) the applicant be advised of the areas of concern identified during the assessment and be invited to lodge a new application demonstrating compliance with the above matters; and
- (c) upon receipt of the new application, the Manager, Development Services be authorised to recommend to the Western Australian Planning Commission that the application be approved, subject to standard conditions together with special conditions relating to the need for the roof of the proposed development being modified to achieve strong design compatibility with the roofs of the existing buildings; and the car park being relocated so as to minimise the loss of existing pine trees.
- (d) the Western Australian Planning Commission be further advised that:
  - (i) Council has been a participant in the State Government's ongoing planning process for the Technology Precinct. The Technology Precinct Master Plan 2004-2011 advocates the preparation of a joint Town Planning Scheme Amendment involving land in each affected local government area. This Scheme Amendment is intended to include development guidelines addressing matters such as building height, bulk and scale;
  - (ii) Council strongly encourages the design of the proposed development to incorporate 'Green Building' principles. In this regard, in addition to compliance with the Building Code of Australia's energy-efficiency requirements, the buildings should be designed to achieve the Green Building Council of Australia's 'Green Star' environmental rating; and
  - (iii) subject to the proposed development achieving the 'Green Star' environmental rating referred to in part (ii) above, Council would be prepared to consider a Town Planning Scheme Amendment which removes the current building height restriction, with the object of accommodating a building of the height proposed.

CARRIED (13/0)

Reason for change

Council recognises that the current building height limit is unreasonably restrictive having regard to the location of the site. At the same time, Council seeks to ensure that the building will be designed to the highest possible standards in relation to energy-efficiency. The amended motion addresses both of these issues.

**Note:** Cr Macpherson left the Chamber at 9.50pm

<p><b>9.3.3 Reconsideration of Condition of Planning Approval for Proposed Additions to Existing Garage. No. 210 Douglas Avenue, Kensington.</b></p>
--

Location:	Lot 847 (No. 210) Douglas Avenue, Kensington
Applicant:	Alastair Gray
Lodgement Date:	20 September 2006
File Ref:	11.2006.448.1 DO2/210
Date:	3 November 2006
Author:	Jordan Ennis, Planning Officer
Reporting Officer:	Steve Cope, Director, Strategic and Regulatory Services

**Summary**

The application for planning approval relates to an approved garage on Lot 847 (No. 210) Douglas Avenue, Kensington. Planning approval for the garage addition was issued on 7 July 2004, conditional upon amended drawings being submitted showing two large openings in the south-eastern wall. A building licence issued on 8 August 2004 related to drawings which complied with this condition. After completion of construction, unauthorised timber infill panels were installed in the two openings.

A City letter dated 5 December 2005 instructed the property owners to remove these panels. While they initially complied, they later reinstated the panels. Further written instructions regarding removal of the panels were issued on 26 June 2006. The applicant has now submitted amended plans requesting that the matter be referred to a Council meeting for determination. The officer recommendation now supports the applicant’s request, given that a reassessment of the proposal demonstrates compliance with Clause 3.2.3 of the Residential Design Codes. While there is conflict with a specific provision of Council Policy P370\_T: General Design Guidelines for Residential Development, it is considered that the proposal meets the Policy objectives.

**Background**

This report includes the following attachments:

- **Confidential Attachment 9.3.3(a)** Plans of the proposal.
- **Confidential Attachment 9.3.3(b)** Letter from owners of No. 212 Douglas Avenue in support of the development at No. 210 Douglas Avenue, dated 20 September 2006.
- **Attachment 9.3.3(c)** Letter from applicant justifying proposed development, dated 24 October 2006.
- **Attachment 9.3.3(d)** Photograph of subject residence.

Zoning:	Residential
Density coding:	R15
Lot area:	465 sq. metres
Building height limit:	7.0 metres
Development potential:	One Single House

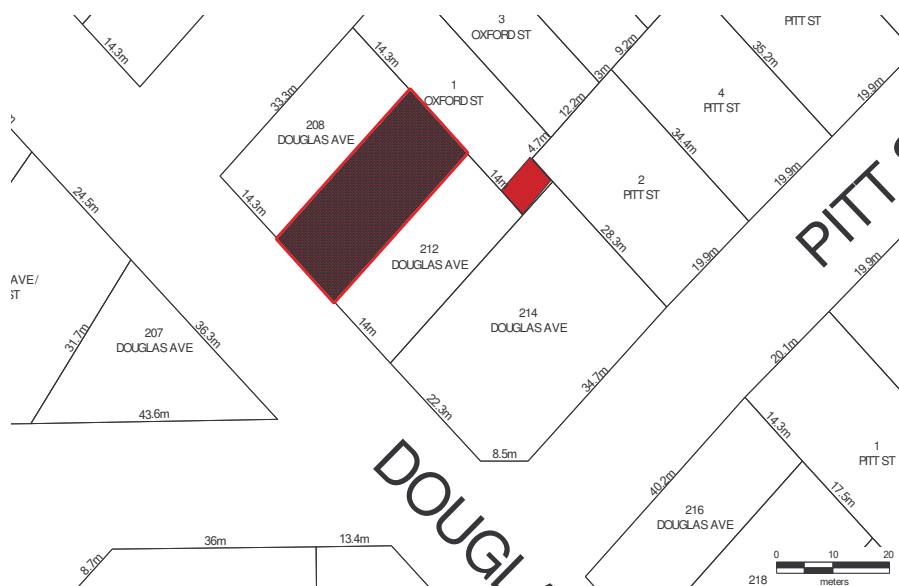
In accordance with Council Delegation DC342, the proposal is referred to a Council meeting because it falls within the following categories described in the Delegation.

**(a) The Exercise of a Discretionary Power**

*This power of delegation does not extend to the exercise of a discretionary power in any of the following categories:*

- (i) *Proposals representing a significant departure from the Scheme incorporating the Residential Design Codes, relevant Planning Policies and Local Laws where it is proposed to grant planning approval.*

The location of the development site is shown below. It is adjoined by other residential development on each of its side and rear boundaries.



**Comment**

**(a) Description of the Proposal**

The proposed development comprises timber infill panels located in the south-eastern boundary wall of the garage on Lot 847 (No. 210) Douglas Avenue, Kensington.

The existing garage is set back 2.0 metres from the street boundary. The garage boundary wall measures 6.45 metres in length and 2.85 metres in height. It has two openings which are 2.0 metres high and 1.5 metres wide. These openings have been screened with timber panels which conflicts with Condition 3(i) of the Planning Approval dated 7 July 2004. (Refer photograph, **Attachment 9.3.3(d)**).

The installation of timber panels in the south-eastern boundary wall was observed during a site inspection by the City's Compliance Officer. On two occasions the owner was ordered to remove the timber panels. The non-compliant nature of the infill panels relates to the original assessment of the structure as a carport. The R-Codes define a 'carport' as: "*A roofed structure designed to accommodate one or more motor vehicles unenclosed except to the extent that it abuts a dwelling or a property boundary on one side, and being without a door unless that door is visually permeable*".

It was initially considered that the installation of timber infill panels would mean the carport was enclosed on two sides and therefore not be compliant with Clause 3.2.3 of the Residential Design Codes. However the structure must be treated as a 'garage' as it has two solid walls and is therefore not subject to part A3.4 of Clause 3.2.3 of the R-Codes relating to carports.

The proposal complies with all of the requirements of the No. 6 Town Planning Scheme (TPS6), the Residential Design Codes (R-Codes) and relevant Council Policies with the exception of the variations discussed below

**(b) Council's Policy P370\_T: General Design Guidelines For Residential Development**

The condition of planning approval requiring the side boundary wall to have an "open" appearance was applied after giving due consideration to Clause 11(b) of Council Policy P370\_T which states that:

*"Approval for the construction of fully enclosed garages within the front setback area will only be granted where such siting is consistent with the established streetscape character in the section of the street in which the new development is proposed to be located."*

The fundamental objective of Policy P370\_T is to "preserve or enhance the desired streetscape character, and to promote strong design compatibility between existing and proposed residential buildings.

The proponent has presented the following justification in this respect:

*"The panels are in keeping with the consistent and modernized look that we have aimed to create for our home by, building the carport in a rendered finish to match our front wall, re-cladding the roof of our house in iron to match the new carport and installing a front gate that matches the wooden infill panels and aluminium surrounds incorporated into the carport."*

Officers support the applicant's justification, and note that:

- The proposed panels interrelate with the existing building and streetscape, particularly having regard to the prevalence of high brick front fences within the focus area.
- The garage is compatible with the residence.
- The proposed timber panels are considered more visually pleasing than openings in the boundary wall and have support from the adjoining land owners.

(c) **Scheme Objectives: Clause 1.6 of No. 6 Town Planning Scheme**

The proposal has been assessed under, and has been found to meet, the following relevant objective listed in clause 1.6(2) of TPS6:

***Objective (f) Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development.***

(d) **Other Matters to be Considered by Council: Clause 7.5 of No. 6 Town Planning Scheme**

In considering an application for planning approval, the Council is required to have due regard to, and may impose conditions with respect to, matters listed in clause 7.5 of TPS6 which are, in the opinion of the Council, relevant to the proposed development. Of the 24 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (c) *the provisions of the Residential Design Codes and any other approved Statement of Planning Policy of the Commission prepared under Section 5AA of the Act;*
- (j) *all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*

The proposed development is considered to be satisfactory in relation to these matters.

**Consultation**

(a) **Design Advisory Consultants**

The design of the proposal was considered by the City's Design Advisory Consultants at their meeting held on 23 October 2006. The proposal was favourably received by the Consultants. They commented as follows:

*The Advisory Architects expressed support for the infill slats, noting that their design is consistent with the design of the adjacent pedestrian gate.*

(b) **Neighbour Consultation**

Although the City did not undertake neighbour consultation for this proposal, the adjoining property owner (No. 212 Douglas Avenue) has provided written support for timber slats in the south-eastern boundary wall. **Attachment 9.3.3(b)** refers.

(c) **Consultation with the Applicant**

The concerns with respect to the proposed development have been discussed with the applicant/owner. It has been explained that issues relating to Council's Policy P370\_T and Clause 3.2.3 of the Residential Design Codes were the basis for the Council requiring the openings in the boundary wall.

### **Policy and Legislative Implications**

Comments in relation to various relevant provisions of the No. 6 Town Planning Scheme, the R-Codes and Council Policy P370\_T have been provided elsewhere in this report.

### **Financial Implications**

This issue has no impact on this particular area.

### **Strategic Implications**

This matter relates to Goal 3 “Environmental Management” identified within the Council’s Strategic Plan. Goal 3 is expressed in the following terms:

*To effectively manage, enhance and maintain the City’s unique natural and built environment.*

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.3.3</b>
---

That pursuant to the power conferred by Clause 7 (a)(i) of the City of South Perth Town Planning Scheme No. 6, having regard to the comments contained in the Planning Officer’s report Item 9.3.3 of the November Council Agenda, Condition 3(i) of the Planning Approval dated 7 July 2004 which relates to an approved garage on Lot 847 (No. 210) Douglas Avenue, Kensington, be **deleted**, and no further action be taken regarding the infill slats in the boundary wall.

CARRIED EN BLOC RESOLUTION

<b>9.3.4 Proposed Additions/Alterations to Existing Single House. No. 351 Mill Point Road, South Perth.</b>
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Location:	Lot 10 (No. 351) Mill Point Road, South Perth
Applicant:	Michael Georgiadis
Lodgement Date:	1 September 2006
File Ref:	11.2006.424 11/6832
Date:	3 November 2006
Author:	Jordan Ennis, Planning Officer
Reporting Officer:	Steve Cope, Director, Strategic and Regulatory Services

### **Summary**

The application for planning approval relates to proposed additions and alterations on Lot 10 (No. 351) Mill point Road, South Perth. In this instance the design of the proposed rear additions is considered to be incompatible with the design of the existing building. Extensive consultation was undertaken with the applicant to achieve a more compatible design and compliance with Policy P370\_T “General Design Guidelines for Residential Development”. However the applicant has chosen to maintain the existing design and has requested that the proposal be referred to a Council meeting for determination. The Officer’s report recommends that the application be refused, due to the incompatible roof form and the resultant conflict with Policy P370\_T.

### **Background**

The development site details are as follows:

Zoning:	Residential
Density coding:	R15
Lot area:	549 sq. metres
Building height limit:	7.0 metres
Development potential:	Single House



This report includes **Confidential Attachment 9.3.4** being the plans of the proposal.

The recommendation of refusal involves Council exercising discretion in relation to a variation from a provision of Council Policy P370\_T “General Design Guidelines for Residential Development”. Therefore in accordance with Council Delegation DC342, the proposal is required to be referred to a Council meeting for determination. The application falls within the following categories described in the Delegation:

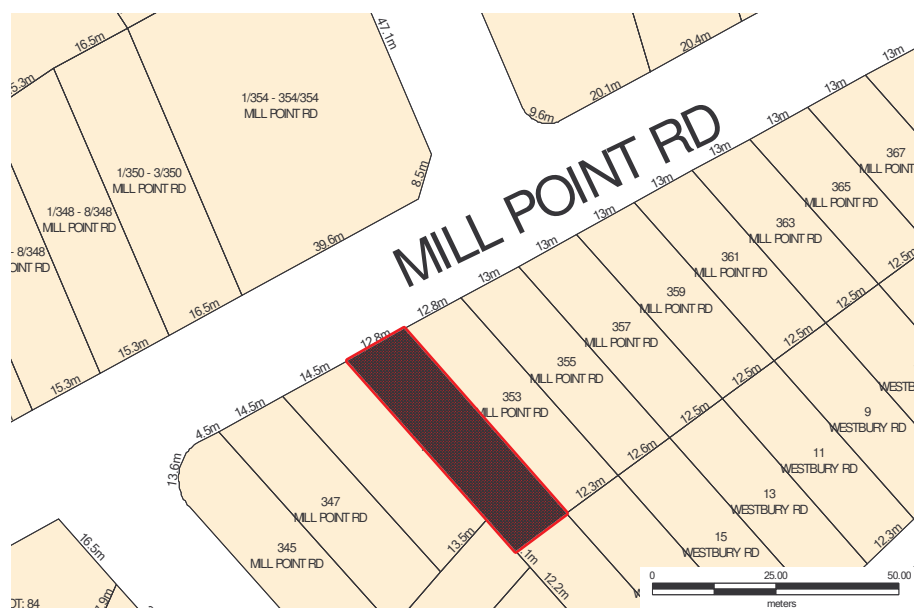
**3. The Exercise of a Discretionary Power**

- (i) *Proposals involving the exercise of a discretionary power which, in the opinion of the delegated officer, should be refused. In this instance, the reason for refusal would be a significant departure from the Scheme, relevant Planning Policies or Local Laws.*

**6. Amenity Impact**

*In considering any application, the delegated officers shall take into consideration the impact of the proposal on the general amenity of the area. If any significant doubt exists, the proposal shall be referred to a Council meeting for determination.*

The location of the development site is shown below. It is adjoined by other residential properties on each of its side and rear boundaries.



**Comment**

**(a) Description of the Proposal**

The proposed development comprises additions to the rear of the existing Single House on Lot 10 (No. 351) Mill Point Road, South Perth. The additions include a new laundry, bedroom, kitchen/meals, family area and an outdoor alfresco area.

The proposal complies with all of the requirements of Town Planning Scheme No. 6, the Residential Design Codes and relevant Council Policies with the exception of the variation discussed below:

**(b) Policy P370\_T: General Design Guidelines for Residential Development**

The proposed additions have been assessed in accordance with Clause 5 of Policy P370\_T : General Design Guidelines for Residential Development, which states that:

*“Additions and alterations to an existing building shall be designed in such a way that they match the existing building”.*

Revised plans have been submitted to demonstrate compliance with the provisions of the Residential Design Codes, however the proposal does not comply with Clause 5 of Policy P370\_T because the roof form and materials of the proposed additions do not match the existing roof.

The predominant theme of roofs in the focus area is pitched roofs, with the existing residence under consideration having a roof with a 27 degree pitch. The proposed light coloured Colorbond roof over the additions has a 6 degree pitch and fails to demonstrate a regularity of design and matching materials, contrary to Policy P370\_T.

**(c) Scheme Objectives: Clause 1.6 of No. 6 Town Planning Scheme**

Scheme Objectives are listed in Clause 1.6 of TPS6. The proposal has been assessed according to the listed Scheme Objectives. Due to the inconsistent roof form, the following Scheme Objective is **not** met:

- (f) *Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development.*

**(d) Other Matters to be Considered by Council: Clause 7.5 of No. 6 Town Planning Scheme**

In considering an application for planning approval, the Council is required to have due regard to, and may impose conditions with respect to, matters listed in clause 7.5 of TPS6 which are, in the opinion of the Council, relevant to the proposed development. Of the 24 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (i) *the preservation of the amenity of the locality;*
- (j) *all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*
- (n) *the extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area, in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details;*

It is considered that the proposed development does not fully meet the Council's expectations in relation to these matters, having regard to the concerns expressed in this report, regarding the incompatible design of the proposed additions.

**Consultation**

**(a) Design Advisory Consultants' Comments**

The design of the proposal was considered by the City's Design Advisory Consultants at their meeting held on 18 September 2006. The proposal was favourably received by the Consultants. Their more specific comments are summarised below:

- (i) The Advisory Architects considered that the proposed walls, positioned on either side of the junction of the existing pitched roof and proposed skillion roof, are seen to conceal the unattractive connection between these two different roof pitches.
- (ii) The proposal is seen to have no adverse impact on the streetscape as the proposed skillion roof will not be visible from the street.
- (iii) On the whole, the proposed built form is acceptable.

While being mindful of the Advisory Architects' comments, the City officers remain of the view that the additions should not be approved due to the substantial difference between the appearance of the existing and proposed roofs, contrary to Policy P370\_T.

**(b) Neighbour Consultation**

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Policy P104 ‘Neighbour and Community Consultation in Town Planning Processes’. The owners of properties at Nos. 353 and 349 Mill Point Road and No. 19 Westbury Road were invited to inspect the application and to submit comments during a 14-day period. During the advertising period, one submission was received, objecting to the proposal. The comments of the submitter, together with Officer response, is summarised as follows:

Submitter’s Comment	Officer Response
The reduced boundary setback will result in excessive noise and increase overshadowing.	Revised drawings have been lodged where the boundary setback now complies with the Acceptable Development standards of the Residential Design Codes. The proposed development remains single storey and will result in minimal overshadowing.

**(c) Consultation with Applicant**

The officer’s concerns about the proposed development have been discussed with the applicant. It has been explained that the incompatible design of the additions and alterations is the reason for the application being referred to Council. Being aware of this, the applicant has stated that he still wishes to pursue approval based upon the current design.

**Policy and Legislative Implications**

Comments in relation to the No. 6 Town Planning Scheme, the R-Codes and particularly Council Policy P370\_T, have been provided elsewhere in this report.

**Financial Implications**

The issue has no impact on this particular area.

**Strategic Implications**

This matter relates to Goal 3 “Environmental Management” identified within the Council’s Strategic Plan. Goal 3 is expressed in the following terms:

*To effectively manage, enhance and maintain the City’s unique natural and built environment.*

<p><b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.3.4</b></p>
--

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for additions and alterations to the existing Single House on Lot 10 (No. 351) Mill Point Road **be refused** for the following reasons:

- (a) The proposal is in conflict with the provisions of Clause 5 of Council’s Policy P370\_T “General Design Guidelines for Residential Development”, which requires the design of additions to match the existing dwelling; and
- (b) Due to the design conflict, the proposal is not consistent with the provisions of Clauses 7.5 (i), (j) and (n) of the City of South Perth Town Planning Scheme No. 6.

CARRIED EN BLOC RESOLUTION

**9.3.5 Proposed Additions and Alterations to Existing Single House. Lot 25 (No. 5) Way Road, South Perth.**

Location: Lot 25 (No. 5) Way Road, South Perth  
 Applicant: Nam Nguyen  
 Lodgement Date: 6 September 2006  
 File Ref: 11.2006.429.1 11/6837  
 Date: 3 November 2006  
 Author: Jordan Ennis, Planning Officer  
 Reporting Officer: Steve Cope, Director, Strategic and Regulatory Services

**Summary**

The application for planning approval relates to proposed additions and alterations to an existing Single House. The recommendation is for refusal as the proposal does not comply with Policy P370\_T “General Design Guidelines for Residential Development”.

**Background**

The report includes the following attachments:

- **Confidential Attachment 9.3.5(a)** Plans of the proposal.
- **Attachment 9.3.5(b)** Letter from Nam Nguyen dated 22 September 2006.

The development site details are as follows:

Zoning:	Residential
Density coding:	R15
Lot area:	587 sq. metres
Building height limit:	7.0 metres
Development potential:	Single House

In accordance with Council Delegation DC342, the proposal is referred to a Council meeting because it falls within the following categories described in the Delegation:

**(a) The Exercise of a Discretionary Power**

*This power of delegation does not extend to the exercise of a discretionary power in any of the following categories:*

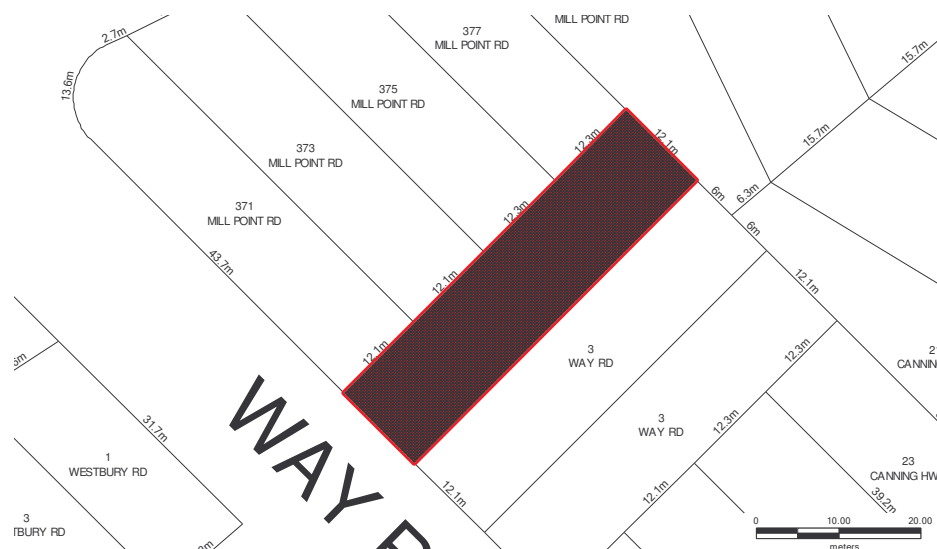
- (i) *Proposals involving of a discretionary power which, in the opinion of the delegated officer, should be refused. In this instance, the reason for refusal would be a significant departure from the Scheme, relevant Planning Policies and Local Laws.*

**(b) Amenity Impact**

*In considering any application, the delegated officers shall take into consideration the impact of the proposal on the general amenity of the area. If any significant doubt exists, the proposal shall be referred to a Council meeting for determination.*

The proponents have requested that the application be referred to a Council meeting for determination.

The location of the development site is shown below. It is adjoined by other residential development on each of its side and rear boundaries.



**Comment**

**(a) Description of the Proposal**

The proposed development comprises additions to the rear of the existing Single House on Lot 25 (No. 5) Way Road, South Perth. The additions include a new laundry, bedroom, study and living area.

The proposal complies with all of the requirements of Town Planning Scheme No. 6, the Residential Design Codes and relevant Council Policies with the exception of the variation discussed below:

**(b) Policy P370\_T: General Design Guidelines for Residential Development.**

The proposed additions have been assessed in accordance with Policy P370\_T: General Design Guidelines for Residential Development Clause 5 of Policy P370\_T Clause 5 states that:

*“Additions and alterations to an existing building shall be designed in such a way that they match the existing building”.*

Revised plans have been submitted to demonstrate compliance with the provisions of the Residential Design Codes, however the proposal does not comply with Clause 5 of Policy P370\_T because the roof form and materials of the proposed additions do not match the existing roof.

The applicant has attempted to justify the proposed design, presenting the following justification:

*“The proposed additions are designed to reflect the ‘design compatibility’ as outlined in Policy P370\_T. The primary elements that are compatible to the requirements is the general scale, form, shape, rhythm and the selected colour finish will be chosen to match the existing as close as possible. The roof will be a light coloured Colourbond finish which is typical of many of the new buildings and is a popular choice after tiles. Furthermore the additions are to the rear of the residence and not visible from the street”.*

The predominant theme of roofs in the focus area is pitched roofs, with the existing residence under consideration having a roof with a 28 degree pitch. The roofing material of the existing house is terracotta coloured tiles. The proposed light coloured Colourbond roof over the additions has a 20 degree pitch and fails to demonstrate a regularity of design and matching materials, contrary to the provisions of Policy P370\_T.

(c) **Scheme Objectives: Clause 1.6 of No. 6 Town Planning Scheme**

Scheme Objectives are listed in Clause 1.6 of TPS6. The proposal has been assessed according to the listed Scheme Objectives. Due to the inconsistent roof form, the following Scheme Objective is **not** met:

- (f) *Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development.*

(d) **Other Matters to be Considered by Council: Clause 7.5 of No. 6 Town Planning Scheme**

In considering an application for planning approval, the Council is required to have due regard to, and may impose conditions with respect to, matters listed in clause 7.5 of TPS6 which are, in the opinion of the Council, relevant to the proposed development. Of the 24 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (i) *the preservation of the amenity of the locality;*
- (j) *all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*
- (n) *the extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area, in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details;*

It is considered that the proposed development does not fully meet the Council's expectations in relation to these matters, having regard to the concerns expressed in this report, regarding the incompatible design of the proposed additions.

**Consultation**

(a) **Neighbour Consultation**

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Policy P104 'Neighbour and Community Consultation in Town Planning Processes'. The owners of properties at Nos 373 and 375 Mill Point Road were invited to inspect the application and to submit comments during a 14-day period. During the advertising period, no submissions were received.

(b) **Consultation with Applicant**

The concerns about the proposed development have been discussed with the applicant. It has been explained that the incompatible design of the additions and alterations is the reason for the application being referred to the Council meeting. Being aware of this, the applicant has stated that he still wishes to pursue approval based upon the current design.

**Policy and Legislative Implications**

Comments in relation to the No. 6 Town Planning Scheme, the R-Codes and particularly Council Policy P370\_T have been provided elsewhere in this report.

**Financial Implications**

The issue has no impact on this particular area.

**Strategic Implications**

This matter relates to Goal 3 “Environmental Management” identified within the Council’s Strategic Plan. Goal 3 is expressed in the following terms:

*To effectively manage, enhance and maintain the City’s unique natural and built environment.*

<p><b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.3.5</b></p>
--

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for additions and alterations to the existing Single House on Lot 25 (No. 5) Way Road, South Perth **be refused** for the following reasons:

- (a) the proposal is in conflict with the provisions of Clause 5 of Council’s Policy P370\_T “General Design Guidelines for Residential Development”, which requires the design of additions to match the existing dwelling; and
- (b) due to the design conflict, the proposal is not consistent with the provisions of Clauses 7.5 (i), (j) and (n) of the City of South Perth Town Planning Scheme No. 6.

CARRIED EN BLOC RESOLUTION

<p><b>9.3.6 Proposed Additions and Alterations to Single House. Lot 9 (No. 95) Angelo Street, South Perth</b></p>
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Location:	Lot 9 (No. 95) Angelo Street, South Perth
Applicant:	Kevin and Michelle Bond
Lodgement Date:	29 September 2006
File Ref:	11.2006.456 AN1/95
Date:	3 November 2006
Author:	Lisette Turkington, Planning Officer
Reporting Officer:	Steve Cope, Director, Strategic and Regulatory Services

**Summary**

The application for planning approval is for two storey additions to a Single House on Lot 9 (No. 95) Angelo Street, South Perth. The recommendation is for refusal due to non-compliance with four requirements of the Residential Design Codes 2002 (R-Codes) and related Council planning policies.

**Background**

The development site details are as follows:

Zoning:	Residential
Density coding:	R15
Lot area:	382 sq. metres
Building height limit:	7.0 metres
Development potential:	One Single House

This report includes the following attachments:

- **Confidential Attachment 9.3.6(a)** Plans of the proposal.
- **Attachment 9.3.6(b)** Letter of justification from applicant.
- **Attachment 9.3.6(c)** Letter from applicant addressing Performance Criteria.

The location of the development site is shown below:



In accordance with Council Delegation DC342, the proposal is referred to a Council meeting because it falls within the following categories described in the Delegation:

***The Exercise of a Discretionary Power***

- (iii) *Proposals representing a significant departure from the Scheme incorporating the Residential Design Codes, relevant Planning Policies and Local Laws where it is proposed to grant planning approval.*

***Amenity Impact***

*In considering any application, the delegated officers shall take into consideration the impact of the proposal on the general amenity of the area. If any significant doubt exists, the proposal shall be referred to a Council meeting for determination.*

In relation to “amenity impact”, the principal concern is the boundary wall, set back only 1.5 metres from the street boundary. It is considered that this will have an adverse impact on the streetscape.

**Comment**

**(a) Description of the Proposal**

The proposed development comprises two storey additions to the rear of an existing Single House on Lot 9 (No. 95) Angelo Street, South Perth, situated on the south-west corner of Norfolk Street.

The additions and alterations include a new kitchen, double garage, store, laundry, three bedrooms, two bathrooms and a toilet. Two new boundary walls are proposed, situated on the side and rear boundaries.



The proposal does not comply with a number of the requirements of the Residential Design Codes (R-Codes) and relevant Council Policies, as discussed below.

**(b) Boundary Walls**

The proposed boundary walls have been assessed in accordance with Council Policy P376\_T “Residential Boundary Walls”. Revised plans have been submitted to demonstrate compliance with the prescribed 3.0 metre average wall height. The boundary walls are 3.0 metres high. The proposed garage boundary wall length is 6.46 metres which exceeds the 2.85 metre maximum permitted by Policy P376\_T. Acknowledging this variation the adjoining property owners have provided a strong letter of support for the proposal which will adjoin their front garden. The length of the boundary wall is considered acceptable, however the 1.5 metre setback from the street boundary is in conflict with the policy provisions, requiring a 6.0 metre setback from the street boundary. The siting of this wall in the proposed location is not consistent with the established character of the Norfolk Street focus area, and in this respect the proposal is considered to have an adverse effect on the streetscape.

Policy P376\_T states that approval will not be granted for a boundary wall located forward of a 6.0 metre setback from the street boundary unless the City officers are satisfied that the proposal would not adversely affect amenity in terms of the factors referred to in Clause 1.

Clause 1 of the policy, relating to ‘amenity factors’, reads as follows:

*Approval will not be granted for a boundary wall if such wall would adversely affect the amenity of an adjoining lot. In assessing the effect on amenity, Council will have regard to the effect any proposed wall would have on:*

- *the streetscape character;*
- *the outlook from the front of an adjoining dwelling or its front garden, if the proposed wall is located forward of that adjoining dwelling;*
- *the amount of daylight being admitted to a habitable room window on an adjoining lot;*
- *the amount of winter sunshine being admitted to an area of private open space on an adjoining lot;*
- *the amount of glare caused by the wall due to the reflective value of its surface;*
- *existing views from an adjoining building; and*
- *outlook from habitable room windows on an adjoining lot.*

The proposed garage boundary wall is set back 1.5 metres in accordance with the Residential Design Codes minimum secondary street setback. However Council Policy P376\_T “Residential Boundary Walls” states that boundary walls will not be approved forward of a 6.0 metre setback unless the proposal is determined to have no adverse amenity impacts. Further to this, Clause 3 of Policy P376\_T states that in any case, a boundary wall is required to have a minimum 4.5 metre setback from the street. The proposed boundary wall with a 1.5 metre setback from the Norfolk Street boundary is located well forward of the adjoining dwelling. Whilst the adjoining dwelling does not have major openings facing the proposed boundary, this wall will cast shadow on the adjoining garden in addition to being highly visible within the streetscape. It is noted that the affected neighbour has provided support for the proposed boundary wall, however the proposal will impose significant building bulk on the boundary at a 1.5 metre street setback which is not visually in harmony with neighbouring existing buildings within the focus area. The garage boundary wall is therefore in conflict with the amenity clauses within Council Policy P 376\_T.

Further to the policy conflict described above, the proposed garage boundary wall being located on the rear lot boundary is in conflict with the R-Codes' prescribed 6.0 metre rear setback. Additional related comment is provided below, under "Outdoor Living Area / Rear Setback".

**(c) Outdoor Living Area / Rear Setback**

As mentioned above, the application proposes a boundary wall on the rear boundary and therefore does not meet the prescribed 6.0 metre rear setback. The City accepts a 40 sq. metre Outdoor Living Area in lieu of a 6.0 metre rear setback, however this has not been provided. Apart from the front setback area adjacent to Angelo Street, the only functional Outdoor Living Area has an area of approximately 24 sq. metres. A portion of this area (9.4 sq. metres) is provided with roof cover.

Neither of the 'Outdoor Living Areas' shown on the drawings justifies the non-compliance with the 6.0 metre rear setback requirement.

**(d) Open Space**

Under the Acceptable Development standards of Clause 3.4.1 of the R-Codes, a minimum of 50% of the property (191 sq. metres) is required to remain as open space.

The existing house, together with the proposed additions, including areas of the upper floor which overhang the ground floor and the portion of the alfresco area that is enclosed on three sides collectively cover 202.36 sq. metres of the block, resulting in the open space provision being 179.64 sq. metres - a shortfall of 11.36 sq. metres. The open space shown on the application drawings comprises 47% of the total lot area.

The R-Codes provide a Performance Criteria whereby the applicant may seek approval when the 'Acceptable Development' requirement is not met, as in the present case. The applicants have endeavoured to justify the open space shortfall under the Performance Criteria, however their rationale is not supported by the City. The following table presents the applicants' justification and the officer's response:

<b>Performance Criteria</b>	<b>Applicant's Comment</b>	<b>Officer's Response</b>
Sufficient open space around buildings: • to complement the building.		The proposed amount of open space is minimal and is not considered sufficient to complement the building.
Sufficient open space around buildings: • to allow attractive streetscapes.		The reduced open space provision does not deliver a more attractive streetscape than would otherwise be provided.
Sufficient open space around buildings: • to suit the future needs of residents, having regard to the type and density of the dwelling.	By having two functional open space areas, we have considered our future needs with a young adult family but also the needs of prospective buyers should we decide to sell. There are other smaller outdoor pockets surrounding the house which are ideal for drying areas and safe storage of garden furniture and implements.	Having regard to the deficiencies in the Outdoor Living Area explained above, coupled with the conflict with the prescribed rear setback, the applicants' contention about the adequacy of the open space is not supported, and it is considered that this Performance Criterion has not been met.

The subject site has a low density coding that is geared to single house family living. Under the Codes, the minimum lot size for R15 is 666 sq. metres, and therefore an open space area of approximately 333 sq. metres can normally be expected. The area of the subject site at 382 sq. metres is much less than the minimum generally applicable for R15, thereby reducing the available open space area to 191 sq. metres, well below normal expectations. Noting this, the open space shortfall of 11.36 sq. metres should be rectified by reducing the size of a proposed store. The proposed alterations and additions will result in the creation of two store rooms. The 50% open space requirement can be achieved by reducing the size of the store behind the garage and potentially reducing floor space elsewhere, whilst not compromising the accommodation needs of the future residents.

**(e) Side Boundary Setbacks**

The proposed two storey rear addition is in conflict with the R-Codes Acceptable Development standards relating to setbacks. The proposed 14.3 metre (length) west-facing upper floor portion of wall is required to be set back 2.1 metres. The proposed setback is 1.8 metres. This lesser setback is considered to meet the performance criteria as discussed below:

<b>Performance Criteria</b>	<b>Officer's Comments</b>
Buildings set back from boundaries other than street: • provide adequate direct sun and ventilation to the building.	Separation between the proposed dwelling and those adjoining is 4.0 metres or more which provides adequate sun and ventilation.
Buildings set back from boundaries other than street: • ensure adequate direct sun and ventilation being available to adjoining properties.	Comment as above.
Buildings set back from boundaries other than street: • provide adequate direct sun to the building and appurtenant open spaces.	The reduced side setback will not generally cast shadow onto the adjoining property due to the north / south orientation of the lot. However some morning shade will be cast on the extensive garden adjacent.
Buildings set back from boundaries other than street: • assist with protection of access to direct sun for adjoining properties.	The proposed setback will not adversely impact on access to northern sun for the adjoining property.
Buildings set back from boundaries other than street: • assist in ameliorating the impacts of building bulk on adjoining properties.	The 300mm setback variation is not considered to impose adverse building bulk on the adjoining property.
Buildings set back from boundaries other than street: • assist in protecting privacy between adjoining properties.	The portion of wall in question has no major openings.

**(f) Building Design**

The proposed building design does not clearly demonstrate compatibility with the existing house which is to be retained. Clause 5 of Council Policy P370\_T “General Design Guidelines for Residential Development” states the following:

*“Additions and alterations to an existing building shall be designed in such a way that they match that existing building.”*

The proposed Norfolk Street elevation does not correspond to the traditional cottage style design to be retained on the Angelo Street elevation. For this reasons the building design is not considered to be compatible.

**(g) Scheme Objectives: Clause 1.6 of No. 6 Town Planning Scheme**

It is considered that the following Scheme Objective listed within Clause 1.6 of TPS6 has not been met:

- (f) *Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development;*

The proposed boundary wall set back of 1.5 metres from Norfolk Street is not considered to be in harmony with the streetscape. A more sympathetic design whereby the garage is set back from the boundary is considered to be more appropriate.

**(h) Other Matters to be Considered by Council: Clause 7.5 of No. 6 Town Planning Scheme**

In considering the application, the Council is required to have due regard to, and may impose conditions with respect to, matters listed in clause 7.5 of TPS6 which are, in the opinion of the Council, relevant to the proposed development. Of the 24 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (c) *the provisions of the Residential Design Codes and any other approved Statement of Planning Policy of the Commission prepared under Section 5AA of the Act;*
- (i) *the preservation of the amenity of the locality;*
- (n) *the extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area, in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details;*

For reasons explained in preceding sections of this report, the proposed development is not considered satisfactory in relation to the matters listed above.

**Consultation**

**(a) Neighbour Consultation**

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Policy P104 "Neighbour and Community Consultation in Town Planning Processes". The proposal was referred to the adjoining neighbours in respect to a proposed boundary wall. The owners of the properties at No. 1 Norfolk Street and No. 95 Angelo Street were invited to inspect the application and to submit comments during a 14-day period. During the advertising period two submissions were received, one objecting and one supporting the development.

The comments of the submitters, together with Officer responses, are summarised as follows:

Submitter's Comment	Officer's Response
Proposed side boundary wall should have a minimum setback of 1.0 metre within R15 zoning.	The proposed boundary wall complies with the Residential Boundary Walls Policy. The comment is <b>NOT UPHELD</b> .
Proposed side setback of upper floor should be 2.2 metres as it will impact the outlook from the adjoining outdoor living area.	The reduced setback satisfies the relevant R-Codes Performance Criteria and therefore the setback variation from the Acceptable Development standards is supported. The comment is <b>NOT UPHELD</b> .
Support garage boundary wall	Whilst the adjoining property owner acknowledges and supports the impacts of the garage boundary wall, streetscape issues remain a concern. The comment is <b>NOTED</b> .

**(b) Design Advisory Consultants**

This application did not require referral to the City's Design Advisory Consultants.

**Policy and Legislative Implications**

Comments in relation to various relevant provisions of the No. 6 Town Planning Scheme, the R-Codes and Council policies have been provided elsewhere in this report.

**Financial Implications**

The issue has no impact on this particular area.

**Strategic Implications**

This matter relates to Goal 3 "Environmental Management" identified within the Council's Strategic Plan. Goal 3 is expressed in the following terms:

*To effectively manage, enhance and maintain the City's unique natural and built environment.*

<b>OFFICER RECOMMENDATION ITEM 9.3.6</b>
--

That .....

- (a) pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for additions and alterations to a Single House on Lot 9 (No. 95) Angelo Street, South Perth **be refused**, for the following reasons:
  - (i) A minimum rear setback of 6.0 metres has not been provided, contrary to the requirements of the Residential Design Codes.
  - (ii) Having regard to the provisions of Council Policy P376\_T, the rear boundary wall is required to have a minimum front setback of 6.0 metres. The proposed front setback is 1.5 metres.
  - (iii) A minimum of 50% open space has not been provided, contrary to the Acceptable Development requirement of the Residential Design Codes, and Council is not satisfied that the Performance Criteria listed in the R-Codes have been met.
  - (iv) The additions and alterations have not been designed in such a way that they match the existing building, contrary to a provision of Council Policy P370\_T.
- (b) the applicants be advised that, if they are aggrieved by aspects of the decision where discretion has been exercised, they may lodge an appeal with the State Administrative Tribunal within 28 days of the Determination Date recorded on the Notice; and
- (c) should the applicant decide to submit another application for planning approval supported by amended drawings addressing reasons (ii), (iii) and (iv) of refusal of the current application, Council will accept a 40 sq.metre outdoor living area with a minimum dimension of 4.0 metres in lieu of a 6.0 metre rear setback.

MOTION

Moved Cr Best, Sec Cr Trent

That.....

- (a) the officer recommendation not be adopted.
- (b) pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for additions and alterations to a Single House on Lot 9 (No. 95) Angelo Street, South Perth **be approved**, subject to the following conditions:

(i) **Standard Conditions**

340, 377, 390, 416, 425, 427, 455, 456, 625, 651.

<b>Footnote:</b> A full list of Standard Conditions and Advice Notes is available for inspection at the Council Offices during normal business hours.
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(ii) **Specific Condition**

Any new or extended crossover shall be located a minimum 2.8 metres from the existing street tree.

(iii) **Standard Advice Notes**

646, 648, 650.

<b>Footnote:</b> A full list of Standard Conditions and Advice Notes is available for inspection at the Council Offices during normal business hours.
---

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Best opening for the Motion

- block is very small being only 380 sq metres;
- sewer line easement at the rear of the property
- owners keen to retain the original character home rather than demolish and start again
- proposed building design adds to the 1930's style of the home
- open space requirement achieved by having two separate courtyards and is in the Council's discretionary power
- carport (garage) on the Norfolk Street side is designed to take into account the Water Corporation's requirements to have shed open on both ends; and
- parapet wall 1.50 metres from the sewer
- neighbour supports application for parapet wall on south-western boundary

**Note:** Cr Jamieson left the Chamber at 9.52pm  
Cr Macpherson returned to the Chamber at 9.55pm  
Cr Jamieson returned to the Chamber at 9.58pm

Cr Trent for the Motion

- fact of history when properties were sub-divided they were very small
- these small lots were coded R15
- to introduce every small lot with R25 in order to comply would create a nightmare
- do not believe it will over develop site
- believe it will enhance community
- support Motion

Cr Maddaford against the Motion

- to approve this proposal will 'open the floodgates'
- against the Motion

Cr Smith against the Motion

- aspects of officer recommendation that there were problems
- not in agreement with this proposal
- a lot of properties in South Perth on small lots - 'buyer beware'
- can see many small houses in the area beautifully restored
- when do we stop providing bonuses
- against the Motion

FORESHADOWED MOTION

Cr Smith foreshadowed that he would be moving to defer this matter to assist the applicant with a minimal extension as opposed to the large extension applied for if the current Motion is lost.

COMMENT ON DEPUTATION : ITEM 9.3.6

The Mayor requested an officer comment on the Deputation.

The Director Strategic and Regulatory Services stated that the Lot is coded R15 which means R15 standards apply. The difficulty the officers had with the application is that a number of variances are sought which require Council discretion. The officer recommendation for refusal is based on Council policies in particular in relation to streetscape and setbacks which are not compatible with the focus area.

Cr Cala for the Motion

- Council is here to review individual cases / circumstances
- Councillors role is to look at a number of issues
- in this case a corner block which imposes certain restrictions
- have to ask will addition be detrimental or will it enhance the area
- if house demolished any new house proposed would be a '2007 house'
- can still see applicant asking for concessions because of small block and sewer easement
- current house is consistent with streetscape - believe concessions sought are reasonable
- merits of proposal outweigh disadvantages
- support Motion

Cr Best closing for the Motion

- exceptional circumstances - small corner block / sewer easement at rear
- always encourage people to maintain old character houses in the area
- ask Members to support Motion

**COUNCIL DECISION ITEM 9.3.6**

The Mayor put the Motion

That.....

- (a) the officer recommendation not be adopted.
- (b) pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for additions and alterations to a Single House on Lot 9 (No. 95) Angelo Street, South Perth **be approved**, subject to the following conditions:
  - (i) **Standard Conditions**  
340, 377, 390, 416, 425, 427, 455, 456, 625, 651.

**Footnote:** A full list of Standard Conditions and Advice Notes is available for inspection at the Council Offices during normal business hours.

(ii) **Specific Condition**

Any new or extended crossover shall be located a minimum 2.8 metres from the existing street tree.

(iii) **Standard Advice Notes**

646, 648, 650.

<b>Footnote:</b> A full list of Standard Conditions and Advice Notes is available for inspection at the Council Offices during normal business hours.
---

CARRIED (10/3)

**NOTE:** CRS MADDAFORD AND SMITH REQUESTED THEY BE RECORDED AS HAVING VOTED AGAINST THE MOTION

Reason for Change

Council does not support the officer recommendation having regard to the following:

1. The block is very small being only 380 sq metres;
2. It has a sewer line easement at the rear of the property about 2.0 metres from the rear boundary;
3. The owners are keen to retain the original character home rather than demolish and start again;
4. The proposed building design adds to the 1930's style of the home;
5. The open space requirement is achieved by having two separate courtyards and is in the Council's discretionary power;
6. The carport (garage) on the Norfolk Street side is designed to take into account the Water Corporation's requirements to have the shed open on both ends and the parapet wall 1.50 metres from the sewer; and
7. The neighbour supports the application to have a parapet wall on the south-western boundary (Norfolk Street).

<b>9.3.7 Reconsideration of Condition of Planning Approval for a Two Storey Single House under Construction. No. 38 Hampden Street, South Perth</b>
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Location:	Lot 1501 (No.38) Hampden Street, South Perth
Applicant:	Rod and Natalie Dixon, Applicants / Owners
Lodgement Date:	16 October 2006
File Ref:	11/6700 11.2005.438.1 HA1.38
Date:	3 November 2006
Author:	Rajiv Kapur, Planning Officer
Reporting Officer:	Steve Cope, Director Strategic and Regulatory Services

**Summary**

On 22 December 2005, conditional planning approval was granted under delegated authority for a two storey Single House on Lot 1501 (No. 38) Hampden Street, South Perth. The applicants have requested that Condition 5 of that approval be deleted. Condition 5 states that:

*“Details of the proposed colours of the external materials shall be submitted for approval by the City, prior to the issuing of a building licence. The selected colours shall demonstrate compatibility with neighbouring buildings”.*



Council’s discretion is sought in this regard. The officer’s recommendation is to refuse the deletion of this condition, having regard to the resultant conflict with the ‘streetscape compatibility’ provisions of Council Policy P370\_T “General Design Guidelines for Residential Development”.

**Background**

This report includes the following attachments:

- **Confidential Attachment 9.3.7(a)** Plans of the proposal.
- **Attachment 9.3.7(b)** Letter from the applicants / owners dated 20 October 2006.

The development site details are as follows:

Zoning:	Residential
Density coding:	R15
Lot area:	441 sq. metres
Building height limit:	7.0 metres
Development potential:	One Single House

In accordance with Council Delegation DC342, the proposal is referred to a Council meeting because it falls within the following category described in the Delegation:

**1. The Exercise of a Discretionary Power**

- (i) *Proposals involving the exercise of a discretionary power which, in the opinion of the delegated officer, should be refused. In this instance, the reason for refusal would be a significant departure from the No. 6 Town Planning Scheme, relevant Planning Policies or Local Laws.*

The location of the development site is shown below. The site is adjoined by residential development.



**Comment**

**(a) Description of the Proposal**

The two storey Single House was approved with Colorbond 'Jasper' colour (mid-brown) roof and 'dune' colour (beige) rendered brick walls. However, the applicants have requested that Colorbond 'Surfmist' colour (pale green) roof be permitted. The applicants' letter, **Attachment 9.3.7(b)**, describes the proposal in more detail. In summary, the applicants have justified the use of 'Surfmist' colour roof for the following reasons:

1. There will be limited visibility of the roof as the home will be largely screened by street trees when viewed from the street;
2. The house demonstrates built form compatibility to the streetscape, and roof colour is just one of the many elements that contributes to streetscape; and
3. The proposed colour helps achieves energy efficiency and energy conservation.

**(b) Council Policy P370\_T: General Design Guidelines for Residential Development**

While noting the applicants' justification, condition 5 of the planning approval is aimed at achieving streetscape compatibility with respect to wall and roof colours. This condition was imposed in order to achieve compliance with both an objective and a specific provision of Council's Planning Policy No. P370\_T "General Design Guidelines for Residential Development". The policy objective seeks to enhance residential amenity standards generally, with the policy provisions offering specific guidance as to Council's expectations in this respect. The specific relevant policy provision is expressed in the following terms:

*"All residential development shall be designed in a manner that will preserve or enhance desired streetscape character. In order to satisfy the Council in this respect, the drawings of any proposed development are required to demonstrate design compatibility between the proposed building and the existing buildings within the focus area. In assessing the design compatibility of a proposed development, the Council will have regard to the **primary** and **secondary** contributing elements as identified in the preceding definition of the term "**design compatibility**"."*

Colour finish is one of the primary design elements which contribute to design compatibility in the focus area. As defined in the policy, "**Design compatibility** means the extent to which a proposed residential building is visually in harmony with neighbouring existing buildings within the focus area. **Primary** elements contributing

*to design compatibility are generally scale; colour; form or shape; and rhythm. **Secondary** elements include construction materials; setbacks from the street and side boundaries; the extent and nature of site landscaping visible from the street; and architectural details".*

Provisions of the existing policy are under review in the equivalent replacement policy to be incorporated into the City's Residential Design Policy Manual. Under Policy 6 "Building Design - Materials, Finishes and Colours" of the Draft Residential Design Policy Manual, there is a requirement for colour compatibility in the South Perth Civic precinct in which the development is being proposed. Clause 6.1(1) "General" states:

*"Within Precinct 2 - South Perth Central, Precinct 3 - South Perth Civic, Precinct 5 - Arlington and Precinct 6 - Kensington, all development shall utilise materials and finishes which are consistent with those prevailing in the immediate area in relation to roofs and walls".*

(c) **Scheme Objectives: Clause 1.6 of No. 6 Town Planning Scheme**

Scheme Objectives are listed in Clause 1.6 of TPS6. The proposal has been assessed according to the listed Scheme Objectives, as follows:

- (1) *The overriding objective of the Scheme is to require and encourage performance-based development in each of the 14 precincts of the City in a manner which retains and enhances the attributes of the City and recognises individual precinct objectives and desired future character as specified in the Precinct Plan for each precinct.*

The proposed development is considered to meet this overriding objective. However, the proposal is considered **not** to meet the following relevant general Scheme Objectives listed in Clause 1.6(2):

- Objective (f) Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development;*

(d) **Other Matters to be Considered by Council: Clause 7.5 of No. 6 Town Planning Scheme**

In considering an application for planning approval, the Council is required to have due regard to, and may impose conditions with respect to, matters listed in clause 7.5 of TPS6 which are, in the opinion of the Council, relevant to the proposed development. Of the 24 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (j) *all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*
- (n) *the extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area, in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details.*

Due to the incompatibility of the proposed roof colour with the established streetscape character, the proposal is considered unsatisfactory in relation to the matters referred to above.

(e) **Conclusion**

Having regard to the City's Scheme and Policy Objectives and provisions, the applicants' request is not supported because the proposed roof colour is considered to be inconsistent with the established streetscape character. This is seen to be the dominant consideration, although the reasons presented by the applicant for the preferred colour are noted and acknowledged.

**Consultation**

Consultation with the community and other City departments was not required for this purpose. However, this matter has been previously discussed with the owners / applicants.

**Policy and Legislative Implications**

The relevant provisions of the No. 6 Scheme and Policy P370\_T have been discussed in the "Comments" section of the report.

**Financial Implications**

This issue has no impact on this particular area.

**Strategic Implications**

This matter relates to Goal 3 “Environmental Management” identified within the Council’s Strategic Plan. Goal 3 is expressed in the following terms:

*To effectively manage, enhance and maintain the City’s unique natural and built environment.*

**OFFICER RECOMMENDATION ITEM 9.3.7**

That, in respect of the planning approval dated 22 December 2005 issued for a proposed two storey Single House on Lot 1501 (No. 38) Hampden Street, South Perth, the applicant’s request for deletion of Condition 5, which requires the selected external colours to demonstrate compatibility with neighbouring buildings, **not** be approved.

MOTION

Moved Cr Best, Sec Cr Maddaford

That.....

- (a) The officer recommendation not be adopted.
- (b) in respect of the planning approval dated 22 December 2005 issued for a proposed two storey Single House on Lot 1501 (No. 38) Hampden Street, South Perth, the applicant’s request for deletion of Condition 5, which requires the selected external colours to demonstrate compatibility with neighbouring buildings, be approved.

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Best opening for the Motion

- energy efficient home referred to in Deputation
- applicant gone to a lot of trouble to design an energy efficient house
- roof colour chosen to reduce thermal load to roof space
- roof colour chosen to reduce energy requirements of home

**COUNCIL DECISION ITEM 9.3.7**

The Mayor put the Motion

That.....

- (a) The officer recommendation not be adopted.
- (b) in respect of the planning approval dated 22 December 2005 issued for a proposed two storey Single House on Lot 1501 (No. 38) Hampden Street, South Perth, the applicant’s request for deletion of Condition 5, which requires the selected external colours to demonstrate compatibility with neighbouring buildings, be approved.

CARRIED (13/0)

Reason for Change

The Council does not support the Officer Recommendation having regard to the following:

- In the wider area there are many roofs with light colours, greys etc and the proposed ‘surfmist’ roof colour is in keeping with those roofs; and
- The ‘surfmist’ has been chosen to reduce the thermal load to the roof space, and reducing the energy requirements of the home.

MEETING ADJOURNED

Moved Cr Ozsdolay, Sec Cr Trent

That the meeting be adjourned at 10.05pm to allow for a 10 minute break.

CARRIED (13/0)

MEETING RESUMED

Moved Cr Ozsdolay, Sec Cr Maddaford

That the meeting be resumed at 10.15pm.

CARRIED (13/0)

**9.3.8 Proposed Additions / Alterations to Tourist Accommodation. Lot 268 (No. 53) South Perth Esplanade, South Perth**

Location: Lot 268 (No. 53) South Perth Esplanade, South Perth  
Applicant: Peter Jodrell Architect for TK & LB Pty LTD  
Lodgement Date: 19 September 2006  
File Ref: 11.2006.445 SO1:53 11/4195  
Date: 3 November 2006  
Author: Frank Polglaze, Planning Officer  
Reporting Officer: Steve Cope, Director, Strategic and Regulatory Services

**Summary**

The application for planning approval is for additions/alterations to Tourist Accommodation. The recommendation is for approval, subject to a number of standard conditions.

**Background**

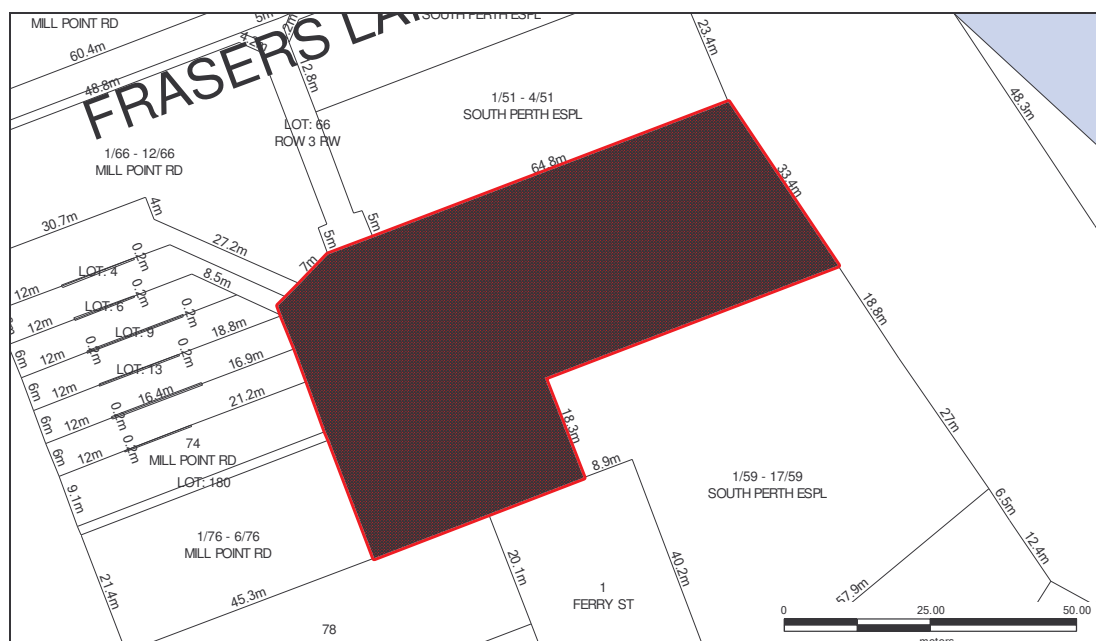
The development site details are as follows:

Zoning:	Residential
Density coding:	R80
Lot area:	4,668 sq. metres
Building height limit:	13.0 metres
Development potential:	Plot ratio of 0.75

This report includes the following attachments:

- **Confidential Attachment 9.3.8(a)** Plans of the proposal.
- **Attachment 9.3.8(b)** Letter from applicant.

The location of the development site is shown below:



In accordance with Council Delegation DC342, the proposal is referred to a Council meeting because it falls within the following categories described in the Delegation:

1. ***Specified Uses***  
*Tourist Accommodation.*
2. ***The Exercise of a Discretionary Power***  
(iii) *Proposals representing a significant departure from the Scheme incorporating the Residential Design Codes, relevant Planning Policies and Local Laws where it is proposed to grant planning approval.*

**Comment**

(a) **Description of the Proposal**  
The proposal incorporates the following additions and alterations to “The Peninsula” apartments:

- 8 new Tourist Accommodation apartments;
- Raised outdoor terrace area with pool, located above the existing car parking within the central courtyard; and
- Expansion of the existing foyer area.

(b) **Land Use**  
Under Town Planning Scheme No. 6 (TPS6), Tourist Accommodation is a ‘DC’ (discretionary with consultation) use on lots zoned Residential R50 or higher. As defined under Clause 3.3 “Land Use Control within Zones” of TPS6, ‘DC’ means that the Use is not permitted unless the Council has exercised its discretion by granting planning approval after giving special notice (neighbour consultation) in accordance with Clause 7.3 of the Scheme.

(c) **Assessment**  
Assessment of the proposal has been undertaken in accordance with Table 4; “Development Requirements for Non-Residential Uses in the Residential Zone”; Clause 6.3 “Car Parking”; Table 6 “Car and Bicycle Parking”; and Clause 6.2 “Building Height Limits”.

The proposed development complies with all requirements of TPS6 other than the prescribed 6.0 metre rear setback and the requirement for on-site parking bays.

**Rear Setback**

The eight additional Tourist Accommodation apartments will be located at first and second floor level above a single storey portion of the existing building which has a zero lot setback to a vehicle accessway. The configuration of the new apartments will be four to each floor. Other portions of the existing building already have three storeys and the proposed addition will be compatible in height with the overall development.

The existing single storey building and the proposed upper storey additions about a vehicle accessway serving the subject property as well as other residential properties in the vicinity. The boundary wall is at least 13.0 metres from any sensitive residential outdoor area or dwelling and therefore will have no negative impact on the amenity of any of the adjoining residents. Numerous residents have taken the opportunity to view the drawings for this development, with no objections having been received.

**Parking Bays**

Table 6 of TPS6 prescribes a parking ratio of one parking bay per unit or bedroom. This proposal will result in the number of units being increased from 72 to 79 (one existing unit will be converted into extensions to the foyer), requiring 79 parking bays to be provided. The current number of bays provided is 62 with the intended number to be increased to 64 bays. Under the previous Scheme No. 5 the number of bays required per unit was 0.75. Noting this, and also the inner city location of the site with good bus and ferry access, it is considered reasonable for Council to exercise discretion regarding on-site parking. It is reasonable to assess the parking requirement for the existing units at the 'old' TPS5 ratio, i.e.  $72 \times 0.75 = 54$  bays. For the net increase of seven units, the current TPS6 parking ratio should be used, i.e.  $7 \times 1.0 = 7$  bays. This gives a total requirement of 61 bays, with the number of bays provided being 64 bays. It is recommended that the Council exercise discretion on this basis, and support the parking provision.

**(d) Scheme Objectives: Clause 1.6 of No. 6 Town Planning Scheme**

Scheme Objectives are listed in Clause 1.6 of TPS6. In terms of the general objectives listed within clause 1.6 of TPS6, the project meets the following objective:

*(g) Protect residential areas from the encroachment of inappropriate uses.*

**(e) Other Matters to be Considered by Council: Clause 7.5 of No. 6 Town Planning Scheme**

In considering the application, the Council is required to have due regard to, and may impose conditions with respect to, matters listed in clause 7.5 of TPS6 which are, in the opinion of the Council, relevant to the proposed development. Of the 24 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (a) the objectives and provisions of this Scheme, including the objectives and provisions of a Precinct Plan and the Metropolitan Region Scheme;*
- (b) the preservation of the amenity of the locality;*
- (c) all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*

In relation to each of these matters, the proposal is considered to be satisfactory.

### Consultation

#### (a) Design Advisory Consultants

The design of the proposal was considered by the City's Design Advisory Consultants at their meeting held on 23 October 2006. The proposal was favourably received by the Consultants.

#### (b) Neighbour Consultation

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Policy P104 "Neighbour and Community Consultation in Town Planning Processes". A total of 19 neighbour consultation notices were mailed to individual property owners and occupiers. In addition, signs were placed on site inviting comment from any other interested person. During the advertising period, no submissions were received.

### Policy and Legislative Implications

Comments in relation to various relevant provisions of the No. 6 Town Planning Scheme and the R-Codes have been provided elsewhere in this report.

### Financial Implications

The issue has no impact on this particular area.

### Strategic Implications

This matter relates to Goal 3 "Environmental Management" identified within the Council's Strategic Plan. Goal 3 is expressed in the following terms: *To effectively manage, enhance and maintain the City's unique natural and built environment.*

### Conclusion

The proposed additions/alterations are appropriate to the current use of the site for Tourist Accommodation. The proposed increase in intensity of the use of the site is not seen as having any impact on the amenity of the surrounding residential area. It is therefore recommended that the Council exercise discretion to approve the development.

<b>OFFICER RECOMMENDATION ITEM 9.3.8</b>
--

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for proposed Additions / Alterations to Tourist Accommodation on Lot 268 (No. 53) South Perth Esplanade **be approved**, subject to:

### Standard Conditions

- (a) The external materials and colour finish of the proposed additions shall match with those of the existing building.
- (b) The surface of the boundary wall on the west side of the lot shall be finished to the satisfaction of the adjoining neighbour or in the case of a dispute, to the satisfaction of the City.
- (c) The validity of this approval shall cease if construction is not substantially commenced within 24 months of the date of planning approval.

### Standard Advice Notes

- (a) This planning approval is **not** an authorisation to commence construction. A **building licence must be obtained** from Council's Building Services Department prior to commencing any work of a structural nature.
- (b) If you are aggrieved by aspects of the decision where discretion has been exercised, you may lodge an appeal with the State Administrative Tribunal within 28 days of the Determination Date recorded on this Notice.



MOTION

Cr Ozsdolay moved the officer recommendation. Sec Cr Gleeson

FORESHADOWED MOTION

Cr Doherty foreshadowed she would be moving for deferral if the current Motion is lost. She stated she was not in a position to make an informed decision on the information provided and in light of the small number of conditions in the officer recommendation.

The Mayor requested an officer comment on the officer recommendation.

Director Strategic and Regulatory Services stated that the reason why the conditions are minimal is that the proposal is for first and second floor additions to an existing development and therefore there is no requirement for a large number of conditions to be imposed. This information was contained within the report.

Cr Ozsdolay for the Motion

- officer undertaken an assessment
- addressed areas of setback etc and made a recommendation
- no objection from adjoining neighbours
- support Motion

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.3.8</b>
---

The Mayor put the Motion

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for proposed Additions / Alterations to Tourist Accommodation on Lot 268 (No. 53) South Perth Esplanade **be approved**, subject to:

**Standard Conditions**

- (a) The external materials and colour finish of the proposed additions shall match with those of the existing building.
- (b) The surface of the boundary wall on the west side of the lot shall be finished to the satisfaction of the adjoining neighbour or in the case of a dispute, to the satisfaction of the City.
- (c) The validity of this approval shall cease if construction is not substantially commenced within 24 months of the date of planning approval.

**Standard Advice Notes**

- (a) This planning approval is **not** an authorisation to commence construction. A **building licence must be obtained** from Council's Building Services Department prior to commencing any work of a structural nature.
- (b) If you are aggrieved by aspects of the decision where discretion has been exercised, you may lodge an appeal with the State Administrative Tribunal within 28 days of the Determination Date recorded on this Notice.

CARRIED (10/3)

<b>9.3.9 Electricity Industry (Western Australian Renewable Energy Targets) Amendment Bill 2005.</b>
--

Location:	City of South Perth
Applicant:	Council
File Ref:	EM/103
Date:	10 November 2006
Author:	Mark Taylor, Manager City Environment
Reporting Officer:	Glen Flood, Director Infrastructure Services

### **Summary**

The City has been requested to provide a submission to the Western Australian Local Government Association (WALGA) on the Electricity Industry (Western Australian Renewable Energy Targets) Amendment Bill 2005. The proposed bill proposes (among other things) the setting of renewable energy generation targets to reduce greenhouse emissions.

The closing date for submissions to WALGA was 17 November 2006 which is prior to the November Council meeting. An officer submission has been prepared and submitted. Council endorsement of the officer submission is requested.

### **Background**

The City has been approached by WALGA to give consideration to the Electricity Industry (Western Australian Renewable Energy Targets) Amendment Bill 2005 **Attachment 9.3.9(a)** refers. This is a Private Members' Bill introduced to the Legislative Council on 1 December 2005 by Greens (WA) MLC for the South West, Paul Llewellyn. It was scheduled to be debated in the Upper House of the Western Australian Parliament in late October 2006.

The Bill has potential to address supply issues to rural areas and subsequently address issues of sustainability by abating significant amounts of greenhouse gases as well as encouraging development and investment into renewable energy technologies.

Key features of the Bill are as follows:

- It establishes an easily regulated mechanism to increase the uptake of Renewable Energy using existing Western Australian electricity industry legislation and arrangements;
- It aims to deliver 20% renewable energy generation by 2020. It increases by approximately 1% each year;
- If this is delivered then approximately 4 million tonnes of greenhouse emissions per year are projected to be abated by 2020;
- It would result in an average increase in electricity costs per household of less than 20 cents per day in 2020 (based on 2006 dollars).

### **Comment**

Renewable energy is critical in the sustainability of the use of energy within today's society and crucial in tackling climate change. It makes sense to utilise resources that will not deplete its reserves over time. Western Australia is generously endowed with renewable energy resources. The state is blessed with the ideal weather conditions that provide ample resources of energy like sunshine and wind. Currently there are numerous locations throughout the State where hydro, tidal and biomass energy resources are potentially available.

The technology to utilise many renewable energy resources is now well developed. However capital costs, although significantly reduced over the last decade, are generally still high, making competition with fossil fuels difficult. Opportunities exist within Western Australia for investors to commit funds into the renewable energy sources in the state to allow them to gain momentum and a greater share of the energy market. Western Australia can become commercially competitive if these investors decide to pursue these interests. This amended Bill will foster this growth and encourage these interests to proceed and be economically viable. There are a wide range of both large and small applications of renewable energy in WA.

The use of renewable energy within WA is growing in significance due to a number of reasons, but mainly in response to concerns about greenhouse gas emissions. The new targets of 20% by 2020 will move WA in line with global leaders in renewable technologies such as the European Union.

The City of South Perth supports the Bill as it lends to our own Sustainability Strategy which has the goals of reducing greenhouse gases, setting targets and the promotion of conserving energy. It is important to note that in 2001, Australia per capita had the highest greenhouse gas emissions in the world (Australia Institute).

In addition to the specific goals of the Sustainability Strategy, the City is also committed to the International Council of Local Environmental Initiatives (ICLEI) Cities for Climate Protection™ (CCP™) program. In August 2005, Council endorsed the adoption of the CCP Plus program, having completed the pre-requisite CCP 5 milestones. The journey of the five milestones resulted in (amongst other things) the development of a Greenhouse Local Action Plan, for the City administration and community.

As part of the CCP™ program, the corporate greenhouse gas (GHG) emissions reduction goal was endorsed (in Milestone 2) at 20% against the base year 1998 by 2010. Council also endorsed a reduction goal for community emissions of 20% from 1998 levels by 2010. The City currently purchases 25% Greenpower.

The circular from WALGA was sent out on 20 October 2006 (too late for the October Council meeting) and required submissions to be completed by 17 November (too early for the November meeting of Council). Consequently a submission has been prepared and sent in by officers with the aim of seeking Council endorsement at the November meeting.

The City's submission, **Attachment 9.3.9(b)**, basically endorses the Bill as it has been presented except for a few minor issues. They are as follows:

1. Re-setting the emissions reduction target of 8.2% by 2010 to 10%;
2. In section 14B defining a target date for retail licensees to submit a Renewable Energy Statement; and
3. Replacing the phrase "as soon as practicable" with a defined target for reporting on the effectiveness of the Bill.

The City's submission on the Bill is attached and is recommended to Council for endorsement..

### **Consultation**

No direct consultation with the community has been carried out during the development of this submission.

WALGA will be providing a composite submission to Senator Paul Llewellyn based on comments received by the various local government authorities.

### **Policy and Legislative Implications**

This issue is consistent with City Policy P302 *Energy Conservation* which states:

*The City is committed to the reduction of greenhouse gases through its participation in the 'Cities for Climate Protection' campaign. The City has resolved to set a target to reduce corporate and community emissions by 20 percent based on 1998 baseline data.*

*To achieve this it is important to develop strategies to promote the efficient use of energy.*

The Legislative implication is the introduction of new legislation.

### **Financial Implications**

A potential increase in electricity charges. It should be noted that the City is already paying additional charges by purchasing 25% GreenPower.

### **Strategic Implications**

This report is consistent with Goal 3 *Environmental Management* of the City's Strategic Plan

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.3.9</b>
---

That the City's submission to the Western Australian Local Government Association on the Electricity Industry (Western Australian Renewable Energy Targets) Amendment Bill 2005 be endorsed by Council.

CARRIED EN BLOC RESOLUTION

<b>9.3.10 Proposed Addition of Single House and Change of Non-Conforming Use from Shop to Mixed Development No. 47 Tate Street, South Perth.</b>
--

Location:	Lot 36 (No. 47) Tate Street, South Perth
Applicant:	RJ Knott PT Ker and Associates for Mr and Mrs Derecourt
Lodgement Date:	13 February 2006
File Ref:	11.2006.57 11/5918
Date:	3 November 2006
Author:	Frank Polglaze, Planning Officer
Reporting Officer:	Steve Cope, Director, Strategic and Regulatory Services

### **Summary**

The application for planning approval is for the addition of a Single House and also for a change of non-conforming land use from Shop to Mixed Development. The recommendation is for approval, subject to a number of standard and special conditions.

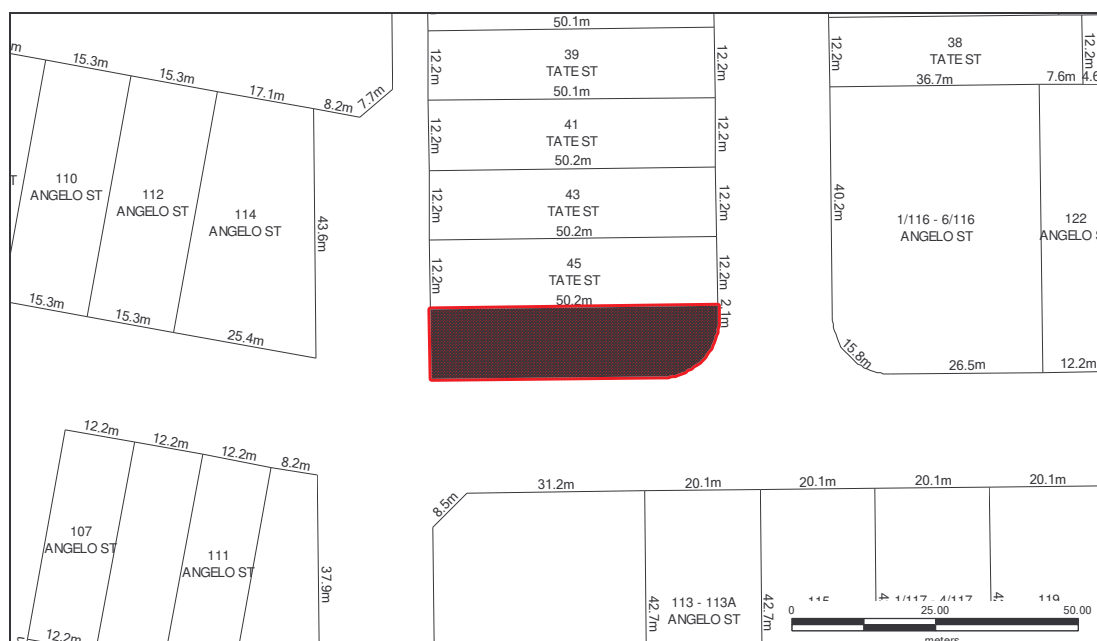
### **Background**

The development site details are as follows:

Zoning:	Residential
Density coding:	R 15
Lot area:	568 sq. metres
Building height limit:	7.0 metres
Development potential:	Single House

This report includes *Confidential Attachment 9.3.10* being plans of the proposal

The location of the development site is shown below:



In accordance with Council Delegation DC342, the proposal is referred to a Council meeting because it falls within the following categories described in the Delegation:

1. ***Specified Uses***  
*Change of Non-Conforming Use being considered under Clause 8.1 (3) of the Scheme.*
  
2. ***The Exercise of a Discretionary Power***  
*Proposals representing a departure from the No. 6 Town Planning Scheme incorporating the Residential Design Codes, relevant Planning Policies and Local Laws where it is proposed to grant planning approval.*

**Comment**

**(a) Description of the Proposal**

The development site is on the north-west corner of Angelo Street and Tate Street. The site is currently occupied by a shop which is a non-conforming use of the land due to the 'Residential' zoning. The proposal is for a Single House to be built behind the existing shop, with the primary frontage for this dwelling being Angelo Street. The addition of a Single House to the Shop constitutes a change of non-conforming use to Mixed Development.

**(b) Change from one Non-conforming Use (Shop) to another Non-conforming Use (Single House and Shop)**

The land is zoned Residential R15 under Town Planning Scheme No. 6. The current non-conforming use of the land is for the purpose of a shop, known as the Beauty Cove. The proposed change of non-conforming use from Shop to Mixed Development is for the purpose of building a residence for the proprietors of the shop. Clause 8.1 (3) "Non-Conforming Use Rights" of the No. 6 Town Planning Scheme states that the Council may grant planning approval for a change from one non-conforming use to another non-conforming use if the proposed use, in the opinion of the Council, does not detract from the amenity of the locality. The Scheme has no provisions relating to Mixed Development on land zoned Residential. The current

Mixed Development proposal is a non-conforming use. However given that the proposed addition is a Single House which is permitted by the Scheme, the proposed change of non-conforming use is supported. Furthermore, the design of the house is considered to be pleasing, thus enhancing the visual amenity of the locality.

**(c) Assessment of Proposed Single House and Shop**

The proposed Single House has been assessed under the Residential Design Codes for development at R15 density coding. The existing shop has been included within the assessment only for the purpose of calculating compliance with the 50 per cent open space requirement of the R-Codes.

Council is being asked to exercise discretion to approve the reduced primary street setback being proposed. The setback normally required for a Single House is 6.0 metres, however clause 3.2.1 A1(ii) "Setback of Buildings Generally" of the R-Codes permits this to be reduced to 2.5 metres for the main portion of the dwelling and 1.5 metres for a portico. The ground floor setback of the proposed house from Angelo Street is 1.5 metres apart from a portico which has a roof extending to the lot boundary. There are various setbacks to portions of the upper floor, with the predominant setbacks being 2.4 metres and 2.7 metres.

The portion of the existing shop alongside the proposed house is set back 1.2 metres from Angelo Street. The easterly portion of the shop abuts the street boundary. In this context, the proposed setbacks of the house are quite appropriate.

It is also pertinent to note that, if the applicant had decided to build the new dwelling as an extension to the shop, the prescribed minimum setback from Angelo Street under Table 1 of the R-Codes would be 1.5 metres.

In the particular circumstances of the case, as referred to above, the proposed setbacks of the house are supported.

The prescribed setback of the portico is 1.5 metres, with a zero lot alignment not normally being permitted by the City. However it is considered that the zero lot alignment will have no negative impact on the streetscape character and improves the design of the proposed dwelling. Therefore, it is recommended that the portico be approved as proposed.

**(d) Scheme Objectives: Clause 1.6 of No. 6 Town Planning Scheme**

Scheme Objectives are listed in Clause 1.6 of TPS6. The proposed development is considered to meet the following objectives:

- (a) Maintain the City's predominantly residential character and amenity;*
- (b) Facilitate a diversity of dwelling styles and densities in appropriate locations on the basis of achieving performance-based objectives which retain the desired streetscape character and, in the older areas of the district, the existing built form character;*
- (d) Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development.*

(e) **Other Matters to be Considered by Council: Clause 7.5 of No. 6 Town Planning Scheme**

In considering the application, the Council is required to have due regard to, and may impose conditions with respect to, matters listed in clause 7.5 of TPS6 which are, in the opinion of the Council, relevant to the proposed development. Of the 24 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (a) *the objectives and provisions of this Scheme, including the objectives and provisions of a Precinct Plan and the Metropolitan Region Scheme;*
- (b) *the provisions of the Residential Design Codes and any other approved Statement of Planning Policy of the Commission prepared under Section 5AA of the Act;*
- (d) *the preservation of the amenity of the locality;*
- (e) *all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*
- (f) *the extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area, in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details.*

In relation to all of these matters, the proposed development is considered to be satisfactory.

**Consultation**

(a) **Design Advisory Consultants**

The design of the proposal was considered by the City's Design Advisory Consultants at their meeting held on 20 March 2006. The Advisory Architects recommended that the application be approved, subject to fencing modifications. The amended drawings have since addressed the fencing issue.

(b) **Neighbour Consultation**

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Policy P104 'Neighbour and Community Consultation in Town Planning Processes'. The owners No. 45 Tate Street were invited to inspect the application and to submit comments during a 14-day period. Those owners have written to the City stating that they have no objection to the proposed development.

**Policy and Legislative Implications**

Comments in relation to various relevant provisions of the No. 6 Town Planning Scheme and the R-Codes have been provided elsewhere in this report.

**Financial Implications**

The issue has no impact on this particular area.

**Strategic Implications**

This matter relates to Goal 3 "Environmental Management" identified within the Council's Strategic Plan. Goal 3 is expressed in the following terms:

*To effectively manage, enhance and maintain the City's unique natural and built environment.*

### Conclusion

Having regard to all of the discussion in this report, it is considered that approval should be granted. The proposed Single House is in keeping with the zoning of the land notwithstanding that the land use is defined as Mixed Development. The proposed setback of 1.5 metres from Angelo Street is not unusual for a secondary street setback, and whilst it is the primary setback for the proposed dwelling it is seen as reasonable to treat the proposed dwelling as an extension of the existing shop building for the purpose of determining the front setback. The zero alignment of the portico to the front boundary is seen as providing further relief to the dwelling design and is not considered to have any detrimental impact on the amenity of the streetscape.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.3.10</b>
--

Moved Cr Maddaford, Sec Cr Gleeson

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for a proposed addition of Single House to the existing shop and change of non-conforming use from Shop to Mixed Development, on Lot 36 (No. 47) Tate Street **be approved**, subject to:

(a) **Standard Conditions**

340, 377, 390, 416, 427, 455, 456, 470, 471, 625, 651.

<b>Footnote:</b> A full list of Standard Conditions and Advice Notes is available for inspection at the Council Offices during normal business hours.
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(b) **Specific Conditions**

Revised drawings shall be submitted prior to the issuing of a building licence, and such drawings shall incorporate the following:

- (i) Details of the proposed modifications to the existing shop; and
- (ii) The crossover being modified so that it is set back at least 3.0 metres from the centreline of the street tree.

(c) **Standard Advice Notes**

646, 648.

<b>Footnote:</b> A full list of Standard Conditions and Advice Notes is available for inspection at the Council Offices during normal business hours.
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CARRIED (12/1)

<b>9.3.11 Proposed Closure of Right-of-Way No. 99</b>
---

Location:	Right-of-Way No. 99 in block bounded by Lawrence, Morrison, Saunders and Axford Streets, Como.
Applicant:	Mr M. Thompson and Ms G. Dastyar
File Ref:	ROW 99
Date:	3 November 2006
Author:	Sarah Brown, Planning Officer
Reporting Officer:	Steve Cope, Director Strategic and Regulatory Services

### Summary

This request relates to a proposed closure of the remnant portion of Right-of-Way No. 99. The Council needs to decide whether to close the remainder of Right-of-Way No. 99 and whether to permit the installation of gates restricting access to the right-of-way while the request is processed. The recommendation is to advertise the proposed closure and to permit the owners of the properties adjoining the right-of-way to install a gate.



**Background**

This report includes **Attachment 9.3.11** proposed closure plan.

**(a) Location**

The location of the right-of-way is shown below. The right-of-way is adjoined by residential properties. Four out of five of the adjoining properties have been redeveloped to a higher density; only No. 50 Saunders Street has potential to redevelop to a higher density.



**(b) Previous Resolutions**

The Council has previously adopted resolutions which are relevant to the present closure request in relation to Right-of-Way No. 99. These are outlined below:

June 1994: As part of its right-of-way closure program, the Council resolved to initiate advertising of the proposed full closure of ROW 99.

December 1994: In response to submissions, the Council resolved to partially close the right-of-way as a satisfactory closure plan for the western ‘leg’ could not be negotiated between neighbours. Issues included the right-of-way being in use by the owners of No. 50 Saunders Street and a proposed irregular boundary (required due to sewer manholes located in the-right-of-way).

November 1997: In response to requests from neighbours, the Council reconsidered the partial closure and resolved “to retain the portion of the right-of-way adjoining Lots 345, 346 and 360”. Part (c) of the resolution further stated:

*“The owners of Lots 345 and 346 Axford Street and Lot 360 Saunders Street be notified that it is Council’s current intention to pursue closure of the remainder of the right-of-way adjoining their properties when the owners of Lot 360 Saunders Street no longer require that portion of the right-of-way for access and/or storage*

*of their caravan - whether as a result of sale, alternative storage, or discontinued use of the caravan - with the full width of the right-of-way being allocated to Lots 345 and 346 Axford Street.”*

February 2002: As part of a review of the Right-of-Way Policy, submissions were received in relation to ROW 99. The Council’s resolution confirmed the November 1997 resolution. There was also a resolution relating to the installation of a gate:

*“Subject to the Council’s receipt of written evidence of unanimous agreement from the owners of Lots 345, 346, 360 and 4607 (No. 3 Lawrence Street), the Council will consider the installation of lockable gates, at the cost of affected owners, at the Saunders Street end of the lane whilst it remains open, to alleviate the security concerns of surrounding residents.”*

**(c) Condition and Usage**

The photograph below, taken from the Saunders Street verge and looking northwards, shows that the remaining portion of Right-of-Way No. 99 is largely an unfinished surface with weeds, while the verge area and the first part of the right-of-way are grassed, including a kept garden at the side.



The right-of-way appears to have been used as recently as late October 2006 with there being clear tyre tracks across the grass.

**Comment**

In June 2006 Mr Mervyn Thompson, owner of Lot 346 (No. 48) Saunders Street informed the City that No. 50 Saunders Street had been sold and requested that the Council now proceed with the closure as per the Council’s February 2002 resolution.

**(a) Closure Process**

To close the remaining portion of the right-of-way, it is necessary for the statutory procedures to be commenced from the start. The Council’s 2002 resolution does not allow Council to circumvent any of the steps in the statutory process. It is noted also, that some changes of ownership of affected properties have occurred since 2002. All reasons for closure and format of the process now needs to comply with contemporary standards.

Should the Council agree to initiate this closure action, the procedures will be:

1. Obtain quote from Department for Planning and Infrastructure: DPI will determine whether the purchase price and costing will be “nominal” (has been \$440 in the past) or “market” value.
2. Advertise to the adjoining land owners, utilities and Western Australian Planning Commission for comment.
3. Council considers report on submissions and makes a recommendation to the Minister for Lands.
4. Report for DPI/Minister for Lands is prepared.

**(b) Description of the Proposal**

The proposal is to close the remaining portion of Right-of-Way No. 99. The allocation of the land is proposed to be as per the most recent Council resolution, which allocates the full width of the right-of-way to the properties to the western side of the right-of-way. All adjoining owners will have the opportunity to comment on the proposal should the Council agree to proceed and permit the advertising of the proposal.

**(c) Reasons for Closure**

The decision that the Council is being requested to make is whether or not to advertise the proposal for comments from the affected adjoining owners. All of the owners will then have an opportunity to have their concerns considered and weighed so that Council can make a fully informed recommendation to the Minister for Lands. The only reason that Council would decide to not advertise the proposal is if the Council overwhelmingly believes that it will not recommend closure, after advertising. To assist Council in its deliberations, the following comments and information are provided:

The applicants cited the February 2002 Council resolution as the reason for their request to have the right-of-way closed, having regard to the change of ownership of Lot 360 (No. 50) Saunders Street.

It is necessary to consider other factors in relation to the closure. In June 2006 the Western Australian Planning Commission (WAPC) released “Designing Out Crime Planning Guidelines”. These guidelines and other WAPC policies can be applied to right-of-ways. In respect of this proposal to close the right-of-way:

- The possibility of ‘entrapment’ will be resolved. Presently, a person lawfully using the right-of-way may find themselves trapped in the right-of-way by anti-social persons with no way to escape.
- The WAPC policy stating that partially closed Right-of-ways have insufficient turning area for cars, becomes a non-issue as the right-of-way will be fully closed.
- Redevelopment potential of adjoining lots is an issue limited to one lot only, namely No. 50 Saunders Street. All of the other adjoining lots have been redeveloped to their potential under the City of South Perth Town Planning Schemes and the Residential Design Codes.

In this instance, the reasons for closure are compelling. Therefore the advertising of the closure is recommended.

**(d) Gates**

The applicants have also requested that the City allow gates to be built across the right-of-way while the closure procedure is occurring. The closure procedure can take between 12 months and two years on average, and the owners would like to see the

right-of-way made safe as soon as possible. The previous Council resolution required unanimous agreement from all of the affected owners prior to the Council agreeing to the owners installing a gate.

In this instance, agreement from the new owner of No. 50 Saunders Street appears to have been obtained (see the Consultation section below). In view of this, it is recommended that the Council permit the installation, subject to the affected owners jointly presenting satisfactory details of the proposed gate. The construction and installation cost would need to be met by the affected property owners.

### **Consultation**

In relation to the proposed closure, the City has no obligations under the Land Administration Act or the City's Neighbour Consultation Policy No. P104 to advertise the proposal before resolving to initiate the statutory procedure. That procedure provides an opportunity for affected owners to comment following Council's adoption of the preliminary resolution. However, the City did contact the new owner of No. 50 Saunders Street, Mr Casale to obtain comment. Mr Casale has provided a lettering stating "We support and have no objection to the closure of the Right-of-Way 99." Mr Casale also appears to agree to the proposed interim use of gates in light of his handwritten statement; "Subject to have key for personal access" added at the bottom of the page.

### **Policy and Legislative Implications**

Comments in relation to relevant Council policies have been provided elsewhere in this report.

### **Financial Implications**

The issue has some impact on this particular area, to the extent that:

- (a) the closure of this right-of-way will reduce maintenance costs to the City;
- (b) the City does not receive any fees or payments for its role in the closure process; and
- (c) the City does not receive any payment for the sale of the land (the Department for Planning and Infrastructure receives those monies and does not distribute them).

### **Strategic Implications**

This matter relates to Goal 3 "Environmental Management" identified within the Council's Strategic Plan. Goal 3 is expressed in the following terms: *To effectively manage, enhance and maintain the City's unique natural and built environment.*

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.3.11</b>
--

That...

- (a) in order to provide the opportunity for all affected owners of comment on the proposal to request that the Minister for Lands to acquire and then partially close the private street known as Right-of-Way No. 99, Council hereby proposes pursuant to Section 52(3)(a) of the *Land Administration Act 1997* to commence the procedure towards possible closure of Right-of-Way No. 99 contained within the block bounded Lawrence, Morrison, Saunders and Axford Streets, Como, described as being portion of Swan Location 41 and being the portion coloured green Plan 4740(3) and on Certificate of Title Volume 554 Folio 63, with the intention that, following finalisation of the closure, the land contained therein will be allocated in the manner indicated on the plan comprising **Attachment 9.3.11**;

- (b) pursuant to Section 52(3)(b) of the *Land Administration Act 1997*, owners of land adjoining the right-of-way be invited to comment on the proposal to close Right-of-Way No. 99, during a period of not less than 30 days; and
- (c) the owners adjoining Right-of-Way No. 99 be permitted to install a gate at the owners' cost, subject to the submission of details of the proposed gate for approval by the City. Such a submission is to include the signatures of the owners of Lots 345 and 346 Axford Street, Lot 2 (No. 3 Lawrence Street), and Lot 360 (50 Saunders Street).

CARRIED EN BLOC RESOLUTION

#### 9.4 GOAL 4: INFRASTRUCTURE

<b>9.4.1 Capital Works Program 2006/2007</b>
--

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/502
Date:	6 November 2006
Author:	Les Croxford, Manager Engineering Infrastructure
Reporting Officer:	Glen Flood, Director Infrastructure Services

##### **Summary**

Since adopting the Budget for 2006/07 the scope and extent of a number of projects have changed as a result of external factors. This report identifies a number of projects where additional funding is required to complete the works and a number of projects that could contribute the required funds without affecting the overall integrity of Asset Management.

##### **Background**

Council adopted the current Capital Works Program and Budget for 2006/07 at the Special Council Meeting on 11 July 2006.

Two projects have been identified, following completion of the detailed designs, to have insufficient funds to carry out the essential improvement works. The two projects are:

- Hensman Street/Labouchere Road Intersection; and
- Hayman Road at Thelma Street

Changes to the Budget require an Absolute Majority from Council.

##### **Comment**

###### *Hensman Street at Labouchere Road*

The Hensman Street Coode to Labouchere Working Party identified that the current layout of the intersection encouraged higher entry speeds for left turning vehicles off Labouchere Road and contributed to the higher than normal east bound vehicle speeds. It was also acknowledged that the current layout did not provide an adequate level of separation at the intersection for opposing traffic and included a left turning lane out of Hensman Street more associated with a distributor class road than a local residential street.

The proposed layout increases the verge areas either side of Hensman Street and restores a more residential streetscape to the intersection. The kerbing extension provides an opportunity to substantially modify the cul de sac (road closure) at Onslow Street as it intersects with Hensman Street. This road closure was effected only two decades ago and the landscaping has remained substantially unchanged in all that time. The landscaping is predominately Australian natives and should be scheduled for replacement within the next five years.

The modification to the intersection requires resurfacing of part of Hensman Street and Onslow Street to ensure drainage and rectify other deficiencies, an activity that would have been undertaken in the foreseeable future as rehabilitation had the intersection treatment not been recommended. The design of the intersection **Attachment 9.4.1(a)** details the engineering and environment requirements to restore this area to an attractive streetscape consistent with the adjacent properties.

Funding carried forward from 2005/06 is sufficient to undertake the engineering works only. The estimated cost of the intersection works and landscaping is \$65,500. To complete the task to a standard commensurate with the area would require additional funding of \$37,000.

Glyde Street has been identified for road rehabilitation/resurfacing in 2006/07, an activity that can be deferred, considering so much of the additional funding required for the above intersection treatment is pavement rehabilitation of parts of Onslow Street and Hensman Street. As such it simply represents a substitution of projects within the overall rehabilitation/resurfacing program of asset management.

The transfer of funding from Glyde Street to Hensman Street is suggested in the table included in the recommendation.

#### *Thelma Street/Hayman Road*

This intersection was identified under the BlackSpot program as being of interest. The intersection from observation and debris left at the intersection has a high number of near miss incidents as well as minor crashes which go unreported. The opportunities to reduce the predominant right through and right turning crashes at the intersection are limited. A dedicated left turning lane from Hayman Road to Thelma Street was identified as the most likely solution to achieve an improvement at the intersection.

The funding proposal under the BlackSpot program did not include provision for cycling movements and other required features and on completion of design the available funds were only 30% of the required funding to carry out the works. Additional funding is sought to carry out the works that will open up the intersection in Hayman Road, provide better opportunities for drivers exiting Thelma Street and generally reduce crashes and the incidence of near misses at the intersection as well as an expected reduction in queuing at Thelma Street. The estimated cost to complete the works detailed is \$32,000. **Attachment 9.4.1(b)** refers.

Carried forward from 2005/06 is the traffic management measures programmed for David Street. The design finally installed in David Street after consultation with the residents was the two-way one-lane slow points with “mid block” give-way at two locations along the street. The slow points have the effect of slowing traffic overall, with some disincentive to through traffic, but overall minimal reduction on traffic volumes.

The slow points have now been in place for less than three months and a review of their performance is not anticipated for at least a further six months. In the meantime funding allocated to David Street but not expended as part of the slow points could be transferred to another traffic management project in close proximity. Should the review identify additional works in David Street to be necessary (highly unlikely) then funding would be sought in a subsequent Budget.

#### **Consultation**

No public consultation is required to amend the Budget.

#### **Policy and Legislative Implications**

There are no policy or legislative implications.

**Financial Implications**

The suggested amendments are intended to be cost neutral. The suggested amendment involves deferring a project listed in 2006/07 to another year and transferring unspent funds from one project that is subject to an operational review in the fourth quarter to enable the shortfall to be met in 2006/07.

**Strategic Implications**

The proposal to amend the Budget to facilitate additional works or variations to existing projects as a result of external circumstances is consistent with Goal 4 Infrastructure - Strategy 4.1 *“Develop appropriate plans, strategies and management systems to ensure public infrastructure assets (roads, drains, footpaths etc) are maintained to a responsible level.”*

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.4.1</b>
---

That....

- (a) the works as detailed in report Item 9.4.1 of the November 2006 Council Agenda proceed as soon as practicable; and
- (b) to facilitate the above works the Budget be amended as follows.

A/Cr	Account Description	Account Type	Current Budget	Budget Amount	Revised Budget
7088	LATM 4 Hensman Street at Labouchere Road	Capital Expenditure	\$28,500	\$37,000	\$65,500
7098	Hayman Road at Thelma Street	Capital Expenditure	\$10,000	\$22,000	\$32,000
5322	Glyde Street	Capital Expenditure	\$47,000	-\$37,000	\$10,000
7089	David Street Slow Points	Capital Expenditure	\$33,500	\$22,000	\$11,500

CARRIED EN BLOC RESOLUTION  
and by Required Absolute Majority

**9.5 GOAL 5: ORGANISATIONAL EFFECTIVENESS**

<b>9.5.1 Approval for: Council Recess in January 2007; Bringing Forward the December 2007 Council Meeting / Agenda Briefing; and Adopting the Council Meeting and Council Agenda Briefing Schedule for 2007</b>
---

Location: City of South Perth  
 Applicant: Council  
 File Ref: A/ME/2  
 Date: 3 November 2006  
 Author: Kay Russell  
 Reporting Officer: : Cliff Frewing, Chief Executive Officer

**Summary**

The purpose of this report is to:

- acknowledge the Council recess in January 2007;
- bring forward the December 2007 Agenda Briefing / Council Meeting; and
- adopt the Council Meeting / Agenda Briefing Schedule for the year 2007.

### **Background**

In December the ordinary scheduled Council meeting date is usually brought forward by one week to accommodate the Christmas period.

During January each year when the Council is in recess any urgent matters that may arise, that the Chief Executive Officer does not have authority to deal with, will be the subject of a Special Meeting of Council. Clause 2.1 of the Standing Orders Local Law. 'Notice of Special Council Meetings' refers.

The Chief Executive Officer will continue to manage the day-to-day operations of the local government as he is empowered to do in accordance with the *Local Government Act*.

### **Comment**

A resolution is required to:

- acknowledge the Council recess in January 2007;
- bring forward the December 2007 Council Agenda Briefing to **11 December** and the Council meeting to **18 December 2007**; and
- adopt the Council Meeting / Council Agenda Briefing Schedule for the year 2007.

The changes proposed for January and December have been custom and practice at the City of South Perth and this report is proposing continuation. There is minimal public impact expected.

### **Consultation**

It is proposed to advertise the Council Meeting / Agenda Briefing Schedule for the year 2007 in the Southern Gazette newspaper and to update the internet 'Schedule of Meetings' accordingly. As per normal practice the Agendas for all meetings are displayed on the noticeboards in the Libraries, Heritage House and outside the Civic Centre Administration Offices.

### **Policy Implications**

Action in common with past practice.

### **Financial Implications**

N/A

### **Strategic Implications**

In line with Goal 5 of the Strategic Plan : Organisational Effectiveness -

*To be a professional, effective and efficient organisation*



**OFFICER RECOMMENDATION AND  
COUNCIL DECISION ITEM 9.5.1**

That for the year 2007:

- (a) Council Ordinary Meetings be held on the **fourth Tuesday** of each month commencing at 7.00pm in the Council Chamber at the Civic Centre, Sandgate Street, South Perth; and
- (b) Council Agenda Briefings be held on the **third Tuesday** of each month commencing at 5.30pm in the Council Chamber at the Civic Centre, Sandgate Street, South Perth,

with the exception of:

- (i) January 2007, when Council is in recess; and
- (ii) December 2007 when:
  - (A) the regular Council meeting date will be brought forward one week to **18 December 2007**; and
  - (B) the regular Council Agenda Briefing will be brought forward one week to **11 December 2007**.

CARRIED EN BLOC RESOLUTION

**9.5.2 Monthly List 'Use of Common Seal'**

Location:	City of South Perth
Applicant:	Council
File Ref:	N/A
Date:	6 November 2006
Author:	Sean McLaughlin
Reporting Officer:	Chief Executive Officer

**Summary**

To advise Council of the use of the 'Common Seal' for the month of October 2006.

**Background**

At the October 2006 Ordinary Council Meeting the following resolution was adopted:

*That Council receive a monthly report as part of the Agenda, commencing at the November 2006 meeting, on the use of the Common Seal, listing seal number; date sealed; department; meeting date / item number and reason for use.*

**Comment**

Clause 19.1 of the City's Standing Orders Local Law 2002 provides that the CEO is responsible for the safe custody and proper use of the common seal. In addition, clause 19.1 requires the CEO to record in a register:

- (i) the date on which the common seal was affixed to a document;
- (ii) the nature of the document; and
- (iii) the parties to any agreement to which the common seal was affixed.

The register is maintained on an electronic data base and is available for inspection.

**Consultation**

Not applicable.

### **Policy and Legislative Implications**

Clause 19.1 of the City's Standing Orders Local Law 2002 provides that the CEO is responsible for the safe custody and proper use of the common seal.

### **Financial Implications**

The issue has no impact on this particular area.

### **Strategic Implications**

The report aligns to Goal 5 "Organisational Effectiveness" within the Council's Strategic Plan. Goal 5 is expressed in the following terms: *To be a professional, effective and efficient organisation.*

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.5.2</b>
---

That the List provided as **Attachment 9.5.2**, detailing the 'Use of the Common Seal' for the month of October 2006, be received.

CARRIED EN BLOC RESOLUTION

<b>9.5.3 Applications for Planning Approval Determined Under Delegated Authority</b>
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Location:	City of South Perth
Applicant:	Council
File Ref:	N/A
Date:	7 November 2006
Author:	Rod Bercov, Manager, Development Services
Reporting Officer:	Steve Cope, Director, Strategic and Regulatory Services

### **Summary**

The purpose of this report is to advise Council of applications for planning approval determined under delegated authority during the month of October 2006.

### **Background**

At the Council meeting held 24 October 2006, Council resolved as follows:

*That Council receive a monthly report as part of the Agenda, commencing at the November 2006 meeting, on the.....*

*(b) exercise of Delegated Authority from Development Services under Town Planning Scheme No. 6, as currently provided in the Councillor's Bulletin.*

The great majority (over 90%) of planning applications are processed by the Planning Officers and determined under delegated authority rather than at Council meetings. This report provides information relating to the applications dealt with under delegated authority.

### **Comment**

Council Delegation DC342 "Town Planning Scheme No. 6" identified the extent of delegated authority conferred upon City Officers in relation to applications for planning approval. Delegation DC342 guides the administrative process regarding referral of applications to Council meetings or determination under delegated authority.

### **Consultation**

During the month of October 2006, fifty two (52) development applications were determined under delegated authority. **Attachment 9.5.3** refers.

### **Policy and Legislative Implications**

The issue has no impact on this particular area.

### **Financial Implications**

The issue has no impact on this particular area.

### **Strategic Implications**

The report is aligned to Goal 5 “Organisational Effectiveness” within the Council’s Strategic Plan. Goal 5 is expressed in the following terms: *To be a professional, effective and efficient organisation.*

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.5.3</b>
---

That the report and **Attachment 9.5.3** relating to delegated determination of applications for planning approval during the month October 2006, be received.

CARRIED EN BLOC RESOLUTION

<b>9.5.4 Membership of the Audit and Governance Committee</b>
---

Location:	City of South Perth
Applicant:	Council
Date:	16 November 2006
Author:	Kay Russell
Reporting Officer:	Cliff Frewing, Chief Executive Officer

### **Summary**

The purpose of this report is to appoint a replacement Member for Mayor Collins who has recently indicated his intention to resign as a member of this Committee.

### **Background**

The following are the current members of the Audit and Governance Committee:

- Mayor, Mr J Collins, JP
- Cr R B Maddaford (Chairman)
- Cr L P Ozsdolay
- Cr L Jamieson
- Cr D Smith (Deputy Member)

### **Comment**

*The Audit and Governance Committee is responsible for auditing and reviewing the City processes and performance in relation to:*

- (i) *the annual financial audit;*
- (ii) *the City’s risk management framework;*
- (iii) *the annual Statutory Compliance Audit;*
- (iv) *the Code of Conduct;*
- (v) *complaint reviews;*
- (vi) *access to information;*
- (vii) *policy and delegation reviews;*
- (viii) *the Australian Business Excellence Framework; and*
- (ix) *the City’s Local Laws.*

The Committee meets four times a year with the timing of each meeting coinciding with the conduct of a particular aspect of the City’s audit and governance cycle.

**Consultation**

Nil

**Policy and Legislative Implications**

Section 5.11 of the *Local Government Act* enables a local government to establish Committees of three or more persons.

**Financial Implications**

Nil

**Strategic Implications**

In line with Strategic Plan Goal 5: Organisational Effectiveness. *'To be a professional, effective and efficient organisation.'*

**OFFICER RECOMMENDATION ITEM 9.5.4**

That a replacement Member be appointed to the Audit and Governance Committee following the resignation from this Committee by Mayor Collins.

*(\*Note: An Absolute Majority is Required)*

NOMINATION - MEMBER AUDIT & GOVERNANCE COMMITTEE

Cr Cala nominated Cr Wells. Cr Wells accepted nomination.

**COUNCIL DECISION ITEM 9.5.4**

Moved Cr Cala, Sec Cr Hearne

That Cr Wells be appointed a Member of the Audit and Governance Committee following the resignation from this Committee by Mayor Collins.

CARRIED BY REQUIRED ABSOLUTE MAJORITY (13/0)

**9.6 GOAL 6: FINANCIAL VIABILITY**

**9.6.1 Monthly Financial Management Accounts – October 2006**

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	9 November 2006
Author / Reporting Officer:	Michael J Kent, Director Financial and Information Services

**Summary**

Monthly management account summaries compiled according to the major functional classifications compare actual performance against budget expectations. These are presented to Council with comment provided on the significant financial variances disclosed in those reports.

**Background**

Local Government (Financial Management) Regulation 34 requires the City to present monthly financial reports to Council in a format reflecting relevant accounting principles. A management account format, reflecting the organisational structure, reporting lines and accountability mechanisms inherent within that structure is considered the most suitable format to monitor progress against the Budget. Information provided to Council is a

summary of the detailed line-by-line information supplied to the City's departmental managers to enable them to monitor the financial performance of the areas of the City's operations under their control. This format is consistent with the structure of the budget information provided to Council and published in the 2006/2007 Annual Budget.

Combining the Summary of Operating Revenues and Expenditures with the Summary of Capital Items gives a consolidated view of all operations under Council's control and it measures actual financial performance against budget expectations.

Regulation 35 of the Local Government (Financial Management) Regulations requires significant variances between budgeted and actual results to be identified and comment provided on those identified variances. The City has adopted a definition of 'significant variances' of \$5,000 or 5% of the project or line item value - whichever is the greater. Whilst this is the statutory requirement, the City provides comment on a number of lesser variances where it believes this assists in discharging accountability.

To be an effective management tool, the 'budget' against which actual performance is compared is phased throughout the year to reflect the cyclical pattern of cash collections and expenditures during the year rather than simply being a proportional (number of expired months) share of the annual budget. The annual budget has been phased throughout the year based on anticipated project commencement dates and expected cash usage patterns. This provides more meaningful comparison between actual and budgeted figures at various stages of the year. It also permits more effective management and control over the resources that Council has at its disposal.

The local government budget is a dynamic document and will necessarily be progressively amended throughout the year to take advantage of changed circumstances and new opportunities. This is consistent with principles of responsible financial cash management. Whilst the original adopted budget is relevant at July when rates are struck, it should, and indeed is required to, be regularly monitored and reviewed throughout the year. Thus the Adopted Budget evolves into the Amended Budget via the regular (quarterly) Budget Reviews.

For comparative purposes, a summary of budgeted revenues and expenditures (grouped by department and directorate) is provided throughout the year. This schedule reflects a reconciliation of movements between the 2006/2007 Adopted Budget and the 2006/2007 Amended Budget - including the introduction of the capital expenditure items carried forward from 2005/2006.

A monthly Balance Sheet detailing the City's assets and liabilities and giving a comparison of the value of those assets and liabilities with the relevant values for the equivalent time in the previous year is also provided. Presenting the Balance Sheet on a monthly, rather than annual, basis provides greater financial accountability to the community and provides the opportunity for more timely intervention and corrective action by management where required.

#### **Comment**

The major components of the monthly management account summaries presented are:

- Balance Sheet – **Attachments 9.6.1(1)(A) and 9.6.1(1)(B)**
- Summary of Operating Revenue and Expenditure (for all departments except for Infrastructure Services) – **Attachment 9.6.1(2)**
- Summary of Operating Revenue and Expenditure for Infrastructure Services – **Attachment 9.6.1(3)**
- Summary of Capital Items – **Attachment 9.6.1(4)**
- Schedule of Significant Variances – **Attachment 9.6.1(5)**
- Reconciliation of Budget Movements - **Attachment 9.6.1(6)**

Operating Revenue to 31 October 2006 is \$24.80M which represents 100% of the Year to Date Budget of \$24.75M. The very small favourable variance is due to slightly higher than budgeted investment revenue and parking revenue. Revenue from the Collier Park Hostel is also ahead of budget due to higher Commonwealth subsidies from the increased RCS levels at present. Building services revenues are also slightly in advance of budget due to a higher number of small applications. Comment on the specific items contributing to the variances may be found in the Schedule of Significant Variances. **Attachment 9.6.1(5).**

Operating Expenditure to 31 October 2006 is \$9.53M - which represents 95% of the Year to Date Budget of \$10.05M. Operating Expenditure is around 5% favourable in the Administration area - and 6% favourable in the Infrastructure Services area.

The favourable variance in the Administration area is related to several smaller favourable variances mostly related to staff positions that remain vacant due to either extended leave or resignations. Planning, Building Services, Finance, Engineering, Recreation and Human Resources are all affected by this issue. This is not unique to our organisation. Rather it reflects the prevailing economic climate and the well documented skills shortage in local government - which is not perceived as a desirable employment destination by many job seekers in the current market. Overall, the salaries budget (including temporary staff where they are being used to cover such vacancies) is more than 8% under the budget allocation for the 210 FTE staff positions approved by Council in the budget process.

A number of small favourable timing differences in the Infrastructure area relate to the impact of staffing levels on maintenance programs for activities such as parks maintenance, building maintenance and environmental maintenance. Programs for other infrastructure activities such as drainage, roads and path maintenance are impacted to some degree by contractor availability. Further monitoring and (if necessary) corrective actions are occurring in relation to previously identified concerns with allocations of overheads and charge out for plant items. As these are largely driven by direct labour hours, this is also impacted by staffing levels and can require retrospective adjustments. Comment on the specific items contributing to the operating expenditure variances may be found in the Schedule of Significant Variances. **Attachment 9.6.1(5).**

Capital Revenue is disclosed as \$0.30M at 31 October against a budget of \$0.39M. Roads grant revenue is on budget to date. The unfavourable variance in capital revenues relates to a lesser than anticipated turnover of units in the Collier Park Village in the first 4 months of this year. An offsetting benefit from this is that capital expenditure on refurbishments is also lower than budgeted.

Capital Expenditure at 31 October is \$2.51M against a year to date budget of \$2.82M This represents a pleasing 89% of the year to date budget and represents 15% of the full year capital program including the Underground Power Project (UGP). Excluding the UGP project, which is to be separately delivered by Western Power rather than through City resources, we have currently completed around 23% of the full year's program. The executive management team is closely monitoring the progress of the City's various departments in delivering the capital program throughout the year.

A summary of the progress of the capital program (including approved carry forward works) by directorate is provided below:

Directorate	YTD Budget	YTD Actual	% YTD Budget	Total Budget
CEO / Financial & Info Services	1,320,000	1,176,785	89%	1,852,000
Corp & Community Services	214,650	104,426	41%	1,326,454
Strategic & Reg Services	29,900	8,690	30%	126,500
Infrastructure Services	1,236,962	1,207,109	97%	7,741,549
Underground Power	20,000	10,781	54%	4,820,000
<b>Total</b>	<b>2,821,512</b>	<b>2,507,791</b>	<b>89%</b>	<b>15,866,503</b>

Further comment on the variances relating to Capital Revenue and Capital Expenditure items may be found in **Attachment 9.6.1(5)**.

#### Consultation

This financial report is prepared to provide financial information to Council and to evidence the soundness of the administration's financial management. It also provides information and discharges financial accountability to the City's ratepayers.

#### Policy and Legislative Implications

In accordance with the requirements of the Section 6.4 of the *Local Government Act* and Local Government Financial Management Regulations 34 and 35.

#### Financial Implications

The attachments to this report compare actual financial performance to budgeted financial performance for the period.

#### Strategic Implications

This report deals with matters of financial management which directly relate to the key result area of Financial Viability identified in the City's Strategic Plan – *'To provide responsible and sustainable management of the City's financial resources'*.

### OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.6.1

That ....

- (a) the monthly Balance Sheet and Financial Summaries provided as **Attachment 9.6.1(1-4)** be received;
- (b) the Schedule of Significant Variances provided as **Attachment 9.6.1(5)** be accepted as having discharged Council's statutory obligations under Local Government (Financial Management) Regulation 35; and
- (c) the Summary of Budget Movements and Budget Reconciliation Schedule for 2006/2007 provided as **Attachment 9.6.1(6)(A)** and **9.6.1(6)(B)** be received.

CARRIED EN BLOC RESOLUTION

### 9.6.2 Monthly Statement of Funds, Investments and Debtors at 31 October 2006

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	7 November 2006
Authors:	Michael J Kent and Deborah M Gray
Reporting Officer:	Michael J Kent, Director Financial and Information Services

### **Summary**

This report presents to Council a statement summarising the effectiveness of treasury management for the month including:

- The level of controlled Municipal, Trust and Reserve funds at month end.
- An analysis of the City's investments in suitable money market instruments to demonstrate the diversification strategy across financial institutions.
- Statistical information regarding the level of outstanding monies pertaining to Rates and General Debtors.

### **Background**

Effective cash management is an integral part of proper business management. Responsibility for management and investment of the City's cash resources has been delegated to the City's Director Financial and Information Services and the Manager Financial Services. These officers also have responsibility for the management of the City's Debtor function and oversight of collection of outstanding debts.

In order to discharge accountability for the exercise of these delegations, a monthly report is presented detailing the levels of cash holdings on behalf of the Municipal and Trust Funds as well as the funds held in "cash backed" Reserves. Significant holdings of money market instruments are involved so an analysis of cash holdings showing the relative levels of investment with each financial institution is provided. Statistics on the spread of investments to diversify risk provide an effective tool by which Council can monitor the prudence and effectiveness with which the delegations are being exercised. Finally, a comparative analysis of the levels of outstanding rates and general debtors relative to the equivalent stage of the previous year is provided to monitor the effectiveness of cash collections.

### **Comment**

#### **(a) Cash Holdings**

Total funds at month end of \$32.71M compare very favourably to \$30.15M at the equivalent stage of last year. This is due to a number of factors including the very good cash collections from rates levied in July (still almost 0.5% ahead of last year) but is mainly due to the positive cash flow implications of the City changing the way in which it remits its ESL collections to FESA (we are now be making pre-determined quarterly remittances rather than the 'actual' monthly collections remittance approach used in previous years). Our cash position is currently being positively impacted by this change - but will be less favourably impacted in the later months of the year when payments to FESA are greater than the incoming collections.

After adjusting for the ESL cash flow impact - and the lesser level of funds quarantined for carry forward capital works compared to last year, the net position is still better relative to October 2005. Monies taken into the new year and subsequent collections are invested in secure financial instruments to generate interest until those monies are required to fund operations or projects later in the year as capital initiatives progress.

Excluding the 'restricted cash' relating to cash-backed Reserves and monies held in Trust on behalf of third parties; the cash available for Municipal use currently sits at \$15.59M (compared to \$14.37M in 2005/2006). **Attachment 9.6.2(1)**. The major reason for the much higher level of funds held compared to last year is the ESL cashflow impact.



**(b) Investments**

Total investment in short term money market instruments at month end is \$32.39M compared to \$30.09M last year. The difference again relates to improved cash collections and the timing implications of the changed ESL remittance arrangements – despite the City having considerably less funds held for carry forward works than the figure at the same time last year.

Funds held are responsibly spread across various institutions to diversify risk as shown in **Attachment 9.6.2(2)**. Interest revenues (received and accrued) for the year to date total \$0.58M, which is up from \$0.52M at the same time last year. This is primarily attributable to higher cash holdings and the higher interest rates available at this time.

The average rate of return for the year to date is 6.18%. The anticipated yield on investments yet to mature is currently 6.26% - reflecting astute selection of investments after considering our cash flow management needs. Higher rates are anticipated for future investments following the recent Reserve bank decision on interest rates. The City actively manages its treasury funds to pursue responsible, low risk investment opportunities that generate interest revenue to supplement its rates income.

**(c) Major Debtor Classifications**

The level of outstanding rates relative to the equivalent time last year is shown in **Attachment 9.6.2(3)**. Rates collections to the end of October 2006 represent 68.9% of total rates levied compared to 68.4% at the equivalent stage of the previous year (3 instalments remaining). This continues to be the City's best ever rates collection result to this stage of the year - and supports the rating strategy and the communication strategy used for the 2006/2007 rates issue. The next rates instalment is due in November 2006.

The range of appropriate, convenient and user friendly payment methods offered combined with the early payment incentive scheme (generously sponsored by local businesses) have had a very positive impact on initial rates collections. This is now being complemented by timely reminder notices and other appropriate debt collection actions to ensure that we build upon these very solid treasury management foundations.

General debtors stand at \$0.79M at 31 October 2006 compared to \$0.72M at the same time last year. The debtors category with a larger outstanding balance than at the same time last year is infringements – this is due to a larger value of infringements being issued and some technical issues resulting from changes in the way that DPI and FER process their parts of the infringement process. Because of the FER (Fines Enforcement Registry) involvement in the process, through the suspension of driver's licenses for non payment, the debts are nonetheless regarded as largely collectible although they can take some time to collect.

**Consultation**

This financial report is prepared for Council and the City's management to evidence the soundness of financial management being employed by the administration. It also provides information that discharges accountability to our ratepayers. Community consultation is not a required part of these responsibilities.

### **Policy and Legislative Implications**

Consistent with the requirements of Policy P603 - Investment of Surplus Funds and Delegation DM603. The provisions of Local Government Financial Management Regulation 19 are also relevant to the content of this report.

### **Strategic Implications**

This report deals with matters of financial management which directly relate to the key result area of Financial Viability identified in the City's Strategic Plan – *'To provide responsible and sustainable management of the City' financial resources'*.

## **OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.6.2**

That the 31 October 2006 Statement of Funds, Investment and Debtors comprising:

- Summary of All Council Funds as per **Attachment 9.6.2(1)**
- Summary of Cash Investments as per **Attachment 9.6.2(2)**
- Statement of Major Debtor Categories as per **Attachment 9.6.2(3)**  
be received.

CARRIED EN BLOC RESOLUTION

## **9.6.3 Warrant of Payments Listing**

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	9 November 2006
Authors:	Michael J Kent and Deborah M Gray
Reporting Officer:	Michael J Kent ,Director Financial and Information Services

### **Summary**

A list of accounts paid by the CEO under delegated authority between 1 October 2006 and 31 October 2006 is presented for information to the November 2006 Council meeting.

### **Background**

Local Government Financial Management Regulation 11 requires a local government to develop procedures to ensure the proper approval and authorisation of accounts for payment. These controls relate to the organisational purchasing and invoice approval procedures documented in the City's Policy P605 - Purchasing and Invoice Approval.

They are supported by Delegation DM605 which sets the authorised purchasing approval limits for individual officers. These processes and their application are subjected to detailed scrutiny by the City's Auditors each year during the conduct of the Annual Audit. Once an invoice has been approved for payment by an authorised officer, payment to the relevant party must be made from either the Municipal Fund or the Trust Fund and the transaction recorded in the City's financial records.

### **Comment**

A list of payments made since the last list was presented is prepared and is presented to the next ordinary meeting of Council and recorded in the minutes of that meeting. It is important to acknowledge that the presentation of this list (Warrant of Payments) is for information purposes only as part of the responsible discharge of accountability. Payments made under this delegation can not be individually debated or withdrawn.

**Consultation**

This is a financial report prepared to provide financial information to Council and the City's administration to provide evidence of the soundness of financial management being employed by the administration. It also provides information and discharges financial accountability to the City's ratepayers.

**Policy and Legislative Implications**

Consistent with the requirements of Policy P605 - Purchasing and Invoice Approval and supported by Delegation DM605.

**Financial Implications**

Payment of authorised amounts within existing budget provisions.

**Strategic Implications**

This report deals with matters of financial management which directly relate to the key result area of Financial Viability identified in the City's Strategic Plan – *'To provide responsible and sustainable management of the City's financial resources'*.

**OFFICER RECOMMENDATION AND  
COUNCIL DECISION ITEM 9.6.3**

Moved Cr Trent, Sec Cr Doherty

That the Warrant of Payments for the month of October 2006 as detailed in the Report of the Director Financial and Information Services, **Attachment 9.6.3**, be received.

CARRIED (12/1)

**NOTE: CR JAMIESON REQUESTED THAT HE BE RECORDED AS HAVING VOTED AGAINST THE MOTION**

**9.6.4 Capital Projects Review to 31 October 2006**

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	7 November 2006
Author/Reporting Officer:	Michael J Kent, Director Financial and Information Services

**Summary**

A schedule of financial performance supplemented by relevant comments is provided in relation to approved Capital Projects to 31 October 2006. Comment is made only on significant identified variances as at the reporting date.

**Background**

A schedule showing the financial status of all approved Capital Projects is prepared on a bi-monthly basis in the month immediately following the reporting period and then presented the next ordinary meeting of Council. The schedule is presented to Council Members to provide an opportunity for them to receive timely information on the progress of capital works projects and to allow them to seek clarification and updates on scheduled projects.

The Schedule of Capital Projects and attached comments on significant project line item variances provide a comparative review of the Budget versus Actual Expenditure and Revenues on all Capital Items. Although all projects are listed on the schedule, brief comment is only provided on the significant variances identified. This is to keep the report to a reasonable size and to emphasise the reporting by exception principle.

**Comment**

Excellence in financial management and good governance require an open exchange of information between Council Members and the City's administration. An effective discharge of accountability to the community is also able to be effected by tabling this document and the relevant attachments to a meeting of Council.

Overall, expenditure on the Capital Program represents 89% of the year to date target (23% of the full year's budget).

The Executive Management Team is closely monitoring and reviewing the Capital Program with operational managers on an ongoing basis. This includes seeking strategies and updates from each of them in relation to the responsible and timely expenditure of the capital funds within their individual areas of responsibility.

Comments on the broad capital expenditure categories are provided in **Attachment 9.6.1(5)** and details on specific projects impacting on this situation are provided in **Attachment 9.6.4(1)** and **Attachment 9.6.4(2)** to this report. Comments on the relevant projects have been sourced from those managers with specific responsibility for the identified project lines and their responses have been summarised in the attached Schedule of Comments.

**Consultation**

For all identified variances, comment has been sought from the responsible managers prior to the item being included in the Capital Projects Review.

**Policy and Legislative Implications**

Consistent with relevant professional pronouncements but not directly impacted by any in-force policy of the City.

**Financial Implications**

The tabling of this report involves the reporting of historical financial events only. Preparation of the report and schedule require the involvement of managerial staff across the organisation, hence there will necessarily be some commitment of resources towards the investigation of identified variances and preparation of the Schedule of Comments. This is consistent with responsible management practices.

**Strategic Implications**

This report deals with matters of financial management which directly relate to the key result area of Financial Viability identified in the City's Strategic Plan Goal 6 –

*'To provide responsible and sustainable management of the City' financial resources'.*

<p><b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.6.4</b></p>
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That the Schedule of Capital Projects complemented by officer comments on identified significant variances to 31 October 2006, as per **Attachments 9.6.4(1)** and **9.6.4(2)**, be received.

CARRIED EN BLOC RESOLUTION

## 10. APPLICATIONS FOR LEAVE OF ABSENCE

<b>10.1 Request for Leave of Absence - Cr Macpherson 18.12.2006 - 4.1.2007 inclusive</b>
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Moved Cr Maddaford, Sec Cr Ozsdolay

That Cr Macpherson be granted leave of absence from any meetings held between 18 December 2006 and 4 January 2007 inclusive.

CARRIED (13/0)

<b>10.2 Request for Leave of Absence - Cr Jamieson 18.12.2006 -22.12.2006 inclusive</b>
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Moved Cr Wells, Sec Cr Ozsdolay

That Cr Jamieson be granted leave of absence from any meetings held between 18 December and 22 December 2006 inclusive.

CARRIED (13/0)

## 11. COUNCIL MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

<b>11.1 Proposal to Assess No. 11 Heppingstone Street, South Perth under Town Planning Scheme No. 6 - Cr James Best</b>
---

I hereby give notice that I intend to move the following Motion at the Council Meeting to be held on 28 November 2006:

### MOTION

That the Chief Executive Officer provide a report, in the form of the attached table, (**Attachment 11.1** refers) assessing 11 Heppingstone Street, South Perth (as built) under the Town Planning Scheme No 6 as if it was a new application, to the December 2006 meeting of Council.

### MEMBER COMMENT

In the Council Agenda papers 24 October 2006, Public Question (5.1.4) from Barrie Drake regarding No. 11 Heppingstone Street, South Perth, in response to a letter from the Chief Executive Officer to the Minister for Planning and Infrastructure on 12 October 2006, the Chief Executive Officer states the building is compliant with the Town Planning Scheme No. 6, but fails to explain how this assessment was made.

At the Annual Electors' Meeting on 6 November 2006 Barrie Drake posed the question regarding the Chief Executive Officer's confidence that the statement to the Minister was correct and the Chief Executive Officer appeared to be unsure of the facts.

It is important for Councillors to understand the details of the building compliance and this information table will enable the Council to decide if the building does indeed comply.

No. 11 Heppingsone Street has been an ongoing issue before Council since at least 2002. The SAT has ruled that the building does not comply under TPS 5, and I believe it is important for this matter to be resolved. If the Council believes the building complies with the current TPS, then the Council should endorse the actions of the Chief Executive Officer in the letter to the Minister for Planning and Infrastructure and therefore finalise this matter.

### CEO COMMENT

In accordance with Clause 3.6(d)(iii) of Standing Orders Local Law the Chief Executive Officer comments as follows:

*Point of clarification*

At the Annual Electors Meeting Mr Drake asked a question that was taken on notice by the CEO. This is customarily the case when research is to be necessarily conducted. The question was answered in correspondence directly to Mr Drake and a summary of the response appears at Item 5.1.6 on this Agenda.

*Background History*

Planning approval was granted in December 2000. A building licence was issued in February 2002. At the time of approval the application was subject to the provisions of TPS 5. The building was completed in October 2003.

Mr Drake first asked a question about the building in November 2002 and in November 2003 presented a report to Council which he had commissioned Mr Ken Adam to prepare.

The Adam Report claimed that certain aspects of the building did not comply with non-discretionary provisions of TPS5. City Planning officers subsequently presented a comprehensive report to Council at its March 2004 meeting which responded to the allegations of non-compliance. Council, being satisfied with the Officer's report, resolved to take no further action in the matter apart from seeking advice on the legality of lodging a caveat on the property to ensure that the upper level storage area was not used for 'human habitation'. Subsequent advice was provided to Council that there was no legal basis for doing so and that an inspection by officers confirmed that the area was being used as a storage area.

During the course of 2004, Mr Drake made representations claiming non-compliance to the Minister for Planning & Infrastructure under section 18(2) of the *Town Planning and Development Act 1928* and in December 2004 the Minister referred the representations to the State Administrative Tribunal to report and make recommendations.

The Tribunal reported to the Minister in October 2005, finding that the building was in breach of a condition of planning approval concerning plot ratio. The Tribunal recommended alterations be made to certain aspects of the building in order to bring it into line with the plot ratio applying under TPS5. It is important to note that the Tribunal also determined that 'Mr Drake's representations concerning the height of the building did not relate to a failure of the City to enforce effectively the observance of a town planning scheme in force under the Act'. It is also important to note that section 18 of the TPDA gives exclusive jurisdiction to the Minister to decide what action should be taken once a matter has been referred to her.

In April this year the Minister wrote to the parties seeking a meeting to assist her in deciding what action if any she should take in light of the Tribunal's report. A meeting took place on 13 June and was attended by all parties.

*Recent History*

Subsequently the City's Planning Officers reviewed the matter, in the context of and assisted by the Belmont Audit, and upon an assessment of the relevant changes between TPS5 and TPS6 (introduced in April 2003), determined that the building's plot ratio was compliant with TPS6.

The City wrote to the Minister on 22 August, advising her of its revised assessment that under TPS6, the property in question has a dual density coding, being R15/40. The operative coding is determined by reference to performance criteria prescribed in the No. 6 Scheme. Unless at least 7 of the performance criteria are satisfied, the R40 coding is not

applicable. In this instance, it is not possible to satisfy 7 of the performance criteria. Therefore, a lower density coding applies (R15 or R30). Under the Residential Design Codes, there is no plot ratio control for land coded R30 or lower.

The City recommended to the Minister that as there was now no longer any conflict with respect to plot ratio, that she should decide to take no further action in the matter. A copy of this letter was forwarded to Mr Drake.

There has been no failure to explain how the assessment was made as suggested in the Councillor's background.

*Resource implications*

The City's Planning department is currently and has been for some time experiencing staff shortages. To conduct the exercise proposed in the motion would divert scarce human resources away from the City's prime statutory responsibility as a local planning authority.

Section 3.18 of the Act - Performing Executive Functions - is also relevant in this regard. It mandates that a local government is to satisfy itself that the services and facilities that it provides are managed efficiently and effectively. The City's planning officers conducted a similar exercise in March 2004 and concluded that there had been substantial compliance. Council at that time resolved to take no further action.

The matter is currently in the hands of the Minister and the City has no role to play whilst this remains the case. Even if this was not the case, and another audit found some minor non-compliance what action should the City reasonably take? Deciding the answer to this question is assisted by considering the principles set out by the SAT at paras. 90 to 97 of its October 2005 report on Heppingstone Street.

The five questions that the SAT posed are:

1. Is it in the public interest of the proper and orderly development and use of land that planning law should generally be complied with?
2. What is the impact of the contravention of the Scheme on the affected locality and environment?
3. What are the factual circumstances in which the contravention of the Scheme took place?
4. What time has elapsed since the development was undertaken in contravention of the Scheme?
5. What expense and inconvenience would be involved in remedying the contravention of the Scheme?

MOTION

Moved Cr Best, Sec Cr Smith

That the Chief Executive Officer provide a report, in the form of the attached table, (**Attachment 11.1** refers) assessing 11 Heppingstone Street, South Perth (as built) under the Town Planning Scheme No 6 as if it was a new application, to the December 2006 meeting of Council.

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Best opening for the Motion

- CEO states building is compliant with TPS6, but fails to explain how assessment was made
- important for Councillors to understand details of building compliance
- information table, **Attachment 11.1**, will enable Council to decide if building does indeed comply

Mayor Collins against the Motion

- Tribunal reported to the Minister in October 2005, finding that the building was in breach of a condition of planning approval concerning plot ratio.
- Tribunal recommended alterations be made to certain aspects of the building in order to bring it into line with the plot ratio applying under TPS5.
- important to note that the Tribunal also determined that Mr Drake's representations concerning the height of the building did not relate to a failure of the City to enforce effectively the observance of a town planning scheme in force under the Act.
- important to note that section 18 of the TPDA gives exclusive jurisdiction to the Minister to decide what action should be taken once a matter has been referred to her
- Council should await Minister's decision

Cr Smith for the Motion

- do not agree - truth is not whether staff made a mistake or not it is whether developer built in accordance with plans
- fact is, this building is highly likely to have been built **not** in accordance to plan by builder - no aspersions on officers
- plot ratio not taken into consideration as predicated toward surveillance equipment - still equals a habitable room
- truth is - does this 'as constructed' building comply with TPS6 / R Codes

Mayor Collins point of clarification - was this building built in accordance with the plans?

Director Strategic and Regulatory Services stated that as far as he was aware, he had no reason to believe that it does not comply with the approved plans.

Cr Gleeson point of clarification - in relation to 'habitable space' is a toilet habitable space?

Manager Development Services said a toilet is classified as not being a habitable room.

Cr Best closing for the Motion

- do we want to hand-ball our decision to Minister or take responsibility now
- abrogated to the Minister by Mr Drake
- Council could have taken decision any time to review building with simple check list
- by using simple check list we can then make a decision
- ask Members support Motion

<b>COUNCIL DECISION ITEM 11.1</b>
-----------------------------------

The Mayor put the Motion

That the Chief Executive Officer provide a report, in the form of the attached table, (**Attachment 11.1** refers) assessing 11 Heppingstone Street, South Perth (as built) under the Town Planning Scheme No 6 as if it was a new application, to the December 2006 meeting of Council.

CARRIED (8/5)

**NOTE:** CRS GLEESON, MACPHERSON, OZSDOLAY AND MAYOR COLLINS REQUESTED THEY BE RECORDED AS HAVING VOTED AGAINST THE MOTION.



<b>11.2 Payments Analysis Report in conjunction with Warrant of Payments Cr Jamieson</b>
--

I hereby give notice that I intend to move the following Motion at the Council Meeting to be held on 28 November 2006:

MOTION

That

- (a) the City administration provide a Payments Analysis Report in conjunction with the Warrant of Payments for a trial period of three consecutive Council meetings to meet the following requirements, for all creditors with a sum of monthly payments of \$10000 or more:
- (i) List all individual payments, with their associated tender/contract number if applicable, for the month for the creditor;
  - (ii) Provide a monthly sum of all payments to the creditor;
  - (iii) Provide a financial year to date sum of all payments to the creditor;
  - (iii) Provide a most recent 12 month sum of all payments to the creditor; and
- (b) a report be presented to Council, for the same meeting as the final trial, evaluating the Payments Analysis Report and recommending a future strategy.

MEMBER COMMENTS

Example report layout attached. **Attachment 11.2** refers.

Advantages:

1. The approximately 600 individual payments in the Warrant of Payments paper-based attachments are extremely difficult to analyse, and even harder to analyse over a period of two or more months. The Payments Analysis Report will enable the approximately 600 payments monthly to be seen in business context very quickly.
2. Conformance to due process will be readily observable.
3. Non-conformance to due process will be readily observable.
4. It is estimated the Payments Analysis Report will only add approximately two pages to the meeting attachments.
5. On the (very reasonable) assumption that the Finance System supports ad-hoc reports and has suitable data structures, my estimate of effort for a skilled software developer to write the Payments Analysis Report is up to four hours.

Disadvantages/Issues/Unknowns:

1. If the Finance System does not support ad-hoc reports and has a "closed" database then development of the reports may be difficult. (If this is the case then in my opinion it would also indicate a severe weakness in the IT capabilities of the City.)
2. If the Finance System data structures do not support linking of payments to tender/contract number then that requirement cannot be met except by manual input. If this is the case then I would suggest leaving the column in the report and manual input being an optional requirement for the three month trial.
3. A City officer will have to run the Payments Analysis Report each month (estimated at a two minute task), then include the report output (estimated at two pages) as an attachment to the meeting agenda.
4. If more than one contract can be linked to a payment then all contract numbers could be listed, or alternatively the report could use the word MULTIPLE.

CEO COMMENT

In accordance with Clause 3.6(d)(iii) of Standing Orders Local Law the Chief Executive Officer comments as follows:

1. The Motion confuses the role of Council and Councillor with the role of the Administration [see sections 2.7, 2.10, 3.4 and 5.41 of the Act]. The Council's role is one of strategy, policy and planning, not one of becoming enmeshed in the finite detail of administrative matters which this Motion involves. There is a basic issue as to whether or not there is a proper separation of the roles and responsibilities of the legislative and executive branches of government if this Motion is adopted.
2. The City's Administration is not aware of any other situation where an organisation of the size and complexity of the City of South Perth with assets to the value of \$200M and operating revenue of \$32M is required to provide a detailed analysis of cheque payments at transaction level so as to enable monthly payments to be seen in a 'business context'.
3. There is no justification, need or benefit to summarise the City's cheque payments as a means of expenditure control. This is conventionally a core function of the Administration and is performed by other means.
4. Expenditure control is not exercised through analysing cheque payments to creditors, but through budget control measures implemented through budget line items including individual project levels and through financial management reporting. These measures are comprehensively reported to Council on a regular basis at the present time. As a consequence the Administration would not in any event have any cause to use the facility envisaged in this Motion.
5. The City is currently compliant with the statutory requirements in respect of making available details of payments made. If such additional measures were thought necessary by the State Government, these would no doubt be included in regulations requiring local governments to provide the information in alternative format.
6. The Administration regards the intent of this Motion as an inefficient use of limited resources. It would be inevitable that other tasks may not be able to be achieved in a timely manner, or alternatively could only be achieved if additional resources are provided.
7. It is noted that the information which the Member seeks to have provided is already provided and will continue to be provided in hardcopy format. The Member, or any other member of the community seeking to perform a personal analysis on cheque payments made is not precluded from doing this analysis, given the existing method of publishing this information.
8. In any event, an analysis of cheques paid does not reveal a complete or accurate picture of the nature of the payments made. For example, few businesses provide only a single good or service. Many of the organisations that the City regularly transacts business with are part of diversified organisations that provide a vast array of goods and services. As a result there is limited value in providing a facility that simply enables a user to accumulate the value of payments made for unrelated items to a single creditor as the result can often be meaningless.
9. It is considered that the Motion is contrary to good governance principles. Local government is one of the most open and accessible industries if not the most open and accessible industry in our community. The proposal to make available this type of information will only add to the cost of governance and will inevitably divert resources from other more important activities.

11. In any event, it is not possible to produce the report envisaged in the motion without a specific program being written by the City's software supplier. An indicative cost to write the software (excluding any retrospectivity component) has been estimated at \$2500 without administrative costs being incurred to check the accuracy of the software. No time estimate has been given by the supplier with respect to the provision of the software.
12. A schedule of payments made that details all payments greater than \$10,000 can easily be provided with a brief notation about whether the item was subject to a tender or collective bargaining arrangement, but even its relevance to the role of Council or Councillor is questioned.

#### MOTION

Moved Cr Jamieson, Sec Cr Maddaford

That

- (a) the City administration provide a Payments Analysis Report in conjunction with the Warrant of Payments for a trial period of three consecutive Council meetings to meet the following requirements, for all creditors with a sum of monthly payments of \$10000 or more:
  - (i) List all individual payments, with their associated tender/contract number if applicable, for the month for the creditor;
  - (ii) Provide a monthly sum of all payments to the creditor;
  - (iii) Provide a financial year to date sum of all payments to the creditor;
  - (iii) Provide a most recent 12 month sum of all payments to the creditor; and
- (b) a report be presented to Council, for the same meeting as the final trial, evaluating the Payments Analysis Report and recommending a future strategy.

#### MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

##### Cr Jamieson opening for the Motion

- refer example report layout at **Attachment 11.2**
- approximately 600 individual payments in Warrant of Payments paper-based attachments difficult to analyse, and even harder to analyse over a period of two or more months
- report proposed will enable payments to be seen in business context very quickly
- conformance to due process will be readily observable
- non-conformance to due process will be readily observable
- estimated payments analysis report will add approximately two pages to attachments.
- estimate for software developer to write Payments Analysis Report is up to four hours

##### Chief Executive Officer Comment

The Motion confuses the role of Council and Councillor with the role of the Administration. The Council's role is one of strategy, policy and planning, not one of becoming enmeshed in the finite detail of administrative matters which this Motion involves. There is a basic issue as to whether or not there is a proper separation of the roles and responsibilities of the legislative and executive branches of government if this Motion is adopted.

The City's Administration is not aware of any other situation where an organisation of the size and complexity of the City of South Perth with assets to the value of \$200M and operating revenue of \$32M is required to provide a detailed analysis of cheque payments at transaction level so as to enable monthly payments to be seen in a 'business context'. There is no justification, need or benefit to summarise the City's cheque payments as a means of expenditure control. This is conventionally a core function of the Administration and is performed by other means.

Cr Gleeson against the Motion

- since being elected I have heard Cr Jamieson asking for a Business Analysis Report
- have spent approximately 6 hours hearing Cr Jamieson ask for a Business Analysis Report
- question Councillors should ask is: if you approve Cr Jamieson's Motion will it benefit the people of the City of South Perth
- answer is no - it will not change anything
- happy with the administration running the administration
- against the Motion

Cr Hearne point of clarification - interested in CEO's comment "*we should not get enmeshed in the finite detail of administrative matters*" where the Warrant of Payments document simply provides a list of cheques paid each month and certainly not detailed as proposed by the Motion.

Chief Executive Officer stated that he believed the *Local Government Act* Regulations provided the option for Council to vote not to receive the cheque payment listings.

Cr Ozsdolay against the Motion

- satisfied financial reports provided allow me to meet my commitments as a Councillor
- no desire or need for information asked for
- have a problem with costs and resources in producing a report we may not understand
- not good use of officer time
- would like resources put to other uses
- against the Motion

Cr Macpherson against the Motion

- local government throughout Australia is scrutinised at a high level
- in last four years we have complied at a high level
- against the Motion

Cr Jamieson closing for the Motion

- see this as a window into business
- Warrant of Payments listing serves statutory need but not a business need
- spoken to our auditors - confirmed they do a 'random sample'
- trying to get away from 'nitty gritty' detail and get to business detail
- emphasize want to work at a business level

<b>COUNCIL DECISION ITEM 11.2</b>
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The Mayor put the Motion.

LOST (3/10)

**Note:** Cr Wells left the Chamber at 11.25pm

<b>11.3 Proposal to Investigate 'Common Use Arrangements'.... Cr Jamieson</b>
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I hereby give notice that I intend to move the following Motion at the Council Meeting to be held on 28 November 2006:

MOTION

That....

- (a) the City Administration investigate common use arrangements made available by the State Government, WALGA, other Councils and Regional Councils, and other relevant agencies for:
  - (i) applicability to the City of South Perth; and
  - (ii) those that are applicable, a preliminary cost benefit analysis, business benefit analysis and potential start dates.
- (b) a report on the investigation and recommendations be presented at the February 2007 Council meeting.

MEMBER COMMENT

The State Government, through the Department of Treasury and Finance, have 52 Common Use Arrangements within the categories of:

- Agriculture & Horticulture
- Cleaning
- Domestic, Personal & Safety
- Educational
- Environmental & Waste Disposal
- Health & Medicine
- Industrial Machinery, Components & Services
- Information Technology
- Office & Commercial
- Professional
- Recreational, Catering, Food & Hospitality
- Storage
- Telecommunications
- Travel & Transportation

More details are available at: <http://www.dtf.wa.gov.au/cms/ContractDirectory/index.html>

WALGA has a range of common use arrangements available including Telecommunications and Provision of Council Business Systems.

CEO COMMENT

In accordance with Clause 3.6(d)(iii) of Standing Orders Local Law the Chief Executive Officer comments as follows:

**Services Subject to Common Use Tenders**

The City administration has a good awareness of the purchasing opportunities available through collective bargaining groups such as WALGA, the WA State Government and regional councils.

For many years the City has been taking advantage of these purchasing initiatives and enjoying the administrative efficiencies of this approach. The table below details some of these collective bargaining that the City has opted to take advantage of in the last 12 months.

Description of Service	Supplier
Telephone Services	Telstra – WALGA Local Govt
Advertising	WALGA Local Govt Rates
Microsoft Software Licensing	WALGA Local Govt Rates
Stationery	Corporate Express (WALGA)
General Insurances	MIBS (WALGA)
Workers Compensation Insurances	MIBS (WALGA)
Rubbish Removal / Recycling	Cleanaway – Regional Council
Fleet Replacement	State Govt Tender
Desktop PCs	State Govt Tender
Photocopier Replacement	State Govt Tender
Temporary Staff	State Govt Panel

The preceding table is an extract from information circulated to all Council Members as an attachment to the Council Members Bulletin (Information on Tendered Services). This three page narrative, supplemented by a further three page Schedule of Tendered Services, (circulated in mid September 2006) identified currently used:

- Services provided by Statutory Authorities
- Services subject to Common Use Arrangements
- Services related to proprietary products

Given that the City clearly maintains a good awareness of the arrangements and demonstrably does consider these opportunities when sourcing suppliers of such goods and services, it seems redundant and indeed unnecessary to now undertake a range of analyses to determine the suitability of or potential starting dates for, such arrangements.

The administration sees no benefit in committing resources to identifying potential tendering opportunities when there are no plans to call for tenders.

#### MOTION

Moved Cr Jamieson, Sec Cr Best

That....

- (a) the City Administration investigate common use arrangements made available by the State Government, WALGA, other Councils and Regional Councils, and other relevant agencies for:
  - (i) applicability to the City of South Perth; and
  - (ii) those that are applicable, a preliminary cost benefit analysis, business benefit analysis and potential start dates.
- (b) a report on the investigation and recommendations be presented at the February 2007 Council meeting.

#### MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Jamieson opening for the Motion

- State Government has 52 'Common Use Arrangements'
- categories of:
  - Agriculture & Horticulture
  - Cleaning
  - Domestic, Personal & Safety
  - Educational
  - Environmental & Waste Disposal
  - Health & Medicine
  - Industrial Machinery, Components & Services
  - Information Technology
  - Office & Commercial

- Professional
- Recreational, Catering, Food & Hospitality
- Storage
- Telecommunications
- Travel & Transportation
- WALGA has range of common use arrangements including Telecommunications and Provision of Council Business Systems
- ask Member to support the Motion

Cr Best for the Motion

- if opportunity to save money exists - we should use it
- look at opportunities to see where we can make savings
- support Motion

**Note:** Cr Wells returned to the Chamber at 11.28pm

Cr Hearne against the Motion

- commend Cr Jamieson for bringing this forward
- reminds staff of 'common use arrangements'
- reminds staff to bear this opportunity in mind
- do not support a need for a report to February

<b>COUNCIL DECISION ITEM 11.3</b>
-----------------------------------

The Mayor put the Motion.

(LOST 2/11)

<b>11.4 Website Availability of Monthly Warrant of Payments Listing? Cr Jamieson</b>
--

I hereby give notice that I intend to move the following Motion at the Council Meeting to be held on 28 November 2006:

MOTION

That....

- (a) the City administration publish the Warrant of Payments on a monthly basis in a softcopy .xls or csv format, downloadable from the City of South Perth website;
- (b) the softcopy warrant of payments is to be made available from the December 2006 council meeting and thereafter.
- (c) the City administration create a softcopy of the payments covering the period 1 July 2005 to 31 October 2006 and provide it downloadable from the City of South Perth website.

MEMBER COMMENTS

Where the Council delegates to the CEO the authority to make payments, a warrant of payments is to be presented to Council. This warrant of payments is currently in paper form. To cater for deeper and more meaningful monitoring and review of the payments made, it is necessary to provide the warrant of payments in softcopy, allowing ad-hoc data manipulation to determine patterns and trends. Without a softcopy, patterns and trends must be determined from paper data, which is extremely difficult. Providing the warrant of payments in softcopy format will increase the City's commitment to openness, visibility, accountability and probity.

If the software that creates the warrant of payments does not support creation of a softcopy then on the assumption that the Finance System supports ad-hoc reports and has suitable data structures, my estimate of effort for a skilled software developer to write the warrant of payments softcopy report is up to four hours.

The payments from the period 1 July 2005 to 31 October 2006 can be regenerated by a simple database query that could be run by an authorised Data Administrator or Database Administrator. The query would be similar to: select \* from PAYMENT\_TABLE where PAYMENT\_DATE >= 01/07/2005 and PAYMENT\_DATE <= 31/10/2006.

CEO COMMENT

In accordance with Clause 3.6(d)(iii) of Standing Orders Local Law the Chief Executive Officer comments as follows:

The proposed Motion by Cr Jamieson is not supported by the City Administration for the following reasons:

1. No justification has been provided for the suggested purpose or the need for members of the public to determine the “patterns and trends” of the City’s cheque payments. It is not apparent what patterns or trends means. In other words for what purpose is this information being sought?
2. The City’s Administration is not aware of any other situation where an organisation of the size and complexity of the City of South Perth and has assets to the value of \$200M and operating revenue of \$32M that is required to make detailed transactions publicly available on the Internet for “monitoring and review” by third parties.
3. The City is currently compliant with the statutory requirements in respect of making available details of payments made. If such additional measures were thought necessary by the State Government, these would no doubt be included in regulations requiring local governments to provide the information in alternative format.
4. Expenditure control is not exercised through analysing cheque payments to creditors, but through budget control measures implemented through budget line items including individual project levels and through financial management reporting. These measures are comprehensively reported to Council on a regular basis at the present time. As a consequence the Administration would not in any event have any cause to use the facility envisaged in this Motion.
5. The Administration regards the intent of this Motion as an inefficient use of limited resources. It would be inevitable that other tasks may not be able to be achieved in a timely manner, or alternatively could only be achieved if additional resources are provided.
6. It is noted that the information which the Member seeks to have provided is already provided and will continue to be provided in hardcopy format. The Member, or any other member of the community seeking to perform a personal analysis on cheque payments made is not precluded from doing this analysis, given the existing method of publishing this information.
7. In any event, an analysis of cheques paid does not reveal a complete or accurate picture of the nature of the payments made. For example, few businesses provide only a single good or service. Many of the organisations that the City regularly transacts business with are part of diversified organisations that provide a vast array of goods and services. As a result there is limited value in providing a facility that simply enables a user to accumulate the value of payments made for unrelated items to a single creditor as the result can often be meaningless.
8. It is considered that the Motion is contrary to good governance principles. Local government is one of the most open and accessible industries if not the most open and accessible industry in our community. The proposal to make available this type of information will only add to the cost of governance and will inevitably divert resources from other more important activities.

**COUNCIL DECISION ITEM 11.4**

Cr Jamieson moved the Motion. The Motion Lapsed for want of a Seconder. LAPSED



<b>11.5 Proposed Wider Evaluation of No. 21 South Perth Esplanade, South Perth ...Cr Smith</b>
--

I hereby give notice that I intend to move the following Motion at the Council Meeting to be held on 28 November 2006:

MOTION

That the Chief Executive Officer, City of South Perth, Mr C Frewing, be directed to ASAP, send additional information to Kott Gunning, Lawyers re the property at No. 21 South Perth Esplanade, South Perth to enable them to provide a wider evaluation of the matter. The Information would be a copy of the documented submission that came from KCA showing calculations of the plot ratio which allege that the building has been 'over-built' and not in accordance with the approved plans or possibly the Town Planning Scheme No.6 and the R Codes.

MEMBER COMMENT

As a Councillor for the Mill Point Ward, I also have concerns (about the possible non-compliance of the building) which stem from enquiries I made through a third person re what the Selling Agents were showing on their documentation in relation to the floor areas of the units which they were selling.

CEO COMMENT

In accordance with Clause 3.6(d)(iii) of Standing Orders Local Law the Chief Executive Officer comments as follows:

At its October meeting Council resolved that:

*"Subject to independent legal advice being sought from Kott Gunning Lawyers in relation to the local government powers to enter private land: The Chief Executive Officer be directed to arrange for a suitably qualified surveyor to go on site and measure the height, setbacks and plot ratio".*

The legal advice was duly obtained and in essence, it concurs with the advice which was provided to Council at its October meeting which was to the effect that in the absence of material which provided reasonable grounds for considering that the building as built was not compliant with its planning approval, the City had no jurisdiction in which to act and no justification to do anything.

A copy of the legal advice is provided as **Confidential Attachment 11.5**

The current notice of motion requests the CEO to provide what is described as additional information to Kott Gunning 'to enable them to provide a wider evaluation of the matter'.

The additional information consists of a one page document headed **Watermark**, presumably prepared by the Kensington Community Association, which the notice suggests, shows "calculations of the plot ratio which allege that the building has been 'over-built' and not in accordance with the approved plans or possibly TPS 6 and the R Codes".

The Planning Services Department have reviewed the KCA document and make the following comment:

**Lot Area**

A copy of the Certificate of Title confirms that the lot area is 911 sq.metres and all calculations should be undertaken in relation to this area.

**Apartment Areas**

The areas that have been quoted in the KCA document have been taken from the strata plan. The following should be noted:

Living Area: The strata plan includes areas such as ducts and machinery rooms which were appropriately excluded from plot ratio calculations.

The strata plan calculates the area of a stair for apartment 4 twice while the plot ratio calculations appropriately calculated the area of the stair once only.

Lobbies: Lobby areas are shown on the strata plan and have been included in the calculations. These areas were not included in the City’s calculations, consistent with the method of plot ratio calculation that was operative at the time.

Stores: Store areas are shown on the strata plan and have been included in the calculations. These areas were not included in the City’s calculations, consistent with the method of calculation that was operative at the time.

Accordingly, the table that has been prepared should be modified in the following manner:

Apartment	Living		Lobbies		Stores		Overall (Approx.)	
1	200	199	2	Nil	5	Nil	207	199
2	244	237	8	Nil	5	Nil	254	237
3	244	237	8	Nil	5	Nil	254	237
4	244	237	8	Nil	5	Nil	254	237
4A	17	6	8	Nil		Nil	17	6
						TOTAL	986	919

Once these modifications are made, the plot ratio figures fall within 1% of those prescribed.

Under Member Comment the mover has made reference to “inquiries made through a third person re what the Selling Agents were showing on their documentation in relation to floor areas of the units which they were selling”.

The relevance of this comment is not immediately apparent. What is it exactly that is being suggested? If it is implied that the selling agent was gilding the lily about floor areas, possibly misrepresenting the actual dimensions to potential buyers, what has this got to do with planning approval compliance? What a selling agent says to prospective purchasers is not relevant to a consideration of whether the building as built complies with planning approval. What is relevant is the documentation upon which planning approval, building licence and certification was given.

In any event no documentation is provided in support of the implied contention.

Given this analysis, it remains the Administration’s firm view that the City is in no different position with respect to the matter than it was in October.

This being the case the Administration does not support the motion.

MOTION

Moved Cr Smith, Sec Cr Maddaford

That the Chief Executive Officer, City of South Perth, Mr C Frewing, be directed to ASAP, send additional information to Kott Gunning, Lawyers re the property at No. 21 South Perth Esplanade, South Perth to enable them to provide a wider evaluation of the matter. The Information would be a copy of the documented submission that came from KCA showing calculations of the plot ratio which allege that the building has been 'over-built' and not in accordance with the approved plans or possibly the Town Planning Scheme No.6 and the R Codes.

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Smith opening for the Motion

- lawyers stated if we had sufficient concerns they would revisit whether we had power to enter the property
- issue with CEO's comments
- do not like the tone of CEO's comments in the Agenda paper
- CEO is a pathetic, puerile and arrogant man - I will do everything to see he is terminated
- want full text from KCA evaluation sent to lawyers also my 'Member Comments'
- want building measured for reassurance
- checked with Director - height not measured - setbacks not measured
- no criticism of officers - gave approval with approved plans
- question is did developers build in accordance with approved plans
- until that building is physically measured we can't say
- send information and send my comment - I have doubts
- want KCA Evaluation given to lawyers
- support Motion

Cr Hearne point of clarification - Given that the KCA report was done over five months ago why were the solicitors not advised of this report when seeking legal advice?

Chief Executive Officer said that because he could not see the relevance to this issue. He further stated that the legal advice was sought in response to the October 2006 Council resolution which was the subject of an Amendment moved by Cr Cala, which stated:

*".....independent legal advice being sought from Kott Gunning Lawyers in relation to the local government powers to enter private land....."*

Cr Gleeson point of clarification - asked if the document circulated by Cr Smith was from KCA.

Cr Smith responded that KCA had assessed six buildings within the City of South Perth and that Mr Defrenne had contacted Cr Smith to advise him of this. Cr Smith stated it was the first he had heard about the assessment.

Chief Executive Officer advised that Council was fully informed via a Bulletin item about this issue.

Mayor Collins stated that he had concerns about Councillors trying to get Council to move a Motion just because they '*felt something was wrong*'. He said that Council has received two independent legal opinions which was to the effect that in the absence of material which provided reasonable grounds for considering that the building as built was not compliant with its planning approval, the City had no jurisdiction in which to act and no justification to do anything. It is worrying that this Council is considering taking this action of measuring a building with no evidence - who will be next.

Cr Gleeson point of clarification - has any complaint been received from owners living in the building?

Chief Executive Officer replied no.

Cr Gleeson against the Motion

- KCA seem to spend all their time looking at buildings
- now want the City of South Perth to measure buildings
- KCA are interfering with the proper running of the City

Chief Executive Officer reminded Councillors of the proper planning approval process and that the building licence for No. 21 South Perth Esplanade was issued in accordance with approved plans as stated on page 115 of the Agenda paper... *the building falls within 1% of the prescribed plot ratio.*

Cr Smith closing for the Motion

- plot ratio, height and setbacks were not measured
- the imputation against KCA makes me sick
- KCA have shown they are a group with honesty and integrity

<b>COUNCIL DECISION ITEM 11.5</b>
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The Mayor put the Motion

That the Chief Executive Officer, City of South Perth, Mr C Frewing, be directed to ASAP, send additional information to Kott Gunning, Lawyers re the property at No. 21 South Perth Esplanade, South Perth to enable them to provide a wider evaluation of the matter. The Information would be a copy of the documented submission that came from KCA showing calculations of the plot ratio which allege that the building has been 'over-built' and not in accordance with the approved plans or possibly the Town Planning Scheme No. 6 and the R Codes.

CARRIED (9/4)

**NOTE:** CRS GLEESON, MACPHERSON, OSZDOLAY AND MAYOR COLLINS REQUESTED THEY BE RECORDED AS HAVING VOTED AGAINST THE MOTION.

**Note:** Cr Ozsdolay left the Chamber at 11.50pm

<b>11.6 Proposed Independent Survey Nos. 12 - 14 Stone Street, South Perth ... Cr Smith</b>
---

I hereby give notice that I intend to move the following Motion at the Council Meeting to be held on 28 November 2006:

MOTION

That the Chief Executive Officer of the City of South Perth, Mr C Frewing, be directed to immediately commence arranging for the qualified surveyors, plus the independent witness Mr Graham Partridge, to carry out the necessary evaluation of the building at Nos. 12 - 14 Stone Street, South Perth to ascertain whether the building as constructed complies with the approved plan and the provisions of the Town Planning Scheme No. 6 and the R Codes in relation to height, plot ratio and setbacks.

CEO COMMENT

In accordance with Clause 3.6(d)(iii) of Standing Orders Local Law the Chief Executive Officer comments as follows:

At its October meeting Council resolved that:

*“Subject to independent legal advice being sought from Kott Gunning Lawyers in relation to the local government powers to enter private land: The Chief Executive Officer be directed to arrange for a suitably qualified surveyor to go on site and measure the height, setbacks and plot ratio of the building which is under construction at No. 12 - 14 Stone Street, South Perth.”*

The legal advice was duly obtained. It concurred with the advice given to Council at its October meeting and concluded that:

*‘At present there appears to be no evidence upon which Council could form a view that it has a reasonable basis for suspecting that the building is presently or will be (during the course of construction) not in compliance with the approved plans’ [see page 4].*

The advice continued:

*‘If, however, further information is provided to the City which would give a proper basis for concluding that reasonable grounds of non-compliance existed, then it may be appropriate to implement the Council decision immediately.’*

A copy of the legal advice has been provided at **Confidential Attachment 11.5** in relation to another notice of motion.

As no further information has been provided which would give a proper basis for concluding that reasonable grounds of non-compliance existed, it remains the Administration’s view that the City is in no different position with respect to the matter than it was in October. At that time Council was advised that the building licence drawings received a planning check and subsequent 'planning' clearance which confirmed that the drawings were compliant with the approved sketch plans and conditions of planning approval in relation to height, setbacks and plot ratio.

This being the case the Administration does not support the Motion.

**Note:** Manager Human Resources joined the meeting at 11.45pm

MOTION

Moved Cr Smith, Sec Cr Maddaford

That the Chief Executive Officer of the City of South Perth, Mr C Frewing, be directed to immediately commence arranging for the qualified surveyors, plus the independent witness Mr Graham Partridge, to carry out the necessary evaluation of the building at Nos. 12 - 14 Stone Street, South Perth to ascertain whether the building as constructed complies with the approved plan and the provisions of the Town Planning Scheme No. 6 and the R Codes in relation to height, plot ratio and setbacks.

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Smith opening for the Motion

- same argument as for Item 11.5
- lawyer's advice said we can enter building
- want surveyors to go in a measure No. 12-14 Stone Street, South Perth ASAP

Cr Gleeson against the Motion

- how do we know what we are measuring
- building at No.12-14 Stone Street not finished
- sending people down to measure an unfinished building - this is farcical
- against the Motion

**Note:** Cr Ozsdolay returned to the Chamber at 11.55pm

Cr Cala for the Motion

- if there is reasonable grounds - need to measure
- will not receive occupancy certificate
- if anyone has reasonable grounds we have to take it seriously

**COUNCIL DECISION ITEM 11.6**

The Mayor put the Motion

That the Chief Executive Officer of the City of South Perth, Mr C Frewing, be directed to immediately commence arranging for the qualified surveyors, plus the independent witness Mr Graham Partridge, to carry out the necessary evaluation of the building at Nos. 12 - 14 Stone Street, South Perth to ascertain whether the building as constructed complies with the approved plan and the provisions of the Town Planning Scheme No. 6 and the R Codes in relation to height, plot ratio and setbacks.

CARRIED (9/4)

**NOTE:** CRS GLEESON, MACPHERSON, OSZDOLAY AND MAYOR COLLINS REQUESTED THEY BE RECORDED AS HAVING VOTED AGAINST THE MOTION.

**Note:** Cr Macpherson left the Chamber at 12.02am

CHANGE TO ORDER OF BUSINESS

**Note:** Item 11.7 was dealt with under Item 13 *Confidential business*

**11.7 Notice of Motion - Confidential Staff Matter .....Cr Smith**

**Note:** *Confidential* Notice of Motion circulated separately.

**12. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING**

**Note:** Following a request from Crs Jamieson and Smith the Mayor agreed to Motions being put forward for consideration under Item 12 'New Business' in accordance with Clause 3.8 of Standing Orders:

**12.1 Membership of CEO Evaluation Committee - Cr Jamieson**

MOTION

Cr Jamieson moved that nominations be accepted for membership to the CEO Evaluation Committee.

Chief Executive Officer suggested that the administration prepare a report containing background information on committee membership for consideration at the December Council meeting.

**COUNCIL DECISION ITEM 12.1**

Cr Jamieson withdrew his Motion.

**Note:** Cr Macpherson returned to the Chamber at 12.04am

**12.2 Vote of 'No Confidence' Mayor Collins - Cr Smith**

MOTION

Moved Cr Smith, Sec Cr Maddaford

That I move a Motion of no confidence in the Mayor of the City of South Perth, Mr John Collins, for his failure to comply with all aspects of s.2.8 of the *Local Government Act*.

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Smith opening for the Motion

- many disquiets of the way you have treated us as Councillors
- when eight Councillors signed that we wanted a matter taken to any legal firm for evaluation you used the Code of Conduct and decided to send the matter to the Department of Local Government
- you did not have the right to go against the wishes of eight Councillors
- I lodged a complaint with the Deputy Mayor - you referred the matter to the Department of Local Government
- the Code of Conduct predicates to our governance and you still have not replied to my complaint about you - that is one of my disquiets
- there is far too much adversarial issues between you and others
- this matter should be brought to a head
- we will see who votes For and who votes Against

Cr Maddaford for the Motion

- all thirteen Members were elected under a democracy
- each Member has a right to speak under that code
- believe we have been failed by you under that code

Cr Ozsdolay against the Motion

- Mayor Collins - you have my full 100% support
- am I happy with the job you do - Yes
- do we always agree - No
- sick of these personal attacks on CEO and Mayor
- at times we disagree fine but get on with business
- this is an absolute nonsense Council is becoming dysfunctional
- get on with running the City

Cr Wells for the Motion

- refer to issue of a confidential memo in June 2006
- legal advice was issued to all Members except Cr Wells
- that is illegal - I will ask him to stand down

Cr Macpherson asked that the Motion be put.

- June 16 refer to Code of Conduct issue
- enough support from Councillors to get rid of the man sitting next to you (CEO)
- I have taken advertisements against you (Mayor)
- against the fool sitting next to you (CEO)

Mayor Collins stated this is an ambush to bring forward this Motion without any notice.

Cr Cala against the Motion

- agonised over this Motion - considered supporting
- have had issues with the way you (Mayor) have come down on matters previously
- the in-fighting and back-bighting is at its worst
- issue with Cr Wells - took joint responsibility about that matter
- believe we owed Cr Wells an apology
- hate the way Council has come to this
- however Members do not support leadership level
- do not support Motion

Cr Gleeson against the Motion

- support Cr Cala
- currently have a dysfunctional Council
- last time we had a dysfunctional Council Cr Wells resigned prior to Council being sacked



The Mayor put the Motion

DIVISION ITEM 12.2

Cr Smith called for a Division

<u>Against the Motion</u>	<u>For the Motion</u>
Mayor Collins	Cr Wells
Cr Gleeson	Cr Smith
Cr Macpherson	Cr Doherty
Cr Ozsdolay	Cr Best
Cr Cala	Cr Hearne
Cr Trent	Cr Maddaford
	Cr Jamieson

**COUNCIL DECISION ITEM 12.2**

That I move a Motion of no confidence in the Mayor of the City of South Perth, Mr John Collins, for his failure to comply with all aspects of s.2.8 of the *Local Government Act*.

CARRIED (7/6)

STATEMENT MAYOR COLLINS

The Mayor stated that if ‘a vote of no confidence’ is the case that he would consider the issue accordingly. He said that the Inquiry currently being conducted by the Department of Local Government would be finished in January 2007 and a report brought forward. He stated that he was disappointed with some Councillors tonight believing that he had not been just in the way he approached issues. He acknowledged that there have been long running battles between certain Councillors and himself but stated that he would certainly show more respect to those Councillors than the ‘Kangaroo Court’ organised tonight.

Cr Smith requested that it be recorded in the Minutes that he objected to the “Kangaroo Court” comment made.

Cr Jamieson requested that it be recorded that he also objected to the “Kangaroo Court” comment.

Mayor Collins re-affirmed that in his view it was a “Kangaroo Court”.

**Note:** Cr Doherty left the Chamber at 12.20am

**13. MEETING CLOSED TO PUBLIC**

**13.1 Matters for which the Meeting May be Closed.**

**COUNCIL DECISION : MEETING CLOSED TO THE PUBLIC**

Moved Cr Trent, Sec Cr Smith

That the meeting be closed to the public at 12.20am in accordance with the *Local Government Act Section 5.23(2)(a)* while items 11.7 and 13.1.1 are discussed as they relate to matters affecting an employee.

**Note:** The following staff and the remaining members of the public gallery left the Chamber at 12.25am

Mr S Cope	Director Strategic and Regulatory Services
Mr G Flood	Director Infrastructure Services
Mr M Kent	Director Financial and Information Services
Mr R Bercov	Manager Development Services
Ms D Gray	Manager Financial Services
Mr N Kegie	Manager Community, Culture and Recreation
Mr M Taylor	Manager City Environment
Ms R Mulcahy	City Communications Officer

**Note:** The Chamber doors were closed at 12.25am

DECLARATION OF INTEREST ITEMS 11.7 AND 13.1.1: CHIEF EXECUTIVE OFFICER

*“I wish to declare a Financial Interest in Agenda Item 11.7 “Notice of Motion Confidential Staff Matter” and a Conflict of Interest in Agenda Item 13.1.1 CEO’s KPI’s for 2006/2007 on the Agenda for the Ordinary Council Meeting to be held 28 November 2006. As I am the subject of the items in question I will leave the Council Chamber while these matters are being debated.”*

**Note:** The Chief Executive Officer retired from the meeting at 12.25am

**Note:** Cr Jamieson left the Chamber at 12.26am  
Cr Gleeson left the Chamber at 12.27am  
Cr Jamieson returned to the Chamber at 12.28am

**11.7 Notice of Motion - Confidential Staff Matter .....Cr Smith**

**Note:** *Confidential* Notice of Motion circulated separately.

**COUNCIL DECISION ITEM 11.7**

Cr Smith advised that he was withdrawing his Motion and will bring it back with more information.

**Note:** Cr Gleeson returned to the Chamber at 12.31am

**13.1.1 KPI’s for the CEO for the year 2006/2007**

Location:	City of South Perth
Applicant:	Council
Date:	13 November 2006
Author:	Ms A Spaziani, Human Resources Manager
Reporting Officer:	Cliff Frewing, Chief Executive Officer

***Confidential***

This report is designated as ***Confidential*** under the *Local Government Act* Sections 5.23(2)(a) as it relates to a matter affecting an employee.

**Note:** *Confidential Report* circulated separately

MOTION

Cr Trent moved the officer recommendation. Sec Cr Ozsdolay

FORESHADOWED MOTION

Cr Hearne foreshadowed he would be moving an alternative Motion if the current Motion is Lost.

The Mayor put the Motion.

LOST (5/8)

**COUNCIL DECISION ITEM 13.1.1**

Moved Cr Hearne, Sec Cr Smith

That....

- (a) the officer recommendation be set aside and the Chief Executive Officer be requested to develop within seven (7) working days, additional KPI's and Performance Measures to cover the items identified on pages 16 - 19 of the Consultant's report;
- (b) Councillors develop amended or new KPI's that they wish to be included in the report within the same time frame; and
- (c) the Chief Executive Officer arrange a Workshop within fourteen (14) working days between himself and Councillors to finalise the issue and develop a report for presentation to Council for consideration at the December 2006 meeting.

CARRIED (11/2)

**13.2 Public Reading of Resolutions that may be made Public.**

**COUNCIL DECISION - MEETING OPENED TO PUBLIC**

Moved Cr Trent, Sec Cr Ozsdolay

That the meeting be again open to the public at 12.50am

CARRIED (13/0)

**Note:** As there were no members of the public that returned to the Chamber the Council decision for Item 13.1.1 was not read out.

**14. CLOSURE**

The Mayor closed the meeting at 12.55am and thanked everyone for their attendance.

**DISCLAIMER**

The minutes of meetings of the Council of the City of South Perth include a dot point summary of comments made by and attributed to individuals during discussion or debate on some items considered by the Council.

The City advises that comments recorded represent the views of the person making them and should not in any way be interpreted as representing the views of Council. The minutes are a confirmation as to the nature of comments made and provide no endorsement of such comments. Most importantly, the comments included as dot points are not purported to be a complete record of all comments made during the course of debate.

Persons relying on the minutes are expressly advised that the summary of comments provided in those minutes do not reflect and should not be taken to reflect the view of the Council. The City makes no warranty as to the veracity or accuracy of the individual opinions expressed and recorded therein.

**These Minutes were confirmed at a meeting on 19 December 2006**

Signed \_\_\_\_\_

**Chairperson at the meeting at which the Minutes were confirmed.**