

A G E N D A

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**ORDINARY COUNCIL MEETING
AGENDA**

1. **DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**
2. **DISCLAIMER**
The Chairperson to read the City's Disclaimer
3. **RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE**
4. **DECLARATION OF INTEREST**
5. **PUBLIC QUESTION TIME**
 - 5.1 **RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

At the Council meeting held 27 March 2007 the following question was taken on notice:

5.1.1. Mr John Stewart, 7 Keaney Place, Waterford also representing 5 other residents
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Summary of Questions

1. Can the Council indicate today a definite time line for proceeding to formation of a separate precinct and Precinct Plan for the Waterford Triangle in line with last month's Council discussion? If not, when does Council intend this time line to be made available?
2. Can Council elucidate the progress to date of any action to develop an area planning scheme that would give residents and ratepayers options for their future viability as a significant area of interest for small households (students or otherwise)? What actions are proposed for the coming month and who will be actioning them?

Summary of Response

A response was provided by the Acting Chief Executive Officer, by letter dated 11 April 2007, a summary of which is as follows:

1. Council will hold a Concept Forum briefing on 23/4/07 regarding the Waterford Triangle at which the timeline for preparation of a precinct plan will be considered.
2. The key actions since the completion of the community engagement report by Curtin's Alcoa Research Centre for Stronger Communities has been dialogue with the WA Planning Commission to inform DPI officers about this project, engage DPI expertise to assist the planning review and pursue funding. Actions in progress over the next few weeks include:
 - lodgement of a funding submission to WA Planning Commission;
 - liaising with Water Corporation on the timeline for sewerage works; and
 - provision of an information update to ratepayers/residents and other stakeholders.

5.1.2. Mr Barrie Drake, 2 Scenic Crescent, South Perth

Summary of Question

There is a house currently under construction at 14 Scenic Crescent, South Perth which looks as if it is going to be too high. What is the maximum height that this house can be built to on this site? How high will this house be when completed ie how high will it be above natural ground level to the highest point of the structure in metres and millimetres.

Summary of Response

A response was provided by the Acting Chief Executive Officer, by letter dated 10 April 2007, a summary of which is as follows:

The maximum permissible height to which a building can be constructed on this site is 7 metres, measured in accordance with provisions contained within clause 6.2 "Building Height Limits" of the City of South Perth Town Planning Scheme No. 6 (TPS6).

The approved drawings show that the overall height of the building, measured from the highest point of natural ground level beneath the footprint of the building to the highest point of the structure (roof ridge) will be 9.30 metres. However, it is important to note that TPS6 does not measure building height to the top of the roof, but rather, to the top of the external wall. The approved drawings show that the building will be constructed to a height of 7.0 metres when measured to the top of the external walls as accommodated by TPS6.

5.1.3. Ms Diane Cheong, 18 Murray Street, Como for Neighbourhood Watch

Summary of Questions

In relation to graffiti:

1. When Council purchased the graffiti trailer, did staff undergo any special training on it?
2. How many hours per week is it in operation?
3. How many graffiti removals does it achieve in a day?
4. How many people operate it?
5. Is all graffiti treated with it?
6. Does it remove all graffiti efficiently?
7. If not why not?
8. What else is done to remove stubborn graffiti?
9. Who photographs the graffiti?
10. Who reports it to the police?
11. Is all graffiti photographed and reported to the police?
12. Would you please give us a list of all the graffiti Jan Semple and I have reported since February 17, including when they were reported to the police and when they were removed?
13. As most graffiti appears in my area, on Friday and Saturday night, is it possible to roster the graffiti removal crew to work a shift over the weekend and remove it within 24 hours or 48 hours at the most?
14. Alternatively, can the graffiti crew come to Murray Street first thing on Monday mornings and start their clean-up there?

Summary of Response

A response was provided by the Acting Chief Executive Officer, by letter dated 10 April 2007, a summary of which is as follows:

1. City staff were trained to use the trailer when it was first purchased
2. It is not currently being used, but prior to staff retirement, it was being used for 15 to 20 hours per week
3. It would depend on the type of graffiti present including factors such as size, location, type of material and the action required. This could vary from 3 to 20 removals, but in some cases where large sections of buildings have been vandalised only 1 removal per day is possible.
4. At present none.
5. No
6. It removes some types of graffiti very efficiently. Where there are coatings on surfaces etching by the graffiti "ghost" images appear after cleaning.
7. The trailer removes materials by pressure spraying combined with suitable cleaning agents. In many cases removals are done by hand as this method is more effective.
8. The City will consider replacing infrastructure such as rubbish bins if the graffiti problem is severe.
9. The City's Building Maintenance Supervisor where possible. In future the City's graffiti contractor will also take photographs when the new software system is in place.
10. No-one at present. The City is currently purchasing equipment to photograph, site locate and forward all graffiti events to the Police. This will be linked into the City's GIS system
11. See above
12. You are welcome to come in and discuss this matter with the Manager City Environment, Mark Taylor. Please contact him on 9474 0912 to make an appointment.
13. The City's graffiti contractor currently does not work on weekends. The City may consider this depending on the severity of the graffiti problem.
14. The City will attend to graffiti in the areas of most need. This may be Murray Street, but could also be in other locations.

Summary of Questions

In relation to Ryrie Reserve:

1. When are the shade sails being returned to the playground area?
2. Local users ask could more sand be added to the play area and more equipment like that in the Axford Street park?
3. Could shade be put over the picnic table and the barbeque?
4. Could a rubbish bin and water fountain be added to the play area as the current ones are a long way away?
5. Could the graffiti be removed / painted over please so that small children are not surrounded by it?

Summary of Response

A response was provided by the Acting Chief Executive Officer, by letter dated 10 April 2007, a summary of which is as follows:

1. The shade sails were removed because they were damaged. There have been some problems associated with their repair. They will be back in place for next summer
2. The City will arrange for more sand to be added to the existing play area. The request for more equipment will be considered in future budgets along with other priorities.
3. The City does not provide cover to any of its barbecues and the picnic table has been located as near as possible to existing shade.

4. There are two water fountains in that section of the park. One has been placed adjacent to the walk path for pedestrians; the other is located adjacent to the playground. The City will arrange for a rubbish bin to be located in the vicinity of the barbecue.
5. Yes.

5.1.4. Mr Geoff Defrenne, 24 Kennard Street, Kensington

Summary of Question

In response to my questions last month on the “Excelsior” building 152 Mill Point Road, the CEO’s response was: *The developer is aware of the need to construct the building in accordance with the approved drawings and conditions of approval, and there is no evidence to suggest that the building is being built otherwise than in accordance with the approved drawings and conditions of approval.*

A similar response in the CEO’s comment was made in respect to 21 South Perth Esplanade in November 2006. The report to Council in February 2007 stated that the building ‘as constructed’ was not consistent with the plans approved by the Council in March 2004. The approved plans do not comply with the scheme. Do the approved drawings of No. 152 Mill Point Road comply with the Scheme? What has the CEO done to confirm that the approved drawings comply with the scheme?

Summary of Response

A response was provided by the Acting Chief Executive Officer, by letter dated 12 April 2007, a summary of which is as follows:

As far as the City is aware, the approved drawings comply with relevant Scheme requirements. In relation to plot ratio, City Officers have recently re-checked the plot ratio floor area of the approved drawings. This re-check did not highlight any areas of concern.

Additionally, the developers have recently communicated with the City and have advised that:

- They have undertaken their own review of the plot ratio floor area contained within the building, utilising the method of calculation that was operative at the time when planning approval was originally granted;
- Results of progressive as built surveys show that the plot ratio floor area has reduced by 4.0 sq.metres beneath that which was approved; and
- The plot ratio approved by the building licence was 1287.8 sq.metres while the as constructed plot ratio totals 1283.94 sq.metres.

In relation to building height, it must be noted that planning approval was granted pursuant to the provisions of former Town Planning Scheme No. 5 which incorporated a 39 metre building height limit.

5.1.5. Mr John Stewart, 7 Keaney Place, Waterford also representing 5 other residents

Summary of Questions

1. Can the Council now indicate what funding is believed to be necessary to create a plan for revitalisation of the Triangle or the stated “design review” specified in last months minutes? If so, what amount has been determined? If not, what parameters are being applied for the design review?
2. Would Council be willing to make a visit to the Waterford Triangle, to include relevant planning and services officers, Councillors and local ratepayers, at a date to be determined prior to the next Council meeting?

Summary of Response

A response was provided by the Acting Chief Executive Officer, by letter dated 11 April 2007, a summary of which is as follows:

1. The amount of funding required will be determined via a consultant tender process. The likely tasks associated with the tender are:
 - Preparation of a project plan and timeline
 - preparation of community engagement plan
 - liaison with servicing authorities
 - preparation of draft urban design concept
 - liaison with ratepayers and residents
 - preparation of precinct plan and TPS amendment
2. At the Concept Forum to be held on 23/4/07 Councillors will consider a date and time for a possible site visit.

5.1.6. Ms Jan Semple, 80 Monash Avenue, Como

Summary of Question

In relation to the orange street bins, if the graffiti cannot be cleaned off can Council look at replacing them? Similarly with footpaths?

Summary of Response

A response was provided by the Acting Chief Executive Officer, by letter dated 10 April 2007, a summary of which is as follows:

The City already replaces bins where the graffiti cannot be removed satisfactorily. Each case is assessed on the extent to which the graffiti is removed in the first instance before a replacement of the bin is considered. In regard to footpaths, an assessment is also made as to the extent of the damage. In the case of newly laid concrete footpath, it is the contractor’s responsibility to ensure it remains graffiti free prior to the concrete setting. If the footpath is tagged then the contractor has to replace the section.

5.1.7. Mr Geoff Defrenne, 24 Kennard Street, Kensington

Summary of Questions

I have recently become aware that the City posted letters to some residents advising them of the Mends Street Fiesta event on Sunday 1 April. How many letters did the City post out to residents informing them of the Mends Street event? As the Mends Street event is a City wide event, did all residents in the City get similar letters?

Summary of Response

A response was provided by the Acting Chief Executive Officer, by letter dated 10 April 2007, a summary of which is as follows:

A total of 452 letters were sent to residents and traders in the area immediately adjacent to the event location advising of the related road closure. This was an informative letter advising residents and traders who were likely to be immediately affected by access, egress and parking arrangements for the day. As with all the Fiesta events, the Mends Street Carnival was promoted to all City of South Perth residents in a variety of ways including advertisements and articles in the Community News, radio advertising, posters and flyers, and through the Fiesta program which was distributed to each address in the City.

5.1.8. Mr John Stewart, 7 Keaney Place, Waterford also representing 5 other residents

Summary of Questions

1. Can Council indicate whether they have now researched the level of support services required beyond what Council itself has in-house and what such services might be? If not, when can we expect this to occur?
2. Can Council now confirm that the terminology "key stakeholders" reflects current international participatory planning practices in that those who have a "direct financial, and/or livelihood and habitation" interest are the primary stakeholders and agencies that support such interests are essential but secondary stakeholders. This confirms the role of ratepayers as key stakeholders in any planning process and ensures their presence at all meetings concerning the area in question.

Summary of Response

A response was provided by the Acting Chief Executive Officer, by letter dated 11 April 2007, a summary of which is as follows:

1. Council will consider incorporating in the 2007/08 Strategic Financial Plan a suitable allocation of funds to match funds which may be obtained from external sources for Stage 2 of the planning process
2. The City regards ratepayers and residents as key stakeholders. This will be reflected in the Stage 2 project plan which is to be the subject of a tender process once funding is obtained. The decision on the tender process is to be made by Council.

Note: At the Special Council meeting held 3 April 2007 the following question was taken on notice:

5.1.9. Mr Geoff Defrenne, 24 Kennard Street, Kensington

Summary of Question

Is the Notice put out by the Chief Executive Officer that the meeting is not open to the public legal?

Summary of Response

A response was provided by the Acting Chief Executive Officer, by letter dated 13 April 2007, a summary of which is as follows: Yes.

5.2 PUBLIC QUESTION TIME : 24.4.2007

6. CONFIRMATION OF MINUTES / BRIEFINGS

6.1 MINUTES

Council

6.1.1 Ordinary Council Meeting Held: 27.3.2007

6.1.2 Special Council Meeting Held: 03.4.2007

6.1.3 Special Council Meeting Held: 10.4.2007

Committee

6.1.4 CEO Evaluation Committee Held: 28.3.2007

6.1.5 CEO Evaluation Committee Held: 18.4.2007

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 - March Ordinary Council Meeting Held: 19.3.2007

Officers of the City presented background information and answered questions on specific items identified from the March 2007 Council Agenda. Notes from the Agenda Briefing are included as **Attachment 6.2.1**.

6.2.2 Concept Forum - Strategic Financial Plan Overview - Meeting Held: 21.3.2007

Officers of the City presented an overview of the Strategic Financial Plan in preparation for presenting the Plan for public comment. Questions were raised and responded to by officers.

Notes from the Concept Forum are included as **Attachment 6.2.2**.

6.2.3 Concept Forum-Village Green Shopping Centre Presentation: 3.4 .2007

The Project Managers for the Village Green Shopping Centre provided a presentation on the development. Questions were raised and responded to by officers and the Project Managers. Notes from the Concept Forum are included as **Attachment 6.2.3**.

7. PRESENTATIONS

7.1 PETITIONS -	A formal process where members of the community present a written request to the Council
7.2 PRESENTATIONS -	Formal or Informal Occasions where Awards or Gifts may be Accepted by the Council on behalf of the Community.
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.
7.4 DELEGATE'S REPORTS	Delegate's written reports to be submitted to the Minute Secretary prior to 5 April 2007 for inclusion in the Council Agenda.

8. ANNOUNCEMENTS FROM THE CHAIRPERSON

8.1 Method of Dealing with Agenda Business

9. REPORTS

9.1 GOAL 1 : CUSTOMER FOCUS

Nil

9.2 GOAL 2: COMMUNITY ENRICHMENT

9.2.1 Disability Access and Inclusion Plan

Location:	City of South Perth
Applicant:	Council
File Ref:	CS/504
Date:	6 April 2007
Author:	Neil Kegie, Manager, Community, Culture & Recreation
Reporting Officer:	Roger Burrows, Director Corporate and Community Services

Summary

To present the Disability Access and Inclusion Plan (DAIP) to Council for endorsement, following endorsement by Council of a draft DAIP in December 2006 and completion of a community feedback period. **Attachment 9.2.1** refers.

Background

Following Council endorsement of the draft DAIP in December 2006, community feedback was sought for a period through to 23 February 2007. This involved:

- posting the draft DAIP on the City's website;
- promotion of the consultation period in the City Update, Information Radio 6RPH, email notices to peak WA disability organisations and via the Disability Services Commission's local Area Co-ordinators;
- direct contact with organisations that were involved with the initial consultation; and
- direct contact with individuals who provided information in the initial consultation, and expressed a desire through the community survey to remain involved in the development and review of the DAIP.

People with disabilities and their families have the same rights as other people to access services within the community. These rights are built into State and Commonwealth legislation which makes it unlawful to discriminate against anyone with a disability.

Public authorities in Western Australia have been required to have Disability Service Plans (DSPs) as part of the Disability Services Act (1993). The City of South Perth has been implementing its DSP over this time undertaking a substantial revision of the Plan in 2002 when it produced a new plan 'Access for Everyone'.

The Disability Services Act (1993) was amended in December 2004, and now requires public authorities to develop Disability Access and Inclusion Plans. Differences between DSPs and DAIPs include:

1. *Legislation Amendments*

DSPs made public authority services, information and facilities more accessible for people with disabilities. The 2004 amended Disability Service Act requires LGAs to identify access barriers and develop strategies to overcome them.

2. *Outcomes*

The DSP had 5 key outcomes. The DAIP has 6 desired outcomes.

3. *Reviews*

There were no submission requirements under the DSPs. However, with the DAIP:

- (a) a first draft or existing DSP was required to be lodged with the DSC by 31 July 2006 ;
- (b) a finalised DAIP is required to be lodged with the Disability Services Commission by 31 July 2007; and
- (c) annual reporting to the Disability Services Commission is required on the progress of the DAIP.

DSP reviews were not a requirement. DAIPs must be reviewed at least every five years and must be lodged with the Disability Services Commission no later than 31 July, five years after the first submission.

4. *Communicating*

The DSP was recommended but not required to be communicated in different formats. The DAIP must be available (if requested) in alternative formats including: hard copy in standard print (font 12) and large print (font 18), electronic format (compact/floppy disk) and braille. It must also be made available on the LGAs website and be promoted in a local newspaper e.g. Southern Gazette.

5. *Public Consultation*

It was recommended but not required to consult the public on the DSP. All LGAs must notify the public of the consultation process for the DAIP on their website and in a local newspaper.

Comment

In May 2006 disability services consultant E-QUAL, was contracted to assist with the development of the City's DAIP. As required by the amended legislation the City's DSP was lodged with the Disability Services Commission prior to 31 July 2006.

The amended legislation requires DAIPs to address six outcomes:

Outcome 1: People with disabilities have the same opportunities as other people to access the services of, and any events organised by, the City of South Perth.

Outcome 2: People with disabilities have the same opportunities as other people to access the buildings and other facilities of the City of South Perth.

Outcome 3: People with disabilities receive information from the City of South Perth in a format that will enable them to access the information as readily as other people are able to access it.

Outcome 4: People with disabilities receive the same level and quality of service from the staff of the City of South Perth as other people receive from the staff.

Outcome 5: People with disabilities have the same opportunities as other people to make complaints to the City of South Perth.

Outcome 6: People with disabilities have the same opportunities as other people to participate in any public consultation by the City of South Perth.

In addition to addressing the six required outcomes the City's DAIP includes two other outcomes;

Outcome 7: People with disabilities are employed by the City of South Perth.

Outcome 8: Provide information, opportunities and encouragement to raise the awareness in the community regarding disability, access and inclusion.

The DAIP incorporates information regarding the development of the plan and the strategies that have been identified to work towards the outcomes as listed above.

Consultation

(a) The consultation process undertaken supporting the draft DAIP was as follows:

In June 2006 the community was informed through the local newspaper, on the City's website, on Information Radio 6RPH, via email notice to peak WA disability organisations and via the Disability Service's Commission's Local Area Coordinators for the district, that the City was developing a Disability Access and Inclusion Plan to address the barriers that people with disabilities and their families experience in accessing council functions, facilities and services.

Broader community consultation involved:

- A community survey which was available in hard copy at various locations around the City including the City of South Perth Civic Centre, Sir Walter Murdoch and Manning Libraries, and the South Perth and Manning Senior Citizens Centres. Surveys could be mailed or faxed direct to the consultant or placed in a collection box at these venues. Respondents were asked to identify any problems they had using services, accessing information, contributing to Council decision making processes, making complaints, physically accessing council facilities, and generally getting around and being included in the community. Thirteen completed surveys were received, from people with disabilities, family members, carers and local service providers.
- The survey was available on the 'Out for Comment' section of the City's website in Word format, to enhance its accessibility for people with vision impairments. Three completed surveys were received by email.
- Telephone interviews: One community member chose to contact the consultant to provide input by phone.

Consultation with identified stakeholders involved:

- A meeting with Disability Services Commission Local Area Coordinators.
- A meeting of community members and service providers at the City's Community Services Forum, where a presentation was given and feedback gathered. Present at the meeting were representatives from the Rainbow Project, West Australian Disabled Sports Association, Recreation and Sport Network, South Perth Church of Christ, Bethany Homes and Disability Services Commission.
- Face to face interviews and telephone interviews with managers and other key City staff who provided information on progress, achievements, issues and plans relating to disability access in their areas.
- An e-mail survey of City staff which sought input on access issues and included questions relating to awareness of disability and access and training needs in this area. The 14 staff surveys received provided a valuable 'coal face' perspective regarding a very wide range of access issues.
- A concept briefing with elected members on 14 November 2006.

(b) Following council endorsement of the draft DAIP in December 2006 feedback was sought on the draft for a period until 23 February 2007. This involved:

- Posting the draft DAIP on the City's website;
- Promoting the consultation period in the City Update, Information Radio 6RPH, email notice to peak WA disability organisations and via the Disability Service's Commission's Local Area Co-ordinators;
- Direct contact with organisations that were involved in the initial consultation; and
- Direct contact with individuals who provided information during the initial consultation and who expressed a desire through the community survey to remain involved in the development and review of the DAIP.

Feedback was received from the Disability Services Commission and from two individuals who were involved in the initial consultation and had expressed a desire to remain involved in the process.

The Disability Services Commission supported the need to maintain contact with people with disabilities, their families and their cares as the DAIP is implemented. The Disability Services Commission commented the draft DAIP to be generally well written, informative and consistent with the amended legislation.

Comments regarding ongoing consultation relate to part 4.6 of the DAIP 'Review and Evaluation Mechanisms' which outlines ways in which the community shall be informed and shall participate in the review and evaluation process.

The two individuals commented that the draft DAIP looked good, was an impressive piece of work and did not require changing. City officers were thanked for passing the draft on for comment.

Strategic Implications

The development of a Disability Access and Inclusion Plan aligns with the following strategic objectives;

Goal 1 of the City's Strategic Plan 2004 - 2008:

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

Goal 2 of the City's Strategic Plan 2004 - 2008:

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

Policy and Legislative Implications

The development of a Disability Access and Inclusion Plan relate to Policy 207 *Disability Access*

Financial Implications

Costs associated with increased requirements for access such as (for example) provision of universal access toilets at outdoor events and modifications to buildings to meet current standards are integral to the City's business planning cycle and annual budgeting processes. While there are ongoing additional costs involved in working towards a more universally accessible community there are no major additional cost items anticipated as a result of the City adopting the proposed DAIP. Developing a well researched DAIP also provides for additional external funding opportunities. For example in September 2006 the City was successful in receiving a grant from the Disability Services Commission for \$19,905 for the development of an access and mobility map for the City. Officers will be proactive in identifying further funding opportunities in this area.

OFFICER RECOMMENDATION ITEM 9.2.1
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That the City's Disability Access and Inclusion Plan as per **Attachment 9.2.1** be endorsed and the Plan implemented.

9.2.2 Graffiti Management

Location: City of South Perth
 Applicant: Council
 File Ref: CS/505
 Date: 6 April 2007
 Author: Neil Kegie, Manager Community Culture and Recreation
 Reporting Officer: Roger Burrows, Director Corporate and Community Services

Summary

The purpose of this report is to outline a proposed Graffiti Management Program for the City.

Background

Graffiti vandalism has a significant effect on the feeling of safety and the fear of crime within the community. The City of South Perth is fortunate in that the incidence of graffiti is less than, and in many cases, considerably less than in some other Local Government Authorities, however it remains a concern particularly for residents living in areas susceptible to ongoing incidences of graffiti vandalism or where graffiti is not removed in a timely manner.

In 2005 the City in collaboration with the State Government developed its Community Safety and Crime Prevention Plan. As part of the development of that plan consultation was conducted to ascertain the priority community safety issues for the City of South Perth community. That consultation identified the following results:

Crimes of most concern	Community Survey % of respondents (respondents were asked to identify the five most important issues)
House Breaks Ins	88%
Motor Vehicle Break Ins	65%
Speeding/Dangerous Driving	60%
Motor Vehicle Theft	49%
Antisocial Behaviour	45%
Vandalism	42%
Graffiti	35%
Handbag Theft	20%
Drunk/disorderly behaviour	18%
Drugs	18%
Armed Robbery	16%
Assault	14%
Shop Lifting	12%
Gang Behaviour	7%
Sexual Assault	6%
Domestic Abuse	4%

Graffiti occurs on assets owned by the City and by other agencies such as Australia Post, Western Power, Alinta Gas, Main Roads, Adshell, Telstra and the Education Department as well on residential and business properties.

The City currently coordinates the removal of graffiti on all of these assets. Graffiti is reported to the City through calls to the City's graffiti hotline or directly to the City's main contact number, or by reports by City employees, particularly field staff and rangers.

Contractors are employed by the City to remove graffiti from City owned assets or free of charge from structures adjacent to road reserves on residential or business properties. The City commits to removing graffiti within five days from it being reported. In cases where the graffiti is on assets owned by other agencies the City reports graffiti incidents to the relevant agency which is then responsible for removal.

In response to growing concern by Local Government Authorities over the lack of a coordinated approach to graffiti management, a West Australian Local Government Association led delegation of Mayors in November 2006 met with the Hon John Kolbelke, Minister for Police and Emergency Services; Community Services. At that meeting the Minister agreed that graffiti management was a significant issue, and gave a commitment that:

- the Police issues will be taken up by him;
- there is a need to streamline the reporting process and get it into a useful form; and
- he will look at the clean-up and sharing cost.

It was agreed at that meeting that a State Local Government Graffiti Working Group would be the prime vehicle to facilitate a more strategic approach and commitment to graffiti management across Government, incorporating a review of the working Group's functions to ensure a stronger strategic direction and communication channel back to key stakeholders. This Working Group which is convened by the Office of Crime Prevention includes representatives from the State Government, WA Local Government Association, WA Police, Public Transport Authority, Western Power, Main Roads, Dept of Housing and Works, Water Corporation, Dept of Education, Dept of Corrective Services, City of Perth and City of Stirling. The Working Group is currently drafting a State-wide Graffiti Strategy which should be available in draft form for comment in May 2007.

In addition to the timely removal of graffiti the City undertakes or supports activities to engage with young people as a deterrent from undertaking criminal or antisocial behaviour. These include supporting chaplaincies at local secondary schools, supporting alternative education and outreach programs and undertaking a range of youth based activities including school holiday programs and special events.

The City currently spends approximately \$50,000 per year directly on the removal of graffiti from City assets and private property. This amount is supported directly and indirectly by additional staff and financial resources involved in the City's Community Safety, Buildings maintenance, Community Funding, Recreational, Cultural and networking programs.

Approximately 6 reports are received each week through the graffiti hotline or by other means although seasonal and other factors means this figure varies throughout the year.

The City is represented on a number of networking forums to ensure that information regarding current trends, research and best practice is available when making relevant decisions. These forums include; Quarterly Community Safety Meetings convened by the Mayor and attended by senior level Police and government agencies, Regional Managers meetings convened by the Office of Crime Prevention and attended by Police, agencies and regional local government authorities, SPARKYS (South Perth and Victoria Park Youth Services) and local Neighbourhood Watch Groups.

Comment

It is widely recognised that there is no 'silver bullet' to combat graffiti, rather that a range of strategies should be employed to reduce the amount of graffiti in the community. These strategies focus on effective reporting protocols, effective removal programs and early intervention programs aimed at young people at risk of becoming involved in antisocial or criminal behaviour including graffiti with a view to addressing the issue at source rather than simply dealing with the consequences.

Offenders gauge the success of their actions in a number of ways based on the concept of *Reputation Enhancement*. These include the degree of danger or illegality associated with the act of graffiti vandalism, the amount of community outrage and publicity associated with the actions of offenders and the length of time graffiti remains before it is removed. Publicising acts of graffiti and expressing community outrage for example, is more likely to have the opposite effect than that desired in that it enhances the reputation of the offender and motivates other potential offenders to follow the example.

Currently the City removes graffiti from its own assets and from private property where it abuts road reserves, and commits to removing this graffiti within 5 days from reports being received. . Removal of graffiti from assets owned by agencies such as Western, Main Roads, Australia Post and the Education Department is currently the responsibility of those agencies who have been directed by the State Government to remove graffiti with 48 hours of reports being received or within 24 hours where the graffiti is racist or obscene. While the City passes on reports to these agencies this protocol can result in inconsistent removal response times and confusion in the community how graffiti removal is being managed. This report recommends a more coordinated approach including aligning the City's removal times with the state government's targets.

As part of its brief from the Minister for Police, Emergency Services and Community Safety the State Local Government Graffiti Working Group is developing a State Graffiti Strategy which should be available in draft form for comment in May 2007. It is envisaged that this strategy will address issues related to improved and centralised reporting procedures to Police of graffiti incidents and increased efficiency of removal procedures including a template agreement for use between local government authorities and the various agencies to allow local governments to coordinate removal and be reimbursed for associated costs. City officers are monitoring the development of this strategy and will ensure that the City can derive maximum benefit from its implementation.

Notwithstanding the development of the State wide strategy the City has been liaising with Main Roads which of all the agencies has indicated that it is most willing to enter into individual agreements with local government authorities. Main Roads currently has agreements in place with the City of Stirling and City of Gosnells that enables these local governments to be reimbursed for the costs associated with removing graffiti from Main Roads assets. The City is currently in discussion with Main Roads to develop a similar agreement.

Many organisations including local governments have been developing strategies to address graffiti related issues in their particular areas. It is important to tap into this knowledge in order to determine initiatives that could apply to the City of South Perth. Maintaining contact with organisations such as the Police, other local government authorities, schools and colleges, government agencies and community based groups with an interest in community safety and graffiti management is essential in keeping abreast of trends and working towards sustainable and effective outcomes. Part of this process should also involve engaging with young people to try to understand what motivates the behaviour and to identify and implement intervention strategies to stop graffiti vandalism occurring in the first place.

Effective communication is essential in ensuring the community knows how the City is managing graffiti and in providing the necessary information to allow people to be a part of the process. While the City takes a lead role in community safety issues it is only through the involvement of the entire community that these issues can be tackled effectively. Accordingly a greater emphasis should be placed on promoting the City's Graffiti Management Program in the community.

Part of the proposed state-wide graffiti strategy involves developing a more efficient system for reporting graffiti to the Police and in managing and acting on the intelligence gathered. At a meeting of the State Local Government Graffiti Working Group on 28 February 2007 the Superintendent of the Central metropolitan Police District provided a report outlining progress on this issue. At that meeting he reported that in order to resolve the existing problem a better way of interfacing Police and Local Government reporting systems was required. Interfacing is critical in making sure the recording systems are streamlined and information, including digital images, are better utilised. A range of options have been suggested to Police as to how to email and append digital images. Changes to the system will occur later in the year regarding reducing data input to better reflect the nature of the graffiti offence. One of the main changes will be the electronic input of data either through a website or direct from individual councils. Police will need to look at preparing a budget submission in order to obtain a resource to research the feasibility of a web based option. City officers are monitoring the development of this aspect of the state wide strategy with a view to participating in the new reporting system.

The proposed Graffiti Management Program for the City which is outlined below brings together existing practices as well as additional initiatives based around the six key focus areas of Communication, Deterrents, Reporting, Removal, Networking and Early Intervention:

- 1. Communication** - ensuring that the community is aware of the City's Graffiti Management Program and how people can be involved
 - 1.1 Develop an Information brochure on the City's Graffiti Management Program
 - 1.2 Include graffiti management information on the City's website
 - 1.3 Incorporate graffiti management information on the City's Messages on Hold
 - 1.4 Utilise the Community Newspaper to promote the City's Graffiti Management Program
 - 1.5 Work with the City's Neighbourhood Watch volunteers to develop ways to promote the Graffiti Management Program
 - 1.6 Continue to implement and promote the City's Community Safety Awards to recognise community members who are actively involved in Community Safety initiatives including addressing graffiti vandalism

- 2. Deterrents** - making it difficult for potential offenders to undertake graffiti vandalism
 - 2.1 Ensure Crime Prevention through Environmental Design principles are utilised to reduce the risk of graffiti vandalism
 - 2.2 Investigate the potential for to utilise CCTV at graffiti hotspots
 - 2.3 Continue to utilise the City's CCTV units at George Burnett Park and Morris Mundy Reserve to monitor for anti social and criminal behaviour including graffiti vandalism
 - 2.4 Maintain close communication with WA Police as they develop a centralised intelligence gathering system for graffiti reporting
 - 2.5 Work towards an agreement with local hardware stores to limit access to aerosol paints and other graffiti materials

- 3. Reporting** - ensuring that the City has robust graffiti reporting protocols
 - 3.1 Maintain and promote the City's Graffiti Hotline
 - 3.2 Develop and implement a web based graffiti reporting procedure
 - 3.3 Support alternate means of reporting graffiti by the community such as email and direct calls to City Officers
 - 3.4 Continue to utilise City Staff to report graffiti
 - 3.5 Encourage community members to report graffiti to the Police

4. **Removal** - ensuring that the City has effective graffiti removal strategies
 - 4.1 Make every endeavour to remove graffiti from City assets and, with the consent of the owner, from private property where it adjacent to a road reserve within 48 hours of a report being received or in cases where the graffiti is racist or obscene, within 24 hours of a report being received
 - 4.2 Develop an agreement with Main Roads which allows for reimbursement of costs to the City for removal of graffiti from Main Roads assets
 - 4.3 Monitor the development of the State-wide Graffiti Strategy where it relates to overarching agreements with other agencies and prioritise the implementation of these agreements in the City of South Perth

5. **Networking** - ensuring the City is proactive in seeking knowledge and best practice examples in graffiti management
 - 5.1 Monitor the development of the state wide graffiti strategy
 - 5.2 Maintain involvement in networking forums with WA Police and government agencies
 - 5.3 Ensure the City's Neighbourhood Watch groups are engaged in the City's Graffiti Management Program
 - 5.4 Engage with other community organisations to gain knowledge and understanding of issues and solutions regarding graffiti management
 - 5.5 Monitor the effectiveness of graffiti management initiatives by other local government authorities such as the development of local laws, for consideration in the City of South Perth

6. **Early Intervention** - supporting programs and activities that involve young people who are at risk of becoming involved in anti social or criminal behaviour including vandalism and graffiti
 - 6.1 Continue to coordinate and/or support youth focussed programs
 - 6.2 Work with local schools and colleges to develop ways of engaging with young people through forums and special projects to help understand their needs and aspirations
 - 6.3 Work with community organisations that engage with young people to identify opportunities to more widely promote existing youth programs and activities

Consultation

Consultation has been undertaken with the following organisations in the preparation of this report:

- West Australian Local Government Association
- Office of Crime Prevention
- City of Stirling
- City of Gosnells
- City of Wanneroo
- Representatives from local Neighbourhood Watch groups
- People Against Vandalism (PAV)
- Como Secondary College
- Main Roads
- WA Police
- Centre for attention and Related Disorders, Graduate School of Education. University of WA

Strategic Implications

The contents of this report relate to Goal 2 of the City's Strategic Plan 2004 - 2008:

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

And to strategy 2.3 of the strategic plan:

'Enhance the Safer City Program to support, develop and deliver residential and business initiatives that reduce crime and promote safety'

Policy and Legislative Implications

This report relates to Policy P309 *Graffiti Management*

Financial Implications

The proposed Graffiti Management Strategy as outlined in this report is achievable within current resource allocations. Consideration of any additional initiatives should include investigation of anticipated costs.

OFFICER RECOMMENDATION ITEM 9.2.2
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That the proposed Graffiti Management Program for the City that brings together existing practices as well as additional initiatives based around the Six Key Focus Areas of Communication, Deterrents, Reporting, Removal, Networking and Early Intervention as detailed in report Item 9.2.2 of the April 2007 Council Agenda be endorsed:

9.3 GOAL 3: ENVIRONMENTAL MANAGEMENT

9.3.1 Reconsideration of Conditions of Planning Approval for Two Storey Single House. Lot 2 (No. 112) Angelo Street South Perth.

Location: Lot 2 (No. 112) Angelo Street, South Perth
 Applicant: John Lewis Architect for Mr T P Maras
 Lodgement Date: 14 March 2007
 File Ref: 11.2006.611.1 and AN1/112
 Date: 10 April 2007
 Author: Rajiv Kapur, Senior Statutory Planning Officer
 Reporting Officer: Steve Cope, Director Strategic and Regulatory Services

Summary

Planning Approval was granted for a proposed two storey Single House subject to compliance with a number of conditions. The applicant has requested that two of those conditions be reviewed at a Council meeting with a view to having them deleted. The Officer report recommends that the conditions of approval be upheld and that the applicant's request for deletion of those conditions be refused.

Background

This report includes the following attachments:

- **Confidential Attachment 9.3.1(a):** Drawings of the proposal
- **Attachment 9.3.1(b):** Notice of Planning Approval dated 9 March 2007
- **Attachment 9.3.1(c):** Letters from John Lewis Architect, dated 20 February 2007 and 29 March 2007

The development site details are as follows:

Zoning:	Residential
Density coding:	R15
Lot area:	654 sq. metres
Building Height Limit:	7.0 metres
Development Potential:	Single House
Plot Ratio	Not Applicable

In accordance with standard practice, a footnote was included on the planning approval stating that:

“The above decision has been made by a duly assigned officer under delegated authority conferred by the Council in order to expedite the decision-making process. If you are aggrieved by aspects of the decision where discretion has been exercised, you may either:

- (i) submit a letter to the City requesting that the matter be reviewed at a Council meeting; or*
- (ii) lodge an appeal with the State Administrative Tribunal within 28 days of the Determination Date recorded on this Notice.”*

The proponent has now requested that two conditions of planning approval be reconsidered at a Council meeting.

The location of the development site is shown below. The site is adjoined to each side by Single Houses fronting Angelo Street and Wesley College to the rear.



Comment

(a) Description of the Proposal

The proposed development comprises a two storey Single House. The proposal complies with most of the requirements of Town Planning Scheme No. 6 (TPS6), the Residential Design Codes (R-Codes) and relevant Council Policies with the exception of some variations which were dealt with via conditions of planning approval. In respect of some of the variations, the applicant is prepared to amend the drawings to achieve compliance with normal requirements. In relation to others, as discussed below, the applicant has requested review by Council.

The applicant has requested that the following conditions of Planning Approval be reviewed by the Council:

- “(1)(i) *Having regard to Clause 6.10 ‘Maximum Ground and Floor Levels’ of Town Planning Scheme No. 6 (TPS6), the finished floor level of the Porch, Entry and Study to be no higher than 11.00 RL; and*
- (1)(vi) *The eaves overhangs on either side of house to be no closer than 750 mm to the side boundaries in accordance with Clause 3.3.1 ‘Building Set Back from the Boundary’ of the R-Codes.”*

The applicant’s letter, **Attachment 9.3.1(c)**, attempts to justify the design with respect to the matters in question.

(b) Condition No. (1) (i) with respect to the proposed higher finished floor level at the front of the house

Having regard to Clause 6.10 “Maximum Ground and Floor Levels” of TPS6, the proposed finished floor level at the front of the house is required to be lowered by 300 mm (from an RL of 11.30 to an RL not exceeding 11.00). The applicant states in their letter of justification that since the block slopes down from the street, by approving the higher level, the entrance of the house will not look sunken. The applicant goes on to state that the house to the west has a floor level of 11.31 and the house to the east has a floor level of 11.13 and that the proposed level of 11.30 will improve the streetscape. The applicant also advises that the proposed level of the house is 40 mm higher than the level of the existing house that is to be demolished.

The Assessing Officer is of the view that the older style single storey houses which were built with higher finished floor levels are gradually being replaced by contemporary two storey houses which are being built with floor levels calculated on the basis of the equal cutting and filling provisions of TPS6. The contemporary two storey houses generally achieve a building height of 5.5 to 7.0 metres and are bulkier in terms of scale and proportion as compared to the older single storey houses. Permitting two storey houses to be built to higher floor levels potentially increases the perceived bulk further. Conversely, two storey houses with floor levels based upon equal cutting below and filling above the natural ground levels achieves a visually balanced streetscape. The raised floor level is seen to have an impact on the streetscape rather than the amenity of the adjoining property owners in this instance.

Therefore, it is recommended that the Council uphold the condition in relation to lowering of the floor level at the front of the house.

(c) **Condition No. (1) (vi) with respect to the setback of the eaves overhang from side boundaries**

The proposed setback of the eaves overhang measures approximately 400 mm from the eastern boundary and 600 mm from the western boundary.

Having regard to Clause 3.3.1 'Buildings Set Back from the Boundary' of the R-Codes, minor projections such as a chimney, other architectural feature or an eaves overhang should not project more than 0.75 metre into a setback area and to be no closer than 0.75 metre to a boundary.

Clause 3.3.1(A1)(iv) of the R-Codes states:

"Minor projections such as a chimney, other architectural feature, or an eaves overhang not projecting more than 0.75m into a setback area and to be no closer than 0.75m to a boundary."

The applicant makes reference to the Building Code of Australia 2006 (BCA) allowing a lesser setback, however the BCA is not the correct reference document upon which to undertake a planning assessment.

Additionally, no attempt has been made to address the associated Performance Criteria.

In view of the differing requirements of planning and building Codes, it is seen appropriate by the Assessing Officer to adhere to the planning requirements. Therefore, it is recommended that the Council upholds the condition in relation to increasing the side setback of the eaves overhang to 750 mm from each side boundary.

(d) **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 under, and has been found to meet, the following relevant general objectives listed in clause 1.6(2) of TPS6:

Objective (a) *Maintain the City's predominantly residential character and amenity; and*

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;*

(e) **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 list of 24 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (a) *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;*
- (b) *all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance; and*
- (c) *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;*

(f) **Conclusion**

As discussed above, the request for deletion of conditions as requested by the applicant is not supported by the Assessing Officer.

Consultation

(a) **Neighbour Consultation**

The applicant has provided a copy of the plans signed by each of the adjoining property owners which includes comments to the following effect:

“As neighbours of the adjoining western property (110 Angelo St) hereby certify that we have perused these plans and have no objection to the proposal including all setbacks to western walls / windows / eaves / and screen as shown.”

And;

“As neighbours of the adjoining eastern property (114 Angelo St) hereby certify that we have perused these plans and have no objection to the proposal including all setbacks to western walls / windows / eaves / and screen as shown.”

The comments and signatures of each respective adjoining property owners are clearly printed on the drawings.

(b) **Other City Departments**

The application was not required to be referred to any other department of the City.

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 under the Comments section of this report.

Financial Implications

The issues have 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 9.3.1
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That, in respect of the planning approval dated 9 March 2007 issued for a proposed two storey Single House on Lot 2 (No. 112) Angelo Street, South Perth, the applicant’s request for deletion of Conditions 1(i) and 1(vi) which require the floor level of the front portion of the dwelling to be reduced by 300mm and the setback of the eaves to be increased to 750mm from the side property boundaries respectively, **not** be approved.

9.3.2 Proposed Construction of New Universal Access Public Transport Jetty at Mends Street. Reserve 28779 (Sir James Mitchell Park) South Perth.

Location: Reserve 28779 (Sir James Mitchell Park), South Perth
Applicant: Department for Planning and Infrastructure (Asset Management) (Owner). Mr Ian Love (Lessee)
File Ref: IS/JT/4: 11/2268
Date: 2 April 2007
Author: Rod Bercov, Strategic Urban Planning Adviser
Reporting Officer: Steve Cope, Director Strategic and Regulatory Services

Summary

To consider concept plans for the proposed second jetty at Mends Street. The Council has previously recommended refusal for this structure and the associated extensions to the Bellhouse Café. However the Minister for the Environment has granted development approval for these proposals. The proponents have now submitted concept design drawings for the proposed second jetty. The Council is being asked to comment on the design in relation to Conditions 4 and 5 of the Minister's approval and the related Advice Note 3. The recommendation is to advise the proponents and the Swan River Trust that the Council does not support the design.

Background

Concept design drawings for the proposed second jetty have been submitted by the design company, Prism Design and Management. Two alternative options have been submitted and the proponents are requesting Council's comments on both. Option 1 is the preferred option which has no roof cover over the floating ramp comprising the central section of the jetty. Option 2 has roof cover over this central section. These drawings collectively comprise **Attachment 9.3.2(a)**.

In support of the concept design, Prism Design and Management, have submitted a letter dated 19 March 2007, **Attachment 9.3.2(b)**. A further letter, **Attachment 9.3.2(c)**, from Prism Design and Management dated 30 March 2007 refers to Option 2 which is preferred by their client (the lessee), Mr Ian Love.

The proponents have also provided Council with a submission from the Public Transport Authority, which supports the concept design of the proposed jetty. The PTA submission comprises **Attachment 9.3.2(d)**.

The proposed second jetty at Mends Street and the associated café extensions have been the subject of consideration over an extended period. The following is a summary of the Council's previous consideration of these proposals, the final decision of the Minister for the Environment, and the applicants' recent submission of concept plans:

- (a) February 2005 Council meeting
Having considered a comprehensive Officer report on this proposal at the February 2005 meeting, the Council resolved to recommend to the Swan River Trust that the application be refused for several reasons. Most of those reasons related to concern about the proposed café extensions, however the following reasons relate to the proposed second jetty.

- The proposed development conflicts with Strategy 3.3 of the City of South Perth Strategic Plan, as the adverse impacts associated with the proposal outweigh any benefit that may be provided to the South Perth community;
- The need for a second jetty has not been substantiated and the design of the proposed second jetty is inappropriately narrow. The proposed jetty design would unnecessarily inconvenience ferry users.
- The intended use and function of the existing Mends Street Jetty is unclear.
- The proposal conflicts with Provision 3.3.9 (Impacts) of Appendix 1 of the Sir James Mitchell Park Foreshore Management Plan as the proposed development would adversely impact upon the amenity of surrounding residential property owners for the following reasons:
 - increased demand on limited parking resource;
 - increase in traffic;
 - loss of existing views; and
 - impact of servicing, related to both rubbish disposal and deliveries.
- The proposed development is not acceptable to the Sir James Mitchell Park Community Advisory Group for reasons identified within the Officer report dated 1 February 2005;

The reasons for the objection of the Sir James Mitchell Park Community Advisory Group (SJMPACAG) were expressed in the following terms:

“The group have concerns with the dimensions of the proposed new jetty and believe these to be too narrow, being 2.5 metres wide reducing to 2 metres wide at the extremity, which is not satisfactory, even though it was claimed by Ms Fay that it meets standards -

- a) *What are the future plans for the existing jetty?*
- b) *Why the need for 2 jetties (therefore creating another structure out over the river)?*
- c) *Will this preclude further expansion onto the jetty, construction, outdoor seating?”*

The February 2005 report contains the following officer response to the SJMPACAG comments:

“The submission does not clearly state what the existing Mends Street Jetty will be used for if public transport access is shifted to a new jetty designed solely for that purpose. The application is deficient in this respect, as it is an important matter which should have been addressed.

With respect to the proposed new jetty, the submission states that:

“The Department for Planning and Infrastructure (Asset Management) plan to improve access at the Mends Street jetty by incorporating an adjustable landing height suitable for disabled access. To facilitate this initiative, DPI now proposes to construct a new jetty 15m west of and parallel to the existing jetty.

The initiative was conceived independent of West Valley’s proposed cafe refurbishment. However, as a consequence of the consultation carried out between both organisations it became apparent that it would be appropriate for the two proposals to be linked.”

The submission does not explain whether modifications to the existing jetty could have been made in lieu of constructing an entirely new jetty in order to facilitate disabled access.

The City can not speculate whether there would be any future application received to expand commercial facilities further onto the Mends Street Jetty if the current development application were to be approved.”

(b) August 2005 Council meeting

Revised drawings for this proposal were considered at the August 2005 Council meeting. Although a number of detailed changes had been incorporated into the revised drawings, the fundamental design remained largely unchanged. Therefore, the Council’s opinion about the proposed development remained unchanged. This being the case, the Council again recommended to the Swan River Trust that the application be refused. The reasons cited by Council on this occasion were the same as the reasons listed in the February 2005 resolution.

(c) Decision of the Minister for the Environment

The proposal for a second jetty was integral to the development application for extensions to the Bellhouse Café. That application was approved by the Minister although the Council recommended refusal. The Minister’s decision was conveyed by a letter from the Swan River Trust dated 17 March 2006. In relation to the proposed jetty, the accompanying "Determination of Development Application" included Conditions 4 and 5, together with Advice Note 3, which read as follows:

- "4. *Prior to development commencing, final detailed engineering plans shall be submitted and approved by the General Manager, Swan River Trust showing the design, structural and construction details of the jetty and boardwalk structure.*
5. *The ferry jetty design referred to in condition 4 shall be redesigned to the satisfaction of the Swan River Trust so that it is wider and provides overhead shelter along its entire length (See Advice Note 3).*

Advice Note 3

In relation to Condition 5, the jetty design requires substantial widening to at least 6 metres to allow for future increases in ferry passenger numbers, and the provision of shelter over the entire structure to provide protection to passengers in inclement weather."

(d) November 2006 Council meeting

Condition 3 of the Minister’s approval relates to a required cash payment in lieu of 20 car parking bays and associated manoeuvring space. To determine the quantum of the cash payment, a further report was submitted to the November 2006 Council meeting. At that meeting, the Council resolved that the required cash payment was estimated at \$130,000 subject to payment being received by 1 December 2006 and thereafter, the figure being increased in line with the Consumer Price Index. The Council resolution also stated that the “cash-in-lieu” payment would not be expended on construction of additional parking bays on the foreshore reserve, but on capital works relating to facilities for pedestrians, cyclists or bus passengers.

- (e) Proponents' submission of revised concept plans for proposed jetty
On 12 March 2007 a representative of the Department for Planning and Infrastructure in company with their designer, met with City officers and presented concept plans for the proposed jetty. These plans are now identified as **Option 2** within **Attachment 9.3.2(a)**. The proponents consider that these plans meet the functional requirements of jetty users, while not complying with Condition 5 of the Minister's approval and the associated Advice Note 3 in relation to the width of the jetty. The central "floating" section of the proposed structure is only 2.4 metres wide as opposed to the 6 metre minimum called for by the Minister's condition, when read in conjunction with Advice Note 3..

Condition 5 of the Minister's approval also requires the provision of overhead shelter along the entire length of the jetty to protect passengers in inclement weather. The Council now needs to consider whether or not the design of the proposed shelter structure meets this condition.

Under cover of a later letter dated 30 March 2007, the applicants submitted further drawings relating to their preferred option. These are identified as **Option 1** within **Attachment 9.3.2(a)**. The Option 1 drawings show that the roof cover over the central floating section of the jetty has been removed.

Comment

The jetty has been designed as two relatively large, fixed "nodes" at either end, linked by a 14 metre long floating central ramp, which is 2.4 metres wide. The nodes are supported on piles driven into the river bed. Roof cover is proposed along the full length of the jetty with the roofing over the floating ramp being flat and the roofing over the nodes being in the form of low pitched skillions.

The letter from the design company, Prism Design and Management dated 19 March 2007 **Attachment 9.3.2(b)**, explains the design rationale for the proposal, noting that the width of the "floating" central section of the jetty is substantially narrower than the 6 metre minimum required by the Minister. The design rationale is based upon the predicted functional requirements of jetty users. The proponents contend that, based upon their preferred design, the jetty will be fully functional even though the width does not comply with the relevant condition of approval.

The proponents' preferred Option 1, with the roof cover deleted from the central section of the jetty is in further conflict with Condition 5 of the Minister's approval than Option 2 which has greater roof cover.

It is noted that the Public Transport Authority supports the proposed concept design, as evidenced by their written submission **Attachment 9.3.2(c)**.

Consultation

In connection with the recently received concept plans, consultation has been held with the City's Design Advisory Consultants and also with the City's Team Leader, Building Services.

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

The concept plans were considered by the City's Design Advisory Consultants at their meeting held on 19 March 2007. The Advisory architects made comments on the design relationship with the existing jetty and foreshore improvements; width of the jetty; weather protection; roof design; and seating. Those comments are as follows:

General design relationship with existing jetty and foreshore improvements

The Advisory Architects noted the drawing depicting the new jetty in relation to the existing jetty, the expanded café and pavement on the foreshore. They made the point that this drawing does not accurately reflect the actual details of existing construction. In this regard they made the following comments:

- *A composite locality plan needs to be provided, accurately depicting the relationship between the proposed structure and existing facilities. This plan needs to show links in terms of desired pedestrian travel paths between all of the facilities.*
- *The design needs to take account of whether pedestrians should be encouraged to approach the two jetties via the pavilion, or to be diverted around the pavilion.*
- *It needs to be demonstrated that there are strong links, both visually and functionally between the proposed jetty and existing infrastructure.*

Width of jetty

The Advisory Architects noted the proposed 2.4 metre width of the 'floating ramp' comprising the long central portion of the jetty. They also noted that this width is substantially less than the 6.0 metre width required by Condition 5 of the Minister's approval coupled with the related Advice Note 3. Having regard to the following concerns, the Advisory architects considered the proposed width inadequate to meet functional requirements:

- *This width would restrict pedestrian movement to a one-way flow, thus causing delays to ferry departures while waiting for exiting passengers to disembark and for new passengers to embark.*
- *An access ramp of the proposed length (14.0 metres) would not comply with the requirements of the BCA. The maximum permissible length of a ramp without an intermediate landing is 9.0 metres.*
- *It is anticipated that, at times of peak loading or congestion due to passengers with wheelchairs, prams, bicycles and other conveyances, problems will be experienced as a result of the narrow width of the 'ramp' component of the jetty.*
- *In relation to the node at the northern end of the jetty where passengers embark on ferries, the Advisory Architects queried whether the size of this node (approximately 60 sq. metres) is adequate to accommodate 150 people.*

Weather protection

The Advisory Architects considered that the proposed roof structure will not provide adequate weather protection. In this regard, they made the following comments:

- *Single pitched roofs such as the proposed roof are generally not effective for weather protection. In particular, the 'high' side is greatly exposed.*
- *Having regard to the narrow width of the roof cover over the narrow and elongated ramp component, to achieve effective weather protection enclosure on the sides of the jetty is required. In particular, the west side needs to be properly screened.*
- *The broader node at the south end needs to be provided with screening, particularly on the west side, to achieve effective weather protection in winter. The present design would not protect crowds of people waiting on this platform.*
- *The shelter over the node at the north end may also prove to be inadequate without screening on the sides.*

Roof design

While noting the objective of maintaining a low profile for minimum visual intrusion, the Advisory Architects considered that the design of the proposed roof is not attractive. In relation to the roof design, they made the following comments:

- *The roof design should be better integrated with the design of the proposed café extensions and the pavilion on the foreshore. The present design bears no relationship to the design of those structures. At least the land based node should have a roof form which reflects the roof design of the nearby structures. To demonstrate design compatibility in this regard, the drawings of the proposed jetty should also show the other structures.*
- *The Advisory Architects did not understand the reason for the ‘gaps’ between the separate roof components over the nodes at either end of the jetty. They considered that the roof cover should be continuous, with the gaps eliminated.*

Seating

No seating is indicated at either end of the jetty. The Advisory Architects considered that, at least at the south end adjacent to the foreshore where passengers will be waiting, adequate seating should be provided.

City Officers’ Response

The design rationale presented by the proponents has been considered, together with the supporting submission from the Public Transport Authority. However, the City officers remain of the opinion that the concept design of the proposed jetty is not satisfactory. IN this regard, the City Officers are in full agreement with all of the preceding comments from the City’s Design Advisory Consultants.

(b) Team Leader, Building Services

At this stage, the proponents have not given consideration to detailed technical and structural design issues. However, the City’s Team Leader Building Services has provided preliminary comments in this regard and these have been conveyed to the proponents to give them early notice of matters that will need to be taken into account if and when the concept design is approved. Those comments relate to:

- the loading on the structure;
- specifications of the piling system and other construction elements beneath the decking;
- the need for an engineering site report addressing soil conditions, weather conditions, water impact and movements, and the wind factor;
- emergency and evacuation plans;
- fire suppression and emergency equipment; and
- details of exits and directional aids.

(c) Manager Engineering Infrastructure

Members of the Infrastructure Services team have noted the comments in respect to the narrow width of the connecting ramp and the removal of the covered roof from part of the structure and concur fully with the comments contained elsewhere in this report. The team noted the comments of the Design Advisory Architects in relation to whether pedestrian access would be through the pavilion or around the pavilion.

It is the collective view of the Infrastructure Services that pedestrian access to/from the jetty must be through the pavilion and as such the “Washingtonia” cotton palms currently located within the paved area must be relocated to the edges of the brick paving to compliment the planting on the other side and complete the “fan shaped” brick paved pedestrian space free of encumbrances. The transplanting of the “cotton palms” is a relatively simple arboreal process using specialist equipment and appropriately qualified companies. All costs associated with the transplanting are to be met by the applicant.

Infrastructure Services also noted the commitment given elsewhere to sustainable development of public buildings and is of the view the opportunity does exist to at least have this development operationally sustainable and potentially “carbon” free by incorporating solar panels within the roof structure to provide all of the required power for lighting the structure during evening hours i.e. dusk to dawn operation or for ticketing and other requirements.

Finally Infrastructure Services has always required new developments to provide bicycle parking facilities and while it would be preferable to have the facilities covered and secured, circumstances have rarely permitted this to happen. In this location bicycle lockers would be inappropriate and additional shelter areas, other than on a widened jetty structure, could not be accommodated on the reserve. Therefore parking facilities for this development other than on the jetty would be considered to be bike rails located in close proximity to the shared recreational path.

Policy and Legislative Implications

It is to be appreciated that the Minister has already granted development approval for the proposed café extensions and the second jetty. At this stage, the Council is only being asked to express its opinion on the design of the proposed second jetty. The responsibility for endorsing the present concept plans and subsequent detailed working drawings rests with the Swan River Trust. The Trust will consider the Council’s recommendation before responding to the proponents.

Financial Implications

The proposed second jetty has no specific financial implications for the City, although the associated proposed expansion of the Bellhouse Café has financial implications in relation to the “cash-in-lieu” payment discussed above.

Strategic Implications

Council has adopted a Strategic Plan for the period between 2004-2008. Goal 3 of the plan relates to Environmental Management. Within this section of the plan, Strategy 3.3 is to:

“Ensure future development and current maintenance of the river foreshore, wetlands, lakes, bushlands and parks is properly planned and sustainable and that interaction with the built environment is harmonious and of benefit to the community.”

The recommendation has been framed after giving due consideration to the provisions of the Strategic Plan, particularly with respect to matter of whether or not the proposed development would be of benefit to the South Perth community.

OFFICER RECOMMENDATION 9.3.2

That, in respect of the proposed construction of a new universal access Public Transport Jetty at Mends Street, South Perth accessed from Reserve 28779 (Sir James Mitchell Park), the Department for Planning and Infrastructure and the Swan River Trust be advised as follows:

- (a) Council considers that the design of the proposed jetty, both Options 1 and 2, depicted on the concept design drawings received on 12 March and 30 March 2007 respectively, are not satisfactory in respect of the relationship with the existing jetty and foreshore improvements; the width of the floating ramp; weather protection; roof design; and seating. In arriving at this position, the Council had regard to all of the comments contained in the report of the Strategic Urban Planning Adviser dated 2 April 2007, and in particular, the comments and views of the City's Design Advisory Consultants presented therein. The Council supports all of those comments and views;
- (b) having regard to the position expressed in Part (a) above, and to the comments in the related officer report:
 - (i) Council remains of the opinion, as previously advised, that the proposed jetty is inappropriately narrow and notes that, due to the proposed width of the floating ramp, the design does not satisfy Condition 5 of the Determination of Development Application and the related Advice Note 3 attached to the Swan River Trust's letter dated 17 March 2006; and
 - (ii) Council considers that the design of the overhead shelter is not satisfactory and notes that, with respect to weather protection, the proposed shelter structure does not satisfy Condition 5 of the Determination of Development Application and the related Advice Note 3 attached to the Swan River Trust's letter dated 17 March 2006. The Councillors' concern relating to inadequate overhead shelter applies to both Options 1. and 2. Option 2 involving the deletion of roof cover over the central floating ramp is the most unsatisfactory in this respect.

9.3.3 Proposed Amendment No. 9 to Town Planning Scheme No. 6 - realignment of boundaries between 13.0 metre and 28.0 metre Building Height Limits for five lots in South Perth Esplanade and Parker Street. Report on submissions.

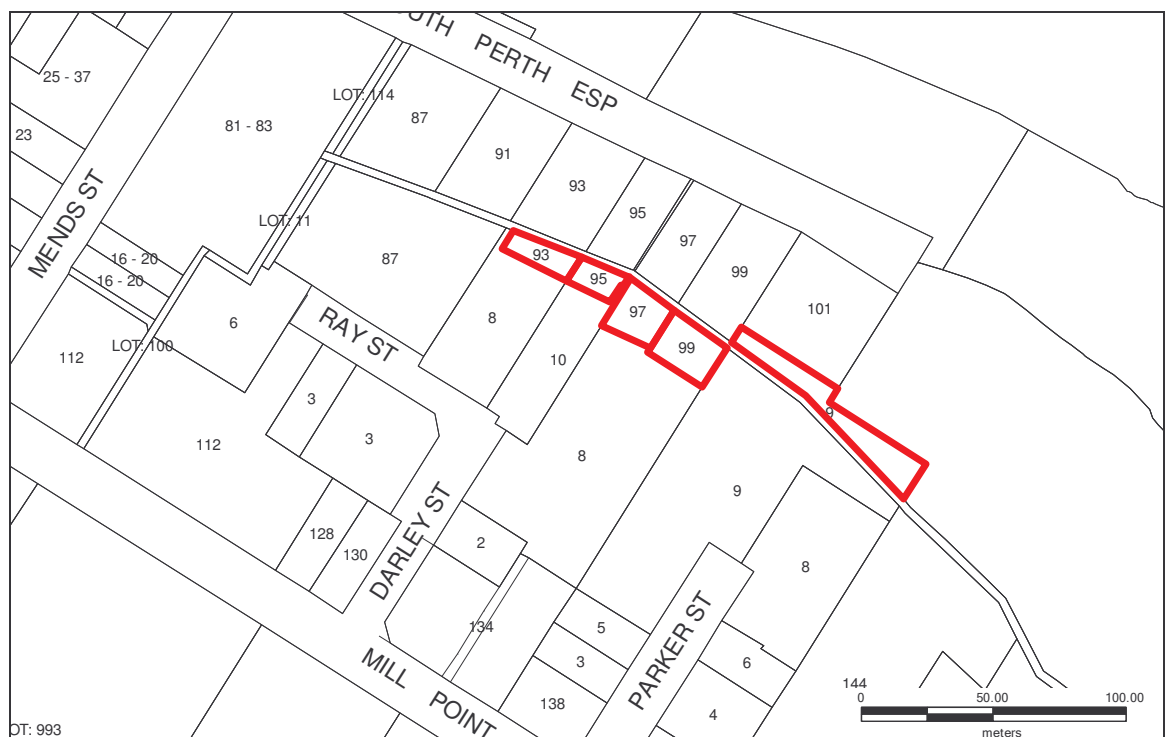
Location: Lots 29, 116, 31, 100 (Nos. 93, 95, 97, 99) South Perth Esplanade and Lot 501 (No. 9) Parker Street, South Perth
Applicant: City of South Perth
Lodgement Date: N/A
File Ref: LP/209/9
Date: 2 April 2007
Author: Gina Fraser, Senior Planning Officer - Strategic; and Rod Bercov, Strategic Urban Planning Adviser
Reporting Officer: Steve Cope, Director, Strategic and Regulatory Services

Summary

The purpose of the proposed Amendment No. 9 to Town Planning Scheme No. 6 (TPS6) is to correct an inadvertent error appearing in a part of the Scheme Map - Building Height Limits for Precinct 1 - Mill Point, which incorrectly depicts the alignment of the boundary between the 13.0 metre and 28.0 metre height limits. The draft Amendment proposals have been advertised for community comment and submissions have been received. This report and its attachments outline the comments contained in the submissions, and recommend that, to correct the error, the proposed Scheme Amendment No. 9 proceed without modification.

Background

The land which is specifically the subject of the proposed Amendment No. 9, being the rear portion of each of Lots 29, 116, 31, 100 (Nos. 93, 95, 97, 99) South Perth Esplanade and Lot 501 (No. 9) Parker Street, South Perth, is shown below:



This report includes the following attachments:

Attachment 9.3.3(a) Report on Submissions

Attachment 9.3.3(b) Schedule of Submissions

The reasons for the proposed Amendment No. 9 were fully explained in the Officer's report to Council in December 2006. It was explained that the purpose of the proposed Scheme Amendment is to realign the boundary between the 13.0 metre and 28 metre Building Height Limits applicable to five lots in South Perth, such that in each case, the whole of each lot will be allocated the Building Height Limit which already applies to the majority of the site. Four of these lots are situated in South Perth Esplanade, and one is in Parker Street. A short time prior to the Minister's final approval of Town Planning Scheme No. 6, a drafting error in the Scheme Maps had caused the line separating the Building Height Limits to follow the boundary of a sewer reserve which traverses the properties, rather than the rear boundaries of the properties. This was unintended by the Council and the Minister, and is now being rectified through Amendment No. 9.

Full details relating to neighbour consultation are contained within the 'Consultation' section of this report. Following preliminary consultation with the most closely affected property owners within and surrounding the Amendment land, the draft Amendment proposal was presented to the December 2006 Council meeting for consideration of whether or not to initiate a formal Amendment proposal. At the December meeting, the Council initiated the Amendment proposal and adopted the draft Amendment for the purpose of seeking community comment.

In regard to the City's consultation, owners of some of the affected portions of land have requested that the Council be made aware of the disparity in the numbers and distribution of people consulted during the two consultation processes related to this Scheme Amendment. This matter is discussed in more detail within the 'Consultation' section of this report.

Comment

(a) Description of the Proposal

The background, purpose and content of Amendment No. 9 is fully described in the relevant December 2006 Council report and its attachments. The current report deals with the submissions which have been received in relation to the Amendment proposal.

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

In terms of the general objectives listed within Clause 1.6 of TPS6, this Scheme Amendment process satisfies the following Scheme objectives:

- (d) Establish a community identity and 'sense of community' both at a City and precinct level and to encourage more community consultation in the decision-making process;*
- (e) Ensure community aspirations and concerns are addressed through Scheme controls;*
- (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.*

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

The purpose of the Town Planning Scheme No. 6 and amendments to it, is to guide and control development within the City. After amending the Scheme in the manner proposed, the Council will later be involved in considering development applications which are affected by the amendment. At that time, the Council will be required to have due regard to a range of matters listed in clause 7.5 of TPS6 which are, in the opinion of the Council, relevant. The following listed matters are relevant to the Scheme Amendment process in that they will ultimately affect development of the land:

- (b) *the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment which has been granted consent for public submissions to be sought;*
 - (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.*
- (d) **Amendments to the Scheme: Clause 9.8 of No. 6 Town Planning Scheme**
Clause 9.8 of the Town Planning Scheme No. 6 relates to the Scheme Amendment process. Among other matters, the clause states:
- “(4) The Council shall take into consideration any comments or submissions received in respect of a proposed amendment to the Scheme and shall only proceed with the amendment where it is satisfied the amendment would be consistent with the objectives of the Scheme and of the precinct, and would not be contrary to the public interest.”*

Consultation

(a) **General comment**

In regard to the City’s consultation, owners of some of the affected portions of land have requested that the Council be made aware of the disparity in the numbers of people consulted compared with the number of directly affected owners whose building height limit is intended to be changed by this Amendment. In this respect, the following information is provided:

A total of 314 property owners were consulted. Of that total, approximately 70% own land or a dwelling which is not directly affected by the proposal, while 94 (30%) of those consulted own land which is directly affected by the Amendment proposal. Of the latter group, 14 (4.5%) own the four subject South Perth Esplanade properties. This disparity in numbers of consulted property owners is reflected in the numbers and types of responses received during the submission periods.

(b) **Preliminary consultation: 31 October to 27 November 2006**

In November 2006, preliminary neighbour consultation was undertaken for this proposal to the extent and in the manner required for Scheme Amendments of this kind by the Council’s Policy P104 relating to ‘Neighbour and Community Consultation in Town Planning Processes’. A total of 300 Notices were mailed to property owners within ‘Area 2’ as defined in the Policy.

During this preliminary consultation period, a total of 85 submissions were received, being 81 in favour and 4 against the proposal.

(c) **Consultation after initiating Amendment No. 9: 20 January to 9 March 2007**

Following the Council’s adoption of draft Amendment No. 9 on 19 December 2006, the statutory advertising required by the Town Planning Regulations was undertaken for a period of more than 42 days, between 20 January and 9 March, 2007, inclusive. In line with the Council’s Policy P104, the advertising process was timed to commence after the Christmas/New Year season of mid-December to mid-January in recognition of the special nature of this period, to ensure the fullest possible response. During this advertising period, a total of 314 residents were consulted, resulting in receipt of 82 submissions, being 79 in favour of the Amendment and 3 against it.

The combined number of submissions received through both processes is 108, being 102 supporting the proposal and 6 opposing it. Fifty-nine of the submitters took the opportunity to comment on both occasions. In those instances, the two submissions from the same person have been recorded as a single submission.

(d) Site notices

At the December 2006 Council meeting when the amendment proposals were adopted for community comment, it was decided that signs **not** be placed on the subject sites during the wider consultation period because the land in question is at the rear of the sites concerned and has no direct road frontage. To place a sign at the front of each site would have been misleading, as the land at the front of the sites (the major portion of the site in each case) is not affected by the proposed change of height limit. This constituted a variation from item 3(j)(i) of the Policy P104 Matrix, which normally requires a site notice for a Scheme Amendment of this kind. However, all of the directly and indirectly affected property owners were notified by mail, and were invited to lodge submissions.

The submissions are discussed in detail in **Attachment 9.3.3(a)**, Report on Submissions and **Attachment 9.3.3(b)** Schedule of Submissions which will be provided to the Western Australian Planning Commission for further consideration and recommendation to the Minister for Planning and Infrastructure.

Policy and Legislative Implications

The proposed Amendment No. 9, if approved by the Minister, will have the effect of amending the City's Town Planning Scheme No. 6.

Various elements of the statutory Scheme Amendment process are set out in clause 9.8 of the City's Town Planning Scheme No. 6, in Council Policy P104 relating to 'Neighbour and Community Consultation in planning Processes', and in the *Town Planning Regulations*. The process as it relates to the proposed Amendment No. 9 is set out below, together with a time frame associated with each stage of the process. Those stages which have been completed (including consideration at the April 2007 Council meeting) are shown shaded.

Stage of Amendment Process	Time Frame
Preliminary consultation under Policy P104	31 October to 27 November 2006
Council adoption of decision to initiate Amendment No. 9 to TPS6	19 December 2006 Council meeting
Council adoption of draft Scheme Amendment No. 9 proposals for advertising purposes	19 December 2006 Council meeting
Referral of draft Amendment proposals to EPA for environmental assessment during a 28 day period	Friday, 22 December 2006
Public advertising period of not less than 42 days (<i>Not to be undertaken between mid-December and mid-January</i>)	Saturday, 20 January to Friday, 9 March 2007
Council consideration of Report on Submissions in relation to Amendment No. 9 proposals	24 April 2007 Council meeting
Referral to the WAPC and Minister for consideration: <ul style="list-style-type: none"> • Report on Submissions; • Council's recommendation on the proposed Amendment No. 9; • Three signed and sealed copies of Amendment No. 9 documents for final approval 	Early May 2007
Minister's final determination of Amendment No. 9 and publication in <i>Government Gazette</i>	Unknown

Financial Implications

The issue has some financial implications, to the extent that no Planning Fee is applicable in this instance. The City bears the cost of the Amendment process.

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 conclusion in the attached Report on Submissions is that, for the reasons contained in that report, the Council should recommend to the Western Australian Planning Commission and the Minister for Planning and Infrastructure that the proposed Amendment No. 9 proceed without modification.

OFFICER RECOMMENDATION ITEM 9.3.3
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That

- (a) the Western Australian Planning Commission be advised that Council recommends that:
 - (i) Submissions 1.1 to 102 inclusive, supporting the proposed Amendment No. 9, be generally **UPHELD**;
 - (ii) Submissions 2.1 to 2.6 inclusive, opposing the proposed Amendment No. 9, be generally **NOT UPHELD**; and
 - (iii) Amendment No. 9 **proceed without modification**;
- (b) the Report on Submissions and the Schedule of Submissions, **Attachments 9.3.3(a) and 9.3.3(b)**, and three executed copies of the Amendment No. 9 document, be forwarded to the Western Australian Planning Commission for final determination by the Minister for Planning and Infrastructure; and
- (c) the Submitters be thanked for their participation and advised of the above resolution.

9.3.4 Swan River Trust draft Healthy Rivers Action Plan

Location:	City of South Perth
Applicant:	Council
File Ref:	EM/109
Date:	4 April 2007
Author:	Mark Taylor, Manager City Environment
Reporting Officer:	Les Croxford, Acting Director, Infrastructure Services

Summary

The Swan River Trust (SRT) has released a draft Healthy Rivers Action Plan for the Swan and Canning Rivers for community and local authority comment. The draft plan contains eight key management programs to manage the rivers. The comment period closes on 30 April 2007.

This report reviews the draft plan and recommends a submission to be sent to the Swan River Trust.

Background

The draft Healthy Rivers Action Plan has been developed by the SRT to protect the environmental health and community benefits of the Swan Canning river system by improving water quality. The SRT aims to achieve this by:

- reducing nutrients and other contaminants;
- minimising sediment loads entering the rivers;
- increasing oxygen levels in the rivers; and
- protecting and rehabilitating the foreshores.

To achieve these goals, the SRT proposed to implement 8 key management programs, including 4 new initiatives, during the next five years (2007-2011):

1. Coordination - all of the programs will be coordinated to provide an integrated response to improving water quality.
2. Healthy Catchments - a reduction goal of 30 per cent has been set to reduce nutrient inputs to priority catchments by 2015. This will mainly be achieved by phasing out water soluble phosphate fertilisers and improved fertiliser practices. New initiative funding of \$2 million dollars will be allocated to this program.
3. Land Use Planning - aims to reduce nutrient inputs from future land developments with improved planning schemes and policies.
4. Drainage Nutrient Intervention - aims to reduce nutrient input into the river system from the most nutrient rich urban drains.
5. *Riverbank* - continuation of the Trust's program to work in partnership with Local Government to assess, stabilise and restore foreshore areas along the river system. The goal is to protect and rehabilitate an area equivalent to ten per cent of the Swan Canning foreshore each year.
6. River Health - aims to maintain and improve the ecological health of the river system by increasing oxygen levels, re-establishing river flow regimes and trialling new intervention techniques. New initiative funding of \$150,000 will be allocated to enable work with the Department of Fisheries and other partners to identify factors causing the decline in fish and crustacean populations in the river.

7. River Guardians - a new initiative that seeks to engage the Perth community in “hands-on” activities that protect and restore the river system. New initiative funding of \$250,000 will be allocated to establish this program.
8. River Science - a five year research and innovation program that provides sound technical information for managing the river system. This will include the establishment of a Technical Advisory Panel to advise the SRT on climate change. New initiative funding of \$700,000 will be allocated to establish partnerships with universities and research institutions.

Comment

The draft Healthy Rivers Action Plan represents a new direction for the SRT. The plan builds upon the achievements of the Swan-Canning Cleanup Program Action Plan (1999). Excerpts from the plan are attached for Councillor’s edification. **Attachment 9.3.4(a)** refers.

The eight key management programs represent a solid and coordinated direction for the SRT to take to ensure the appropriate management of the Swan Canning river system. The plan is short on detail however the broad strategic management direction is being set at this stage and the detailed implementation plans will follow.

The main focus of the plan, and therefore funding, will be on the upper catchment of the river system as well as some of the higher polluting drains. None of these occur within the City’s boundaries. The City will of course benefit from the implementation of the plan with a resultant healthier river.

Where the plan is of direct relevance to the City, is through the *Riverbank* funding program. The City has a number of projects planned or in progress which it hopes to receive supporting funding from the SRT. These include foreshore restoration works as well as river wall restoration / replacement programs. The new *Swan and Canning Rivers Management Act*, which passed through Parliament in September 2006, discusses a partnered approach to foreshore management.

The City is keen that the SRT allocates sufficient funding through a partnership to ensure the appropriate management the City’s vast foreshores, including the river walls and foreshores maintained to support passive recreation such as along Sir James Mitchell Park.

City officers have prepared a submission to be sent to the SRT on the draft Healthy Rivers Action Plan **Attachment 9.3.4(b)** refers.

Consultation

The SRT has released the draft Healthy Rivers Action Plan for Local Government and wider community comment until 30 April 2007. Community comment will be considered prior to the SRT adopting the final plan.

Policy and Legislative Implications

The Healthy Rivers Action Plan is supported by the *Swan and Canning Rivers Management Act* which passed in Parliament in September 2006. This legislation replaces the existing *Swan River Trust Act 1988* and the *Environmental Protection (Swan and Canning Rivers) Policy 1987*

The new legislation supports the Healthy Rivers Action Plan by:

- providing a statutory basis for water quality targets;
- establishing a whole-of-government approach for river management, including Ministerial approval of management programs;
- establishing the Swan Canning Riverpark;
- providing a statutory basis for partnership agreements; and
- enabling the use of River Protection Notices as a mechanism to address activities affecting the water quality in the Swan Canning River system.

Financial Implications

The State Government has directed an additional \$3 million dollars to implement the Healthy Rivers Program under 4 new initiatives.

There are no direct financial implications to the City arising from the draft Healthy Rivers Action Plan. The City however hopes to benefit from aspects of the funding program and in particular, under the *Riverbank* program.

Strategic Implications

This report is consistent with Goal 3 *Environmental Management* of the City's Strategic Plan 2004-2008 "*To sustainably manage, enhance and maintain the City's unique, natural and built environment*".

Under their new legislation, the SRT will develop a River Protection Strategy to provide a broad strategic context for management of the Swan and Canning Rivers.

OFFICER RECOMMENDATION ITEM 9.3.4
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That the City of South Perth submission on the *draft* Healthy Rivers Program, **Attachment 9.3.4(b)**, be endorsed and forwarded to the Swan River Trust.

9.3.5 Application for Strata Title Certificate for completed Multiple Dwelling development. Lot 9 (Nos. 12-14) Stone Street, South Perth

Location:	Lot 9 (Nos. 12-14) Stone Street, South Perth
Applicant:	Eames and Associates Architects for ABN Construction
Lodgement Date:	9 March 2007
File Ref:	11/765 and ST3/12
Date:	12 April 2007
Author:	Rod Bercov, Strategic Urban Planning Adviser
Reporting Officer:	Steve Cope, Director, Strategic and Regulatory Services

Summary

This report relates to an application for a Form 7 Strata Title Certificate for the building referred to above. Issues need to be addressed in relation to a number of variations from the approved building licence drawings. Departures from the approved drawings concerning the construction of free-standing carports are a matter of concern due to the encroachment of support columns into the width of some of the car bays. This has caused certain bays not to comply with the minimum width prescribed by the No. 6 Town Planning Scheme. The recommendation is for Council to require modifications to the carports to achieve compliance with the approved building licence drawings. It is further recommended that, following the completion of the carport modifications, the Chief Executive Officer be authorised to issue the Strata Title Certificate in accordance with Section 23 of the Strata Titles Act.

The report also discusses an issue relating to the plot ratio exceeding the prescribed maximum, while noting that the 'as built' plot ratio conforms to the approved building licence drawings. Legal advice obtained in this respect is discussed in the "Comment" section of the report.

Background

This development was the subject of a comprehensive report to the February 2007 Council meeting. That report related to investigations undertaken by appointed consultants and City officers in response to Council resolutions at the October, November and December 2006 Council meetings. The February report dealt with the findings of appointed consultants, Mr Graham Partridge 'probity auditor' and Mr Stuart Wilcox, licensed surveyor of JBA Surveys. The consultants were commissioned to evaluate the height, plot ratio and setbacks of the subject building to ascertain whether the 'as constructed' building complies with the approved drawings and the provisions of the No. 6 Town Planning Scheme (TPS6) and R-Codes.

In summary, the consultants found that, apart from minor and inconsequential variations, the completed building complies with the approved building licence plans in relation to height and setbacks.

Mr Partridge's letter dated 12 February 2007 explains that the surveyor completely surveyed one typical apartment being Apartment 6 on the third floor. This apartment was found to be consistent with the size shown on the approved plans, while noting certain minor alterations which would not significantly impact on the calculation of plot ratio. While the surveyor undertook a 'sample survey' in relation to plot ratio, Mr Partridge's letter further explains that the surveyor did not undertake a full plot ratio calculation and recommended that this be measured when the Strata Plan is lodged with the City.

The February Council report informed Council that the building licence plans were approved although they incorporated design changes from the earlier “Planning” plans causing the plot ratio floor area to exceed the prescribed maximum by around 98 sq. metres. Further comments regarding plot ratio are contained in the ‘Comment’ section of this report.

An application for a Form 7 Strata Title Certificate was lodged on 9 March 2007. In relation to “Planning” requirements, a full inspection of the building was undertaken by City officers Rod Bercov and Christian Buttle on 19 March 2007. Further to the findings of Messrs Partridge and Wilcox, this inspection revealed a number of inconsequential departures from the approved building licence drawings. The departures relate to variations to carport design and portions of the building at ground floor level as well as the recreation facilities on the mezzanine level. These departures are fully documented in a letter from the project architects dated 29 March 2007 (**Attachment 9.3.5**).

The requirements relating to the local government issuing of a Strata Title Certificate—are contained in Section 23 of the Strata Titles Act 1985. Section 23(1)(a) requires the Council to certify that the building is consistent with the “building plans and specifications” approved by the City. Legal advice has confirmed that this is a reference to the building licence plans rather than the earlier documents submitted for planning approval.

Section 23(2) identifies other aspects of the development upon which the local government must be satisfied before issuing the Strata Title Certificate. These matters relate to the need for the local government to be satisfied that:

- (a) the separate occupation of the strata lots will not contravene the Town Planning Scheme;
- (b) any consent required under the Town Planning Scheme in relation to separate occupation of the proposed lots has been given; and
- (c) the development of the parcel as a whole, the building and the proposed subdivision of the parcel into lots for separate occupation will not interfere with the existing or likely future amenity of the neighbourhood, having regard to the circumstances of the case and to the public interest.

The Council Delegation DC346, adopted in June 2006, confers delegated authority upon the Director - Strategic and Regulatory Services, Manager - Development Services, and Team Leader - Building Services for the issuing of such certificates. However in this instance, having regard to:

- (a) the Council’s previous involvement in issues concerning the subject property; and
- (b) the departures from the approved drawings;

the application for the Strata Title Certificate is being referred to Council for a decision.

Comment

The comments which follow relate to three matters requiring Council’s consideration, namely the carport variations causing conflict with TPS6 requirements, other variations not causing conflict with any requirements, and the plot ratio which is consistent with the approved drawings while being in excess of the R-Code prescribed maximum.

- (a) **Carport variations**

On the original “Planning” plans, the car bays were shown as complying with the prescribed 2.5 metre minimum width.

The 'as constructed' carports are not consistent with the approved building licence plans (Architectural Drawings A1.02 Revisions 3 and 4). The approved drawings show three steel support columns at intervals of three car bays (in addition to three concrete columns supporting the main building) for each of the free-standing carports which each accommodate 13 cars. The critical changes involve the substitution of five circular steel support columns at intervals of two car bays in place of the three approved 'I' section columns. This change has caused a number of the parking bays to be below the prescribed minimum width where the columns intrude into the bays. The most critical are Bays 9 and 49 where the clear width between the steel and concrete columns is significantly below the prescribed 2.8 metre minimum which applies in this particular situation. On 28 March 2007, following the discovery of the departures, the project architect submitted revised 'as built' drawings relating to the carport construction.

The approval of the deficient width of car bays involves the exercise of discretion by Council. Council now needs to decide whether to accept the variations as being sufficiently minor departures from the approved drawings or whether to require the carport structures to be modified. If the revised 'as built' drawings had been submitted prior to construction, the City officers would not have approved those drawings due to conflict with the prescribed minimum car bay width. The encroachment into the width of the affected bays is 75mm where the steel support columns are located. While this is not a substantial encroachment, it causes conflict with the prescribed minimum bay width and increases difficulty of vehicle manoeuvre. Therefore it is recommended that the developers be required to modify the carports to comply with the approved Architectural Drawings A1.02 Revisions 3 and 4. If Council supports this recommendation, the modifications to the carports would need to be completed before the Form 7 Strata Certificate could be issued.

(b) Other departures from building licence plans

As mentioned above, the other departures relate to portions of the building at ground floor level as well as the recreation facilities on the mezzanine level. The project architects' 29 March 2007 letter (**Attachment 9.3.5**) itemises all of the departures and provides explanations as to the reasons. That letter was accompanied by revised 'as built' drawings.

The other departures do not cause conflict with any Planning requirements and the departures were clearly implemented for valid reasons in relation to improved design and functionality. Therefore, although the revised drawings ought to have been submitted for approval prior to construction proceeding, the departures do not give rise to Planning concerns which should preclude the issuing of the Form 7 Strata Title Certificate. It is noted however, that the City's Building Surveyors are examining the 'as constructed' drawings relating to all variations. Provided that this examination does not identify any further "BCA" issues, these variations should be accepted.

In the *Rennet* case (discussed below), the Tribunal determined that the question as to whether the requirements of Section 23(1)(a) of the *Strata Titles Act* had been satisfied, was answered by determining whether there had been any material departures from the building licence plans.

In the case of the Stone Street development, as discussed above, the departures from the building licence plans are not significant other than in respect of the non-compliant manner of construction of the free-standing carports.

(c) **Plot ratio**

Based on the City's method of calculation at the time, the plot ratio floor area on the "Planning" plans was approximately 3484 sq. metres. The subsequently approved building licence drawings have a plot ratio floor area of approximately 3478 sq. metres, being a decrease of around 6 sq. metres.

The City's Manager, Development Assessment has undertaken and recorded detailed calculations of the plot ratio floor area based upon the approved building licence drawings and the consultant surveyor has confirmed that the completed building conforms to those drawings. The February 2007 report advised that the plot ratio floor area shown on the building licence drawings exceeded the R-Code prescribed maximum by around 98 sq. metres. It has subsequently been established that the lot area is actually 14 sq. metres larger than originally recorded on documents held by the City. The consequence of this is that the excess plot ratio floor area has now been calculated as being around 80 sq. metres above the prescribed maximum rather than 98 sq. metres.

Clause 2.3.4 of the R-Codes relates to the exercise of discretion. In his findings in *Canning Mews Pty Ltd v. City of South Perth [2005] WASAT 272*, Senior Member, David Parry of the State Administrative Tribunal stated that, although the meaning of Clause 2.3.4 is not clear, it appears that discretionary power is available to Councils in respect of plot ratio. Subsequently, in the matter of *Hodge and Collard Pty Ltd v. City of South Perth [2005] WASAT 295*, the President of the Tribunal, Justice Barker, considered the same question and reaffirmed that "it does appear that discretion is available under Clause 2.3.4". However, Justice Barker did not come to a final view in relation to this question as that was not required for the particular case. The R-Codes operate in conjunction with the City's No. 6 Town Planning Scheme. The plot ratio control for residential development is derived from the R-Codes. Legal advice obtained by the City in another context was to the effect that Council should treat the R-Codes prescribed plot ratio as an "Acceptable Development" standard, being open to variation where the development complies with 'housing density' requirements. The Stone Street development complies in relation to housing density.

In the matter of *Rennet Pty Ltd v. City of Joondalup [2006] WASAT 289* Justice Chaney of the State Administrative Tribunal stated that it is open to a local government to decline to issue the Strata Certificate if it is not satisfied as to the "Planning" matters stipulated in Section 23(2) of the Strata Titles Act. He also stated that it is frequently the case that there will be discrepancies between architectural plans providing a foundation for planning approval and the plans providing a basis for the issue of a building licence. **He added that the discrepancies would only give rise to the need for an amendment to the planning approval if the variations add some component of planning significance.**

In the *Rennet* case, the Tribunal commented further in relation to the provisions of Section 23(2)(c) of the Strata Titles Act which refer to "the development of the parcel as a whole". It was found that the further reference to "the building" enabled a broader scope of consideration beyond issues arising from separate occupancy. This provision was seen to allow consideration of the effect on amenity. However the Tribunal found that where planning approval has been granted and strata subdivision is highly likely, the fact that amenity issues have been resolved in that earlier context is important. The Tribunal made the point that it would hardly be in the public interest for a local government to grant planning approval and then to revisit the "amenity" consideration resulting in the later refusal of the strata certificate. The Tribunal stated that there

must be some significantly different circumstances which arise, to justify a refusal of the strata certificate on amenity grounds where the same development has received planning approval from the local government.

In the case of the Stone Street development, legal advice obtained by the City is to the effect that it is not open to the Council to decline to issue the Strata Certificate for any of the "Planning" reasons referred to in Section 23(2) of the Strata Titles Act. The reason for this conclusion is because the extent of the building being non-compliant with the City's Town Planning Scheme does not arise from "separate occupation" of the proposed lots and there does not appear to be any significantly different circumstance which has arisen following the grant of planning approval which would justify refusing the Certificate on "amenity" grounds.

The City's legal advice is to the effect that, as the SAT determined in the *Rennet* matter, unless some significantly different circumstances give rise to a significantly different amenity impact, it is not open to the Council to refuse the strata certificate under Section 23(2)(c) of the Strata Titles Act. In the Stone Street case there are no different amenity circumstances.

While the consultant surveyor did not undertake a full plot ratio calculation, he undertook a 'sample survey' of the floor area of a typical apartment. He also obtained detailed measurements with respect to building height and setbacks, his conclusion being that the completed building is consistent with the approved building licence drawings. The Strata Titles Act provides for the local government to issue a certificate in the prescribed form where inspection confirms that the building is consistent with the building plans approved by the City.

Mr Partridge has been instructed to arrange in conjunction with the consultant licensed surveyor, Mr Wilcox, for a full plot ratio calculation to be undertaken based upon a further site inspection. It is expected that this advice will be provided prior to the April Council meeting. While Mr Partridge recommended that the actual plot ratio floor area be verified against the Strata Plan lodged with the City, legal advice has confirmed that the Strata Plan is not a relevant document for this purpose because the floor areas included on a Strata Plan differ from the areas to be included and excluded in accordance with the R-Code definition of plot ratio.

Further, as explained above (in this section of the report headed "(c) Plot Ratio") legal advice received is that the fact that the plot ratio of the building is non compliant is not a relevant consideration for the Council in determining whether to grant a Certificate under s.23 of the *Strata Titles Act*.

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

Scheme Objectives are listed in Clause 1.6 of TPS6. The relevant objective in relation to the matter under consideration is Objective (f) which is expressed in the following terms:

(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 Stone Street development is situated in a high density locality (R80/100) where there are a number of other buildings of equivalent scale and height. Therefore, the development in question is considered to meet Scheme Objective (f) set out above.

Consultation

In the course of preparing this report, reference was made to the State Administrative Tribunal findings in three cases and also to legal advice obtained on an earlier occasion in relation to plot ratio. The City's Legal and Governance Officer was also consulted.

Neighbour Consultation was not required in this instance.

Specific legal advice was also obtained on the requirements of Section 23 of the Strata Titles Act in relation to the plot ratio issue and other matters discussed elsewhere in this report.

Policy and Legislative Implications

Detailed comments in relation to the requirements of Section 23 of the Strata Titles Act 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 the comments in this report, it is considered that the free-standing carports should be modified to comply with the approved building licence drawings. The other variations from the approved drawings are not significant and should be accepted. Upon completion of the carport modifications, the Chief Executive Officer should be authorised to issue the Strata Title Certificate.

It is important to appreciate that, based upon legal advice obtained by the City, the Council is obligated to issue the Form 7 Strata Certificate without unreasonable delay after the non-compliance with the building plans associated with the carports is rectified. Advice received from the City's legal advisers is that the question of plot ratio compliance with "Planning" requirements is not a valid consideration in the context of the application for the Strata Certificate..

OFFICER RECOMMENDATION ITEM 9.3.5
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That.....

- (a) the applicants be advised that, having regard to the conflict with the minimum width of car parking bays prescribed in the No. 6 Town Planning Scheme, Council requires the carports to be modified to achieve consistency with the details shown on the approved Architectural Drawings A1.02 Revisions 3 and 4 which are the subject of the building licence;
- (b) subject to:
 - (i) satisfactory completion of the required carport modifications; and
 - (ii) the City's Team Leader, Building Services confirming that the modifications shown on the revised 'as built' drawings meet the requirements of the Building Code of Australia (BCA);the Chief Executive Officer be authorised to issue the Form 7 Strata Title Certificate; and
- (c) the applicants be further advised that, having regard to the identified issue relating to plot ratio, the building could not be modified at any future date in a manner which would cause an increase in the plot ratio floor area. In particular, additional enclosure of balconies is not permitted.

9.4 GOAL 4: INFRASTRUCTURE

9.4.1 Vacant Crown Land adjacent to Kwinana Freeway South from Canning Bridge
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Location:	City of South Perth
Applicant:	Council
File Ref:	KW1
Date:	4 April 2007
Author/Reporting Officer:	Les Croxford, Acting Director Infrastructure Services

Summary

The Department for Planning and Infrastructure has identified a number of relatively small parcels of land south of the Canning Bridge acquired for but not included in the controlled access/Freeway reserve. The land is currently Crown reserve and Council had previously accepted control and management of the land. Unfortunately the dedication and appropriate documentation had never been concluded and with the passage of time and the enactment of new legislation Council is now requested to reaffirm its acceptance of the Management Orders on each of the identified lots.

Background

Land acquired for the Freeway extension south from Canning Highway but not included in the Controlled Access Reserve became Vacant Crown Land (VCL). In 1983 Council accepted a proposal from Main Roads (Department Plan 8225-23-1) detailing the VCL, the proposed vesting to the City and the identified purpose of the land eg vested in the City of South Perth as Parks and Recreation conditional on amendments being made to the Metropolitan Regional Scheme to remove the Hope Avenue arterial road connection.

In the period 1983 to 1986 the necessary amendments were secured to the Metropolitan Regional Scheme and Hope Avenue was removed as a possible access point to the Freeway thus removing any impediment to Council to accept the vesting proposal.

Amendments to the original proposal (Main Roads Plan 8225-23-3) were resubmitted to Council in 1986. In 1991 the land dealing proposal was replaced (as Department Plan(s) 9125-21 and 9125-22) and presented to Council in July 1991. At that meeting Council resolved in part that "Main Roads Department be advised that Council concurs with the Department's land dealings as detailed on the Department's Plans 9125-21 and 9125-22".

Comment

The land dealings referred to above have now been presented to the City as Department of Land Administration Plan 19096 and 19097. **Attachment 9.4.1** consolidates the Department Plans for clarity of presentation.

All but two parcels of land referred to in the **Attachment 9.4.1** are currently maintained by the City as an extension of the works undertaken within the road and foreshore reserves.

The eight land parcels are:

1. Lot 3949 - Area 446m² extends from Davilak Street to Canning Highway. Consists of a shared use path with limited landscaping. Designated for Parks and Recreation with Management Order (MO) to the City of South Perth (City).

2. Lot 3948 -Area 365m² off Robert Street between Wooltana Street to Manning Road. Maintained as an extension of the Robert Street road reserve verge works and involves slasher mowing not more than three times per year. Designated for Parks and Recreation with MO to the City.
3. Lot 3945 -Area 3676m² adjacent to Canning Parade extending from Manning Road to Gentilli Way (formerly Cloister Avenue). Designated for Parks and Recreation with MO to the City.
4. Lot 3943 - Area 948m² opposite Roebuck Drive adjacent to Edgewater Road. Has been set aside as a separate reserve for the designated purpose of parkland with a MO to the City.

Lots 3943 and 3944 are currently maintained by the City as part of the verge works and Edgewater Road involving slasher mowing about 3 times a year.

5. Lot 3944 - Area 1972 m² at southern end of Edgewater Road at overpass to Foreshore Reserve. A separate reserve for the designated purpose of parkland with a MO to the City.
6. Lot 4557 - Area 217m² immediately to the south of the pedestrian overpass at Edgewater Road. Not previously included on any Plan from Main Roads. The Department now requests Council to accept the inclusion of Lot 4557 into Lot 3944 as a single reserve with the designated purpose as parkland and a MO to the City.
7. Lot 3942 - Area 1.7474 hectares between the Canning River and Kwinana Freeway. The foreshore principal shared path traverses lot 3942 (and lot 3946) but remains under the care control and maintenance of Main Roads. The balance of the reserve is maintained under the Mt Henry Foreshore Management Plan. Designated for recreation with an MO to the City.
8. Lot 3946 - Area 5028 m² immediately abutting lot 3942, and is the “foreshore reserve” south of the Edgewater Road overpass. Designated as recreation with a MO to the City. The Department has requested Council to accept the inclusion of lots 3942 and 3946 into the Foreshore Reserve 45066.

Accepting a Management Order over the parcels of land listed above (with the exception of lot 4557) is consistent with the earlier intentions of Council and the basis of the current maintenance practices which without exception simply forms a minor extension to works already being done on vested land in the care control and management of the City. The inclusion of lot 4557 into lot 3944 and acceptance of the maintenance of this small parcel would have minimal impact on overall operations but would ensure a uniform level of service for the parkland in the area.

Consultation

This report is about finalising an administrative process initiated by Main Roads and/or Department of Land Information and agreed to previously by Council. Community consultation is not required.

Policy and Legislative Implications

The vesting of land and the acceptance of Management Order is provided for in the Land Administration Act 1987.

Financial Implications

Acceptance of the recommendation will have negligible financial implications on the City insofar as the minor works that are required for the small parcels of land are already being attended to as part of the 1991 commitment.

Strategic Implications

This report is consistent with Goal 4 Infrastructure - *“To sustainably manage, enhance and maintain the City’s Infrastructure Assets”*.

Strategy 1. Develop plans strategies and management systems to ensure public infrastructure assets (roads, drains, footpaths, river walls, community buildings etc) are maintained to a responsible level.

OFFICER RECOMMENDATION ITEM 9.4.1
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That Council....

- (a) acknowledges the purpose and Management Order over lots 3949, 3948, 3945, 3944, 3942 and 3946;
- (b) accepts the purpose and management order for lot 4557; and
- (c) agrees to the inclusion of:
 - (i) lot 4557 into lot 3942; and
 - (ii) lots 3942 and 3946 into Reserve 45066as proposed by the Department of Land Administration.

9.4.2 Metropolitan Regional Road Group Funding Submission - 2008/2009

Location:	City of South Perth
Applicant:	Council
File Ref:	FS.FA.6
Date:	3 April 2007
Author:	Andrew Crotty, Assets Planning Coordinator
Reporting Officer:	Les Croxford, Acting Director Infrastructure Services

Summary

In April each year the City submits for assessment and consideration by Main Roads, certain projects for funding under the Metropolitan Regional Road Grant (MRRG) program. The submission details projects for commencement and completion within the financial year approximately 15 months from the date of submission.

To assist in the development of the submission the City maintains a list of eligible projects in a Five Year Rolling Program. This report lists the projects being put forward for the 2008/09 financial year and the Five Year Rolling Program.

Background

The Metropolitan Regional Road Group is part of the Commonwealth/State Government road funding arrangement whereby 25% of Commonwealth road funds is allocated to roads under the care control and maintenance by local government. The funding program is administered by MRWA through a Steering Committee. WALGA is represented on the Committee.

The percentage of funding directly allocated to local government is determined under a formula established with WALGA. The percentage of funding to Local Governments is split between metropolitan and country local governments with the greater proportion to the metropolitan area. Of the funding to metropolitan local governments the majority is only available for works on the designated Road Hierarchy for local distributor class roads or above. Funding for local roads is limited to the direct grant which is provided to every local government. The direct grant is approximately \$53,000 to South Perth. The balance of the funds is assigned to the distributor class roads.

Funding for the distributor class roads can be either for:

- Rehabilitation works - primarily pavement resurfacing, pavement strengthening, minor improvements such as re-kerbing, etc to an already existing distributor class road; or
- Improvement works - embrace all widening of existing roads to typically four lanes or second carriageway to form a dual carriage, a new connection to an existing road network or total reconstruction of an existing roadway.

The City has been successful in the past three years with Rehabilitation projects due mainly to the age of the network, the high traffic volumes and the extent of pavement cracking. As a developed local government the City has not submitted funding under the improvement component and would not in the foreseeable future include any improvement works with the possible exception of the south bound on-ramp from Manning Road once the road reserve has been secured.

Generally improvement works have been awarded to the developing local governments of Swan, Gosnells, Armadale, Cockburn, Wanneroo etc. Local Government is required to contribute one third of the project costs.

Sections of distributor class roads have been independently assessed in accordance with the technical criteria for rehabilitation projects and a submission prepared for presentation to Main Roads.

Comment

Attachment 9.4.2 provides a summary of the submission for funding of road rehabilitation projects under the MRRG program. The projects identified for 2008/09 have been assessed using rating criteria which provides for an overall score based on the condition of the road. The higher the score the greater the need for rehabilitation works. With all projects identified within the range 2494 to 3484 it is likely the projects will be funded in that year. The City’s one third contribution to the project cost is consistent with the projected funding within the Strategic Financial Plan.

Consultation

There has been no direct community consultation with regards to the rehabilitation projects being submitted for funding approval. Consultation will be undertaken, if required, for those projects for which funding is approved.

Policy and Legislative Implications

Policy P412: Road Rehabilitation Prioritisation applies and has been adhered to in the formulation of the City’s submission. Any project that results in a change of level or alignment of the thoroughfare will be subject to the consultation requirements of section 3.51 of the Local Government Act 1995.

Financial Implications

Funding for projects is based on a two thirds contribution to the total cost of the project by MRWA, with a one third contribution from municipal funds. However, in order to improve the final score on several projects in an attempt to secure the funding, the City will be required to make an additional contribution to cover the total cost of the works.

It should be noted that the rolling five year program is indicative only and will vary with future investigation and detailed assessment. Should Council adopt the program then budget allowances will be required in the five year capital works program as shown in the table below.

Year	Total Cost of Rehabilitation Projects	MRWA cost	Council cost
2008/09	\$454,720	\$303,147	\$151,573
2009/10	\$39,380	\$26,253	\$13,127
2010/11	\$87,140	\$58,093	\$29,047
2011/12	\$121,000	\$80,667	\$40,333
2012/13	\$52,900	\$35,267	\$17,633

Strategic Implications

This program of works is consistent with the following Goal in the City’s Strategic Plan 2004-2008:

Goal 4 - Infrastructure - *“To sustainably manage, enhance and maintain the City’s infrastructure assets”.*

Strategy 4.1: *“Develop plans, strategies and management systems to ensure Public Infrastructure Assets (roads, drains, footpaths, river wall, community buildings etc) are maintained to a responsible level”*

MRWA Local Road Rehabilitation funding reduces the cost of remedial works on selected local government roads by up to two thirds. In the case of rehabilitation funding, the only criteria for a road to be eligible for consideration are that the road must:

- carry more than 2000 vehicles per day; and
- be classed as a distributor road in the City's road hierarchy.

Road maintenance is an unavoidable expense, and if Council can attract more funding through this program then the overall maintenance expense to Council will be reduced substantially. Savings in this area will reduce the cost of required works to ratepayers and free up funds for other required projects.

OFFICER RECOMMENDATION ITEM 9.4.2
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That the distributor road projects to be assessed and considered by Main Roads Western Australia for funding in the 2008/09 Metropolitan Region Road Grant program, as identified in **Attachment 9.4.2** of the April 2007 Council Agenda, be endorsed.

9.4.3 Tender 5/2007 for the Mowing of Verges, Median Strips and Rights of Way

Location:	City of South Perth
Applicant:	Council
File Ref:	5/2007
Date:	5 April 2007
Author:	Mark Taylor, Manager City Environment
Reporting Officer:	Les Croxford, Acting Director, Infrastructure Services

Summary

The City has called tenders for the mowing of verges, median strips and rights of way (Tender 5/2007). This report reviews the tenders received and provides a recommendation to Council to not accept any of the tender bids.

Background

The City provides most of its mowing services “in house”; however some aspects of the mowing service are contracted. These include:

- major dry and reticulated public verges;
- unkempt private verges;
- reticulated median islands; and
- rights of way (ROW’s).

The main reasons why this work is contracted is because it either requires traffic management support, which is complicated, or is considerably tougher on equipment due to the type of work required (dry and unkempt verge and ROW mowing).

Tenders were invited from companies and organisations on the basis of a schedule of rates for the mowing and traffic management services required. The tender provisions enable the City to potentially select different contractors for the various aspects of the work under 5 schedules:

1. Annual District Mowing of unkempt private verges (1 mow each per year);
2. Broad acre mowing of non irrigated verges and medians (3 mows per year);
3. Rights of way (ROW) mowing and clean up (3 mows per year);
4. Major verges and median strips mowing (16 or 21 mows per year). The City sought two prices as consideration was given to raising the frequency of mowing on reticulated median islands such as Manning Road;
5. Major non irrigated high profile verges such as along Canning Highway (12 mows per year).

Tenders were called for the Mowing of Verges, Median Strips and Rights of Way for a period of three years. Tenders were advertised in the West Australian Newspaper and closed at the City’s Administration Offices at Sandgate Street, South Perth on Thursday 25 January 2007.

Comment

Seven sets of documents were distributed to prospective tenderers and at the close of the tender period 2 tenders had been received. Only one tenderer has bid on all schedules. The other tenderer (the existing contractor) has only bid on Schedule 4.

This has created difficulty in assessing the tender bids for Schedules 1, 2, 3 and 5 as only one price has been received for these. The other difficulty in assessing this tender and a reason why it has taken some time to be reported to Council is the significant increase in prices received. Compared to the previous contract prices, the lowest tendered prices represent increases in the order of:

- Schedule 1 260%
- Schedule 2 23%
- Schedule 3 290%
- Schedule 4 191%
- Schedule 5 -53% (due to a reduction in areas mown)

It should be noted that the prices tendered for Schedule 4 (where a price comparison can be assessed) differ by 13%.

The major reasons why the prices could be significantly higher than the existing contract are listed below. Please note that the existing contractor has held his tendered price for over 3 years:

- marked increases in fuel prices since that time;
- changes to the traffic management laws requiring a marked increase in equipment to under take the work; and
- a low price submitted previously. It is the officers' opinion that the prices under the existing contract are very low. This has been confirmed by comparison with similar contracts in other Local Government Authorities.

Financial Implications

The financial implications to the City of accepting this tender represents a requirement to increase the mowing budget by \$80,000. This represents a significant increase in budget expenditure.

Conclusion

Council has a number of options in regard to this contract.

1. It could accept the lowest tenders for each of the schedules and then raise the mowing budget for 2007/08 by \$80,000;
2. It could refuse to accept any of the tenders and re-advertise the contract; and
3. It could accept the lowest Schedule 4 bid only as there is a price comparison, even though the lowest price is 191% higher than the existing rate.

It is the officers' view that Council should re-call tenders for this work. There is some concern that 7 sets of documents were picked up but only 2 tenders received, which could mean that there was limited interest in this contract. There is also a risk that the prices will be the same, but it is the officers' belief that it is worth the effort to re-tender the work.

Consultation

Public tenders were invited in accordance with the *Local Government Act 1995*.

Policy and Legislative Implications

Under Section 3.57 of the *Local Government Act 1995*, it is a requirement to call publicly and statewide for tenders for goods and services in excess of \$50,000.

The value of this tender is above the amount that the Chief Executive Officer has delegated powers to accept, and as a result, the tender is referred to Council, in this case, with a recommendation not to accept.

The following policies apply:

- Policy P605 - Purchasing & Invoice Approval
- Policy P607 - Tenders and Expressions of Interest

Strategic Implications

This report is consistent with Goal 4 *Infrastructure* of the City's Strategic Plan 2004-2008.
To sustainably manage, enhance and maintain the City's infrastructure assets.

OFFICER RECOMMENDATION ITEM 9.4.3
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That....

- (a) the tenders submitted for the Mowing of Verges, Median Strips and Rights of Way not be accepted;
- (b) tenders be re-advertised; and
- (c) a report be prepared for the earliest possible Council meeting reviewing new tenders.

9.5 GOAL 5: ORGANISATIONAL EFFECTIVENESS

9.5.1 Applications for Planning Approval Determined Under Delegated Authority.

Location:	City of South Perth
Applicant:	Council
File Ref:	Not applicable
Date:	4 April 2007
Author:	Christian Buttle, Manager Development Assessment
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 March 2007.

Background

At the Council meeting held on 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 applications for planning approval 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" identifies 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 March 2007, forty nine (49) development applications were determined under delegated authority [**Attachment 9.5.1** 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.*

OFFICER RECOMMENDATION ITEM 9.5.1

That the report and **Attachment 9.5.1** relating to delegated determination of applications for planning approval during the month of March 2007, be received.

9.5.2 Use of the Common Seal

Location: City of South Perth
 Applicant: Council
 File Ref: N/A
 Date: 4 April 2007
 Author: Sean McLaughlin, Legal and Governance Officer
 Reporting Officer: Cliff Frewing, Chief Executive Officer

Summary

To provide a report to Council on the use of the Common Seal.

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.

Register

Extracts from the Register for the month of March appears below.

March 2007

Nature of document	Parties	Date Seal Affixed
Lease of telecommunications tower	CoSP & Crown Castle PL	16 March 2007

Note: The register is maintained on an electronic data base and is available for inspection.

Consultation

Not applicable.

Policy and Legislative Implications

Clause 19 of the City’s Standing Orders Local Law 2002 describes the requirements for the safe custody and proper use of the common seal.

Financial Implications

Nil.

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.*

OFFICER RECOMMENDATION ITEM 9.5.2
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That the report on the use of the ‘Common Seal’ for the month of March 2007 be received.

9.5.3 South-East Metropolitan Regional Council - Re-Appointment of Council Delegates.

Location: City of South Perth
Applicant: Council
File Ref: A/EM/3
Date: 3 April 2007
Author: Kay Russell
Reporting Officer: Cliff Frewing, Chief Executive Officer

Summary

The purpose of this report is to provide for continuity for the South East Metropolitan Regional Council (SEMRC) up to the ordinary elections of local government to be held on 20 October 2007.

Background

The changes brought about by the *Local Government Amendment Act 2006* which provided for the ordinary elections of local government to be held on the third Saturday in October (or at any time up to the third Saturday in November) rather than the first Saturday in May of every second year, have had unintended consequences for regional councils including the SEMRC. Each Member Council has appointed their two representatives from May 2005 to May 2007. The Regional Council Establishment Agreement states:

8.2 Tenure of members of the SEMRC Council

A member of the SEMRC Council shall hold office until:

- (a) the Friday prior to the next local government elections held in **May** following the appointment of the member to the SEMRC Council;*
- (b) the member ceases to be a member of the council of the Participant; or*
- (c) the member is removed by the Participant,*
whichever is the earlier.

Comment

While it is unfortunate that this problem was not recognised when the Amendment Bill was passed, at which time it could have been dealt with in the legislation, unless the Member Councils resolve to continue the appointments up to the next ordinary election date, there is doubt whether any decisions made by the SEMRC will hold validity. Therefore it is important that membership is re-confirmed by resolution of each Member Council..

The current members of the SEMRC from the City of South Perth are:

- Cr Kevin Trent, RFD;
- Cr Colin Cala; and
- Cr Les Ozsdolay (Deputy Delegate)

The SEMRC is in the process of amending the constitution to correct this matter. However, there is insufficient time to complete this process prior to May, hence it is necessary for each Council to confirm the appointments.

For the purposes of continuity it would be a sensible approach for each member council to re-appoint the existing members, assuming they wish to be re-appointed, noting that this re-appointment is for a 5 month period only.

Consultation

All relevant Councils contacted by SEMRC for the purpose of re-appointing existing members.

Policy and Legislative Implications

This is in line with Policy P514 “Delegates from Council”.

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 9.5.3
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That Council...

- (a) notes the change made by the *Local Government Amendment Act 2006* to change the bi-annual ordinary election day from the first Saturday in May to the third Saturday in October and Council notes the consequential need for a variation to be made to the establishment agreement of the South East Metropolitan Regional Council; and
- (b) appoints:
- Cr Kevin Trent, RFD;
 - Cr Colin Cala; and
 - Cr Les Ozsdolay (Deputy Delegate)

to continue as Council Delegates of the SEMRC, from and including the first Saturday in May 2007 until the date of the next Ordinary Election of Local Government, at which time the appointment will cease.

**An Absolute Majority is Required*

9.6 GOAL 6: FINANCIAL VIABILITY

9.6.1 Monthly Financial Management Accounts - March 2007

Location: City of South Perth
Applicant: Council
File Ref: FM/301
Date: 8 April 2007
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. The 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 also reflects the structure of the budget information provided to Council and published in the 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. It also 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 Non Infrastructure Operating Revenue and Expenditure **Attachment 9.6.1(2)**
- Summary of Operating Revenue & Expenditure - 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 March 2007 is \$29.31M which represents 101% of the \$28.99M year to date budget. A 5% better than anticipated investment revenue performance was due to higher cash levels and better interest rates. More detail is provided on this item in Item 9.6.2. The strong performance from parking management revenue has continued in March. Revenue from residential care subsidies (RCS) at the Collier Park Hostel remains ahead of budget and green fees at the Collier Park Golf Course have staged an impressive recovery in March. Building and Planning Services revenues are also in advance of the year to date budget due to several large development applications - specifically the Gracewood Homes project in Salter Point.

A comprehensive review of aged trust deposits by the Finance team has also yielded unbudgeted revenue of some \$70,000- which is recorded as Engineering Infrastructure Contributions.

Comment on the specific items contributing to the variances may be found in the Schedule of Significant Variances **Attachment 9.6.1(5)**. The identified and crystallised variances are also considered in the Q3 Budget Review that is presented as Item 9.6.5 of this Agenda.

Operating Expenditure to 31 March 2007 is \$22.02M which represents 98% of the year to date budget of \$22.42M. Operating Expenditure is around 3% favourable in the Administration area and on budget in the Infrastructure Services area.

The most significant category of costs contributing to the favourable variance is salary and wage costs. As noted in earlier months, several staff positions have remained vacant due to either resignation or leave entitlements in the Administration area - particularly in Community Services, Planning, Building Services & Human Resources with other extended vacancies in the Finance, Engineering Admin and Recreation areas. The City has continued to try new strategies to attract staff - including a different employment advertising regime which is returning very positive results. Several long term vacancies have been now filled as a result of attracting better candidates. In the interim, the City is making use of temporary

staff to ensure that we continue to deliver responsive and timely customer service in all facets of our activities. Overall, the salaries budget (*including temporary staff where they are being used to cover vacancies*) is now 6.3% under the budget allocation for the 210 FTE positions approved by Council in the budget process.

Whilst training expenditure is currently under budget, recruitment costs are a little over budget but the new strategy is expected to better manage the number of vacancies in the current economic climate. Cleaning cost on halls are currently over budget but some additional hire revenue should partially offset this situation. The cost of carers at the Collier Park Hostel is well over budget but around $\frac{2}{3}$ of this cost is offset by additional RCS revenue received. The move to shared printer / photocopiers is yielding significant cost savings on computer consumables - justifying the capital commitment made in 2005/2006 for these units. Additional expenditure on consultants to offset staffing shortages in the Building Services area has assisted in meeting statutory responsibilities.

Higher transport costs are currently being incurred for rubbish removal whilst the Canning Vale facility normally used by the City has been out of action. Offsetting this has been a cost saving in the operations of the Transfer Station. Unfortunately, the costs incurred by the City in managing the adverse impacts of the Skyshow event have now exceeded the event budget. Total cost was \$161,428 against a budget of \$140,000. Event revenue was less than 25% of this total expenditure. This makes for an interesting contrast with the Red Bull Air Race Event which fully met all event costs - and provided a modest 'windfall gain' to the City.

A reversal of earlier timing differences on activities such as parks and environmental maintenance along with corrections to allocations of overheads and charge out for plant items is evident in the March accounts. As noted previously, plant charge and overheads were affected by the reduced number of permanent staff direct labour hours and the increased use of temporary staff that do not automatically attract oncosts and plant charge to the particular jobs on which the staff are deployed. This issue will continue to be closely monitored for the remainder of the year.

Street tree pruning has accelerated to the extent of the full year budget and is now subject to remedial action to curb further cost incurrence. Bus shelter maintenance is delayed whilst a detailed tender specification is being prepared. Fleet operations are close to budget overall - although it is proposed to adjust both the fleet recovery and cost components downwards (proportionately) in the Q3 Budget Review.

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)**. The identified and crystallised variances are considered in the Q3 Budget Review that is presented as Item 9.6.5 of this Agenda.

Capital Revenue is disclosed as \$0.92M at 31 March against a budget of \$1.08M. Road grant revenue is now on budget. The unfavourable variance in capital revenues relating to the lower than anticipated turnover of units in the Collier Park Village continues - although three units were recently vacated and will shortly be refurbished and re-leased. It is unlikely that the full year budget for this item will be attained. However, the offsetting benefit from this is that capital expenditure on refurbishment of vacated units is also lower than budgeted.

Capital Expenditure at 31 March is \$5.04M against a year to date budget of \$7.59M representing 66% of the year to date budget. Overall, the City has now completed around 46% of the revised full year capital program - suggesting that a good deal is still to be achieved in the final quarter of the year although this is traditionally the period in which a significant portion of the capital program is delivered.

The Executive Management Team is closely monitoring the progress of the City's departments in delivering the capital program - and a monthly strategic review of the delivery of the program is now being conducted.

A summary of the progress of the revised capital program (including the approved carry forward works) by directorate is provided below:

Directorate	YTD Budget	YTD Actual	% YTD Budget	Total Budget
CEO / Financial & Info Services	1,330,000	1,243,764	94%	1,962,000
Corp & Community Services	420,000	304,898	73%	1,151,454
Strategic & Reg Services	145,200	29,180	20%	166,500
Infrastructure Services	5,393,925	3,376,296	63%	7,155,999
Underground Power	20,000	11,061	45%	20,000
Total	7,591,625	5,039,382	66%	11,063,953

Further comment on the variances relating to Capital Revenue and Capital Expenditure items will be provided in **Attachment 9.6.1(5)** of this agenda - and a further update will be given in **Attachment 9.6.4** of the May Agenda.

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 about corrective strategies being employed and discharges 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 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.

9.6.2 Monthly Statement of Funds, Investments and Debtors at 31 March 2007

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	8 April 2007
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 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 & Information Services and Manager Financial Services - who 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 \$28.38M compare very favourably to \$27.30M 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 0.6% ahead of last year after the final rates instalment due date). Timely claims for pension / seniors rebates from the Office of State Revenue and the delayed outflow of capital expenditure have also impacted our cash position favourably. The impact on our cash position of the change in the way we remit ESL collections to FESA is now starting to even out with collections and remittances now almost equal. The City has, however, gained from the additional investment revenue earned whilst the ESL collections (above the pre-determined payment quotas) were invested until required to be remitted.

The net cash position is improved relative to March 2006 with monies brought into the 2006/2007 year and our subsequent cash collections being invested in secure financial instruments to generate interest until those monies are required to fund operations or projects later in the year. 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 \$11.22M (compared to \$10.82M in 2005/2006). **Attachment 9.6.2(1).**

(b) Investments

Total investment in short term money market instruments at month end is \$28.15M compared to \$26.94M last year. As discussed above, the difference relates to improved cash collections and delayed outflows for capital projects.

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 \$1.41M, which is up from \$1.19M at the same time last year. This is primarily attributable to higher cash holdings and the higher interest rates accessed.

The average rate of return for the year to date is 6.24% with the anticipated yield on investments yet to mature currently at 6.47% - reflecting astute selection of investments after carefully considering our cash flow management needs. 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 March 2007 (after the due date for the final regular rates instalment) represent 95.9% of total rates levied compared to 95.3% at the equivalent stage of the previous year. This continues to be the City's best ever rates collection result to this stage of the year - with the 95% year end key performance indicator being achieved ahead of the target date. This result again supports the rating strategy and the communication strategy used for the 2006/2007 rates strike.

It is important to recognise that despite the impressive collection of rates outstanding to date, Financial Services officers will continue to initiate responsible collection actions -including issuing reminder notices and taking other more serious and appropriate debt collection actions where necessary. These actions complement the rates strategy to ensure that we build upon our existing very solid treasury management foundations.

The range of appropriate, convenient and user friendly payment methods offered by the City, combined with the early payment incentive scheme (generously sponsored by local businesses), have all had a very positive impact on initial rates collections.

General debtors stand at \$0.92M at 31 March 2007 compared to \$0.78M at the same time last year. Most debtor categories are in fact lower than at this time last year except for GST Refundable from the ATO which is \$195,000 higher - but is assured of collection. The outstanding amount for Pension Rebates is also higher than last year but this is considered a timing issue relating to when claims can be lodged and processed at the Office of State Revenue. Until the pensioner / seniors make their qualifying payment, at any time up to 30 June, the City can not lodge a claim for reimbursement of rebate granted.

Consultation

This financial report is prepared for Council and City management to evidence the soundness of financial management being employed. 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 DC603. The provisions of Local Government (Financial Management) Regulation 19 are also relevant to the content of this report.

Financial Implications

The financial implications of this report are as noted in part (a) to (c) of the Comment section of this report. Overall, the conclusion can be drawn that appropriate and responsible measures are in place to protect the City's financial assets and to ensure the collectibility of debts.

Strategic Implications

This report deals with matters of financial management which directly relate to the key result area of Financial Viability identified in the Strategic Plan -

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

OFFICER RECOMMENDATION ITEM 9.6.2
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That the 31 March 2007 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.

9.6.3 Warrant of Payments Listing

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	9 April 2007
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 (Delegation DC602) between 1 March 2007 and 31 March 2007 is presented for information to the March 2007 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 ITEM 9.6.3

That the Warrant of Payments for the month of March 2007 as detailed in the Report of the Director Financial and Information Services, **Attachment 9.6.3**, be received.

9.6.4 Statutory Financial Statements for Quarter ended 31 March 2007

Location: City of South Perth
Applicant: Council
File Ref: FM/301
Date: 9 April 2007
Author/Reporting Officer: Michael J Kent, Director Financial and Information Services

Summary

In accordance with statutory requirements, an Operating Statement is provided for the period ended 31 March 2007. Revenues and expenditures are disclosed by program and also presented by nature and type classification. Statutory schedules comparing actual performance to budget for the period in relation to Rating and General Purpose Revenue are also provided.

Background

The City is required by the Local Government (Financial Management) Regulations 1996 to produce quarterly financial statements in the specified statutory format and to submit those statements to Council for adoption.

The statutory Operating Statement emphasises Council's operations classified by the programs specified in the Appendix to the Local Government Financial Management Regulations - rather than capital expenditures.

Although the monthly management accounts presented in departmental format are believed to be the most effective mechanism for both the City's Administration and Council in monitoring financial progress against the budget; the highly summarised, program classified statutory Operating Statement is mandated by the legislation because it provides comparability across Councils. The Department of Local Government, Australian Bureau of Statistics and Grants Commission all regard local government comparability as being very important.

The statutory (AAS 27) format Operating Statement is to be accompanied by a Schedule of General Purpose Revenue and supported by a supplementary Schedule of Rating Information for the corresponding period. Although not mandated by the legislation, a Statement of Financial Position as at the end of the period is also included to provide a more complete and accountable set of financial reports.

Comment

The total AAS 27 Operating Revenue for the period of \$30.24M compares favourably with the year to date budget of \$30.08M. This represents 101% of the year to date budget. Analysing the Operating Revenues by nature and type, the significant favourable variances are in Fees and Charges (planning and building licenses and parking revenue), Grants and Subsidies (higher RCS subsidies at the CPH and several small unbudgeted grants), Interest Revenue (as discussed in Agenda Item 9.6.2) and Other Revenue (advertising rebate and insurance premium rebate). The most notable unfavourable variance is in Fees & Charges (Housing program) and relates to the lower than expected turnover of units at the Collier Park Village.

The principal variances disclosed by program are the favourable variances in the General Purpose Funding, Law Order & Public Safety and Economic Services programs and the unfavourable variance in the Housing program. General Purpose Funding is favourably impacted by the extra interest revenue generated from excellent investment performance (refer Agenda Item 9.6.2). Law, Order & Public Safety reflects additional parking management revenue and fees from the Red Bull Event. The favourable variance in the

Economic Services program relates to the large unbudgeted building licence fee for the Gracewood Homes development. The Housing program indicates an unfavourable variance due to the lower turnover of units at Collier Park Village.

The remainder of programs are close to budget expectations for the year to date with significant variances being separately identified and addressed by either appropriate management action or by the items being included in the Q3 Budget Review.

Operating Expenditure classified according to AAS 27 principles to 31 March 2007 totals \$22.84M and compares favourably to a year to date Budget of \$24.03M. Analysing those Operating Expenditure items by nature and type, Employee Cost are 6% under budget (as expected due to the vacant positions and the timing delay on some training expenditures). Materials & Contracts are also under budget for the year to date - although this is expected to correct further in later months. Utilities & Insurances are some 8% over budget with power costs being the principal contributor to this situation.

Most programs have small variances with the more significant being in the Governance, Welfare, Housing, Community Amenities, Recreation & Culture and Transport programs. Favourable variances in the Governance program relate mainly to salary savings due to vacant staff positions or staff on extended leave as discussed below or from savings on materials and services in the Information Technology area. The favourable variance in the Housing program relates to a significant saving on refurbishment costs due to the lower turnover of units and some effective cost management on some other operational items including CPV garden maintenance.

Staff vacancies and a lesser requirement for legal fees in the planning area have contributed to the small favourable variance in the Community Amenities program - as have timing difference in the delivery of a number of community focussed sustainability initiatives. Timing differences on parks and building non recurrent expenditure activities and golf course maintenance (which are expected to correct later in the year) have all impacted favourably on the Recreation and Culture program. Hall operating costs are higher than budgeted primarily due to cleaning costs. The Transport program is favourably impacted by timing differences in the delivery of works at Preston St and some lighting projects. These should correct later in the year. The favourable variance on street sweeping is the subject of further corrective action.

The Schedule of Rating Information shows that as at 31 March 2007, the City had levied some \$18.30M in residential and commercial rates compared to a year to date budget of \$18.31M. Interim rates growth has begun to taper off despite being very close to budget at 31 March.

Salaries were around 6.3% below budget expectations to March 2007 but this is distorted by some extended vacancies in the Engineering, Planning, Finance, Recreation, Golf Course and Building Services areas. Other areas such as Community Services, Health Services and the Collier Park Village have been affected by senior staff taking leave entitlements which are paid from cash backed provisions accumulated in prior years rather than from the normal cost centres. Most other areas are relatively close to budget expectations.

The Statement of Financial Position provides a comparison of asset and liability categories at 31 March 2007 and at an equivalent time in the 2005/2006 financial year. Current Assets stand at \$30.57M as at 31 March 2007 compared to \$29.18M in March 2006. The major aspects of this change are the much higher level of investment funds resulting from quarantined cash backed reserves plus funds held for significant construction projects later

in the year. Receivables are higher than at March 2006 overall although higher refundable GST (up \$190,000 against last year) offsets the results of excellent rates collections and timely processing and recovery (from state government) of pensioner rebate entitlements.

Non Current Assets of \$172.03M compare with \$169.78M at March 2006. This increase reflects the higher valuation of buildings and infrastructure assets. Non current receivables relating to self supporting loans have reduced relative to last year.

Current Liabilities are disclosed as \$4.02M compared to a balance of \$3.37M at 31 March 2006. The principal reason for this increase is the higher level of creditor invoices outstanding from suppliers at balance date - most arriving after month end and having to be accrued. Employee entitlements accrued and cash backed in accordance with statutory requirements are some \$0.15M higher than at the equivalent time last year.

Non-Current Liabilities stand at \$24.23M at 31 March 2007 compared with \$24.65M last year. This is distorted by a slightly lower holding of refundable monies for the leaseholder liability at the Collier Park Complex this year because of 3 vacated units for which monies have been repaid to departing residents but no new monies have been received from incoming residents. City borrowings undertaken as part of the overall funding package are \$0.3M lower than at the same time last financial year. Non current Trust Funds have also been reduced during the March quarter.

Consultation

As this is a comparative financial information report primarily intended to provide management information to Council in addition to discharging statutory obligations, community consultation is not a relevant consideration in this matter.

Policy and Legislative Implications

Actions to be taken are in accordance with Section 6.4 of the *Local Government Act* and the *Local Government Financial Management Regulations*.

Financial Implications

The attachments to this Report compare actual financial activity to the year to date budget for those revenue and expenditure items.

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'.

OFFICER RECOMMENDATION ITEM 9.6.4

That Council receive the statutory Quarterly Financial Statements for the period ending 31 March 2007 comprising:

- | | |
|---------------------------------------|---|
| • Operating Statement | Attachment 9.6.4(1)(A) and 9.6.4(1)(B) |
| • Schedule of General Purpose Funding | Attachment 9.6.4(2) |
| • Schedule of Rating Information | Attachment 9.6.4(3) |
| • Statement of Financial Position | Attachment 9.6.4(4)(A) |
| • Statement of Change in Equity | Attachment 9.6.4(4)(B) |

9.6.5 Budget Review for the Quarter ended 31 March 2007
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Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	9 April 2007
Author/Reporting Officer:	Michael J Kent, Director Financial and Information Services

Summary

A review the 2006/2007 Adopted Budget for the period to 31 March 2007 has been undertaken within the context of the approved budget programs. Comment on the identified variances and suggested funding options for those identified variances are provided. Where new opportunities have presented themselves, or where these may have been identified since the budget was adopted, they have also been included - providing that funding has been able to be sourced or re-deployed.

The Budget Review recognises two primary groups of adjustments

- those that increase the Budget Closing Position
(new funding opportunities or savings on operational costs)
- those that decrease the Budget Closing Position
(reduction in anticipated funding or new / additional costs)

The underlying theme is to ensure that a 'balanced budget' funding philosophy is retained. Wherever possible, those service areas seeking additional funds to what was originally approved for them in the budget development process are encouraged to seek / generate funding or to find offsetting savings in their own areas.

Background

Under the *Local Government Act 1995* and the Local Government (Financial Management) Regulations, Council is required to review the Adopted Budget and assess actual values against budgeted values for the period at least once a year - after the December quarter.

This requirement recognises the dynamic nature of local government activities and the need to continually reassess projects competing for limited funds - to ensure that community benefit from available funding is maximised. It should also recognise emerging beneficial opportunities and react to changing circumstances throughout the financial year.

Although not required to perform budget reviews at this frequency, the City chooses to conduct a Budget Review at the end of the September, December and March quarters each year - believing that this approach provides more dynamic and effective treasury management than simply conducting one statutory half yearly review. The results of the Half Yearly (Q2) Budget Review have already been forwarded to the Department of Local Government for their review after they were endorsed by Council. This requirement allows the Department to provide a value-adding service in assessing the ongoing financial sustainability of each of the local governments in the state based on the information contained in the Budget Review.

Comments in the Budget Review are made on variances that have either crystallised or are quantifiable as future items - but not on items that simply reflect a timing difference (that is, scheduled for one side of the budget review period - but not spent until the period following the budget review).

Comment

The Budget Review is presented in three parts :

- Amendments resulting from normal operations in the quarter under review
Attachment 9.6.5(1)

These are items which will directly affect the Municipal Surplus. The City's Financial Services team critically examine recorded revenue and expenditure accounts to identify potential review items. The potential impact of these items on the budget closing position is carefully balanced against available cash resources to ensure that the City's financial stability and sustainability is maintained. The effect on the Closing Position (increase / decrease) and an explanation for the change is provided for each item.

- Items funded by transfers to or from existing Cash Reserves are shown as
Attachment 9.6.5(2).

These items reflect transfers back to the Municipal Fund of monies previously quarantined in Cash-Backed Reserves or planned transfers to Reserves. Where monies have previously been provided for projects scheduled in the current year, but further investigations suggest that it would be prudent to defer such projects until they can be responsibly incorporated within larger integrated precinct projects identified within the Strategic Financial Plan (SFP), they may be returned to a Reserve for use in a future year. There is no impact on the Municipal Surplus for these items as funds have been previously provided.

- Cost Neutral Budget Re-allocation **Attachment 9.6.5(3)**

These items represent the re-distribution of funds already provided in the Budget adopted by Council on 11 July 2006.

Primarily these items relate to changes to more accurately attribute costs to those cost centres causing the costs to be incurred. There is no impact on the Municipal Surplus for these items as funds have already been provided within the existing budget.

Where quantifiable savings have arisen from completed projects, funds may be redirected towards other proposals which did not receive funding during the budget development process due to the limited cash resources available.

This section also includes amendments to "Non-Cash" items such as Depreciation or the Carrying Costs (book value) of Assets Disposed of. These items have no direct impact on either the projected Closing Position or cash resources.

Consultation

External consultation is not a relevant consideration in a financial management report although budget amendments have been discussed with responsible managers within the organisation where appropriate prior to the item being included in the Budget Review.

Policy and Legislative Implications

Compliance with the statutory requirement to conduct a half yearly budget review and to forward the results of that review to the Department of Local Government is achieved through the presentation of this report to Council.

Financial Implications

The amendments contained in the attachment to this report will result in a change of \$30,000 to the projected 2006/2007 Budget Closing Position. The changes recommended in the Q3 Budget Review will result in the revised (estimated) 2006/2007 Closing Position becoming \$56,658.

The impact of the proposed amendments in this report on the financial arrangements of each of the City’s directorates is disclosed in Table 1 below. Figures shown apply only to those amendments contained in the attachments to this report (not previous amendments).

Table 1 includes only items directly impacting on the Closing Position and excludes transfers to and from cash backed reserves. Wherever possible, directorates are encouraged to contribute to their requested budget adjustments by sourcing new revenues or adjusting proposed expenditures.

Adjustments to the Opening Balance shown in Table 1 refer to the difference between the Estimated Opening Position used at the budget adoption date and the final Actual Opening Position as determined after the close off and audit of the 2005/2006 year end accounts. This difference is explained at Note 22 of the 2005/2006 Annual Financial Statements.

TABLE 1 : (Q3 BUDGET REVIEW ITEMS)

Directorate	Increase Surplus	Decrease Surplus	Net Impact
Office of CEO	55,000	(61,000)	(6,000)
Corporate and Community Services	37,500	(69,500)	(32,000)
Financial and Information Services	86,000	(47,000)	39,000
Strategic and Regulatory Services	99,000	(118,500)	(19,500)
Infrastructure Services	203,000	(154,500)	48,500
Accrual and Opening Position	0	0	0
Total	480,500	(450,500)	30,000

A positive number in the Net Impact on Surplus column reflects a contribution towards improving the Budget Closing Position by a particular directorate.

The cumulative impact of all budget amendments for the year to date (including those between the budget adoption and the date of this review) is reflected in Table 2 below.

TABLE 2 : (CUMULATIVE IMPACT OF ALL 2006/2007 BUDGET ADJUSTMENTS)

Directorate	Increase Surplus	Decrease Surplus	Net Impact
Office of CEO	57,500	(336,000)	(278,500)
Corporate and Community Services	237,030	(152,000)	85,030
Financial and Information Services	391,500	(98,000)	293,500
Strategic and Regulatory Services	199,000	(206,000)	(7,000)
Infrastructure Services *	5,468,450	(5,327,950)	140,500
Accrual and Opening Position	101,306	(365,000)	(263,694)
Total	6,454,786	(6,484,950)	30,164

* Includes \$4,800,000 adjustment to both revenue and expenditure for Underground Power Program deferred by Western Power.

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'.

OFFICER RECOMMENDATION ITEM 9.6.5
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That following the detailed review of financial performance for the period ending 31 March 2007, the budget estimates for Revenue and Expenditure for the 2006/2007 Financial Year, (adopted by Council on 11 July 2006 - and as subsequently amended by resolutions of Council to date), be amended as per the following attachments to the February 2007 Council Agenda:

- Amendments identified from normal operations in the Quarterly Budget Review; **Attachment 9.6.5(1)**;
- Items funded by transfers to or from Reserves; **Attachment 9.6.5(2)**; and
- Cost neutral re-allocations of the existing Budget **Attachment 9.6.5(3)**.

(Note: An Absolute Majority is Required)

10. APPLICATIONS FOR LEAVE OF ABSENCE

11. COUNCIL MEMBERS MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

11.1 Dept of Local Government Inquiry - Legal Fees...Cr Ozsdolay 10.4.2007

I hereby give notice that I intend to move the following Motion at the Council Meeting to be held on 24 April 2007:

MOTION

That....

- (a) that consideration be given to revoking Item 11.2 "Department of Local Government Inquiry - Legal Fees" insofar as it relates to the Minutes of the Council Meeting dated 27 March 2007 as follows:

Item 11.2

That

- (a) *it has become apparent that in relation to the Inquiry presently being conducted by the Department of Local Government and Regional Development re a matter concerning the City of South Perth it is possible that an adverse finding can be made against any Councillor of the City of South Perth who gave evidence;*
- (b) *therefore, I move that any Councillor who wishes to engage a Lawyer to advise him or her of their legal position and act for them should have their legal expenses paid by the Council of the City of South Perth.*

****Note: Support of a Minimum of one third of the Members is Required***

- (b) Item 11.2 insofar as it relates to the Minutes of the Council Minutes dated 27 March 2007 be revoked:

**** Note : An Absolute Majority is Required***

MEMBER COMMENT

Consistently with legal advice received on the unlawfulness of the resolution, Council should rescind the resolution at the earliest opportunity.

CEO COMMENT

In accordance with Clause 3.6(d)(iii) of Standing Orders Local Law the Acting Chief Executive Officer comments as follows:

The legal advice previously obtained by the City concluded that the resolution passed by Council at its March meeting for the payment of legal expenses incurred by any councillor was unlawful because *inter alia* it imposed an indeterminate financial liability on the City that cannot be considered to be in the interests of, or for the good government, of the City. The advice recommended that the resolution should be revoked at the earliest opportunity.

It also advised that it is likely that because of the terms of the resolution, each councillor had a financial interest in the matter and should not have participated in the decision-making process without appropriate amendments to the resolution or an appropriate determination by the Minister under section 5.69 of the *Local Government Act*.

Subsequent to the receipt of that advice, the Department of Local Government has written to councillors seeking an explanation for their participation in the meeting which passed the resolution on the basis that they had failed to disclose an interest in the matter when it came before Council. The Department noted that any councillor would be entitled to receive a financial benefit in the form of payment of legal expenses not only those who may be the subject of “adverse” findings.

In view of the legal advice, which is consistent with the Department’s concerns on the matter, it is considered highly desirable that each councillor who wishes to participate in debate on this motion should make a declaration of interest under section 5.65 of the Act. This will enable the CEO to make application to the Minister under section 5.69 of the Act for a determination by the Minister allowing the councillor to participate in the debate to the extent and in accordance with whatever conditions the Minister determines to be appropriate.

12. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING

13. MEETING CLOSED TO PUBLIC

13.1 Matters for which the Meeting May be Closed.

13.1.1 Recommendations from CEO Evaluation Committee Meetings 28.3.07 and 18.4.07
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Location:	City of South Perth
Applicant:	Council
Date:	12 April 2007
Author:	Angie Spaziani, Manager Human Resources
Reporting Officer:	Cliff Frewing, Chief Executive Officer

Confidential

This report has been 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 to be circulated separately prior to the meeting.

13.2 Public Reading of Resolutions that may be made Public.

14. CLOSURE