



## **MINUTES**

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**Minutes of the Ordinary Meeting of the City of South Perth Council  
held in the Council Chamber, Sandgate Street, South Perth  
Tuesday 24 July 2007 commencing at 7.00pm**

**1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

The Mayor opened the meeting at 7.00pm and welcomed everyone in attendance.

**2. DISCLAIMER**

The Mayor read aloud the City's Disclaimer.

**3. ANNOUNCEMENTS FROM THE PRESIDING MEMBER**

**3.1** The Mayor read aloud a letter received from the Department of Local Government advising that as part of the Department's ongoing monitoring program that a Departmental Officer will visit the Ordinary Council Meeting on 24 July 2007.

**3.2** The Mayor read aloud a letter received from the Hon Ljiljana Ravlich MLC dated 19 July 2007 acknowledging Council's actions, taken, or intended to take, in relation to the *Report of the Inquiry into the City of South Perth 2006* recommendations.

**3.3** The Mayor reported that he had received a letter of resignation from Councillor Lauraine Macpherson effective from 24 July 2007. A copy of the letter was circulated to Members.

**4. ATTENDANCE**

Present

Mayor J Collins, JP (Chairman)

Councillors:

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

Officers:

Mr C Frewing	Chief Executive Officer
Mr S Cope	Director Strategic and Regulatory Services
Mr M Kent	Director Financial and Information Services
Mr L Croxford	Acting Director Infrastructure Services
Ms D Gray	Manager Financial Services
Mr N Kegie	Manager Community, Culture and Recreation (until 8.38pm)
Mr R Kapur	Acting Manager Development Assessment
Mr S McLaughlin	Legal and Governance Officer
Ms R Mulcahy	City Communications Officer
Mrs K Russell	Minute Secretary

Gallery

Approximately 10 members of the public and 1 member of the press

**4.1 APOLOGIES**

Cr S Doherty	Moresby Ward - ill health
Mr R Burrows	Director Corporate and Community Services - annual leave
Mr G Flood	Director Infrastructure Services - ill health

**4.2 APPROVED LEAVE OF ABSENCE**

Nil

**5. DECLARATION OF INTEREST**

The Mayor reported on Declarations of Interest received from Crs Ozsdolay, Smith and Trent in relation to Item 10.2.1, from himself in relation to Item 10.3.5 and from the CEO in relation to Item 15.1.2. He then read aloud the Declarations as detailed in the Minutes before Items 10.2.1, 10.3.5 and 15.1.2 respectively.

**6. PUBLIC QUESTION TIME**

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

Nil

**6.2 RESPONSE TO PREVIOUS MEMBER QUESTIONS TAKEN ON NOTICE**

At the Council meeting held 26 June 2007 the following question, raised by Cr Jamieson, under Item 13 '*Questions from Members without Notice*' was taken on notice:

<b>6.1 LGMA Media Release 28.3.2007 : Cr Jamieson</b>
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Summary of Question

Cr Jamieson tabled a Media Release dated 28 March 2007 from the Local Government Managers Australia entitled "*CEO's future in doubt because he required proper governance practices from his Councillors*" and asked: Does this contain a leak of confidential information and if it does, what will you be doing about it?

Summary of Response

The Mayor provided a response, by letter dated 13 July, a summary of which is as follows:

It is important to remember that Councillors have no right to direct any Elected Member which includes the Mayor or Officer to complete any task unless the Council has made a resolution for the administration to do so.

I take it by the word "you", you were referring to the Mayor as you addressed the question to the Mayor, and if that is so, it begs my personal view as to whether this is a leak of confidential information and as you are not quite clear whether it is, neither would I. In any event it is this Council that makes decisions on whether it wants to pursue any issues in particular of this nature.

**6.2 PUBLIC QUESTION TIME : 24.7.2007**

Opening of Public Question Time

The Mayor advised that Public Question Time would be limited to 15 minutes and that questions, not statements must relate to the area of Council's responsibility. He advised that questions would be taken from the gallery on a rotational basis and requested that speakers state their name and residential address. The Mayor then opened Public Question Time at 7.08pm.

**6.2.1. Ms Sally Cook, 5/8 York Street, South Perth**

**Note:** Prior to stating her questions, Ms Cook tabled letters from Dr Gates and Mrs Suzanne Pierce substantiating her questions.

Summary of Question

1. Are you aware that Dr Drewfus Gates has given permission for the words on the portrait of the previous Mayor, Mrs Suzanne Pierce to be removed and that he is prepared to alter the painting when Council votes for this to take place?
2. Are you aware that Mrs Suzanne Pierce has also given her consent for this to take place?
3. Do you know that Dr Drewfus Gates can effect this alteration to the portrait if the painting is taken to his studio in Darlington and the procedure will only take about 20 minutes?

Summary of Response

The Mayor stated this matter would be discussed later in the Agenda.

**6.2.2. Mr Robert Simper, 32 Sandgate Street, South Perth**

Summary of Question

In relation to the Banksia Terrace development site, is Council aware that the builders have moved over the footpath and completely blocked it. It is now unsafe and there is no footpath on the other side of the street. Has Council given approval for closure of that footpath and if so has anything been done to put some warning signs up advising that the footpath is closed?

Summary of Response

The Mayor stated that the question was taken on notice.

**6.2.3. Mr Barrie Drake, 2 Scenic Crescent, South Perth**

Summary of Question

I refer to Item 9.0.2 of the December 2006 Council meeting. This item requires officers to assess the building at 11 Heppingstone Street to see if it complied with TPS6. Council resolved to request a report from a lawyer specialising in town planning. Is that report now with the City?

Summary of Response

The Chief Executive Officer said yes and stated that it formed part of a report on tonight's Agenda.

Summary of Question

Will you provide me with a copy of that report?

Summary of Response

The Mayor responded that he did not believe so.

Summary of Question

Page 8 of the July Council Agenda under the 'comments' section states that the report will be part of the attachments. Do all Councillors have a copy of the report referred to?

Summary of Response

The Mayor confirmed the report was circulated as a confidential attachment to all Members.

Summary of Question

Does the building at 11 Heppingstone Street comply with all aspects of the requirements of Town Planning Scheme No. 6?

Summary of Response

The Chief Executive Officer stated that this issue has been discussed on a number of occasions, particularly at the November 2006 Council meeting where the administration commented on three occasions that the letter of 23 August 2006 only referred to the plot ratio issue. He said it was illogical and inappropriate to say it complied with all aspects of TPS6. The letter to the Minister was in relation to the SAT Appeal which only dealt with the issue of plot ratio.

Summary of Question

Will the City write to the Minister Alannah MacTiernan correcting the misleading information in the letter dated 22 August 2006. (Mr Drake read aloud from the letter dated 22 August 2006)

Summary of Response

The Chief Executive Officer stated that an important sentence that preceded the text read aloud by Mr Drake states "... *that there is no longer any plot ratio issue.....*". He said it is quite clear that the letter refers to plot ratio and not the whole of TPS6.

**6.2.4. Ms Sally Cook, 5/8 York Street, South Perth**

Summary of Question

1. Are you aware that the green rubbish bins in the car park near the Mends Street Arcade ("Millstream") have all had their lids removed and they are often scattered around the car park which constitutes a danger to passing vehicles?
2. Are you aware that Mrs Barbara Davies Pearse has frequently complained to Council about this mess and the bins are still not tidied up?
3. Are you aware that seagulls and crows remove rubbish from the bins (because they have no lids) and scatter it about which makes a disgusting sight for visitors to the arcade, the alfresco café, lingerie shop and others.

What can Council do to prevent this mess?

**Note:** Supporting photographs relating to the issue were tabled by Ms Cook.

Summary of Response

The Mayor stated that the question was taken on notice.

**6.2.5. Mr Barrie Drake, 2 Scenic Crescent, South Perth**

Summary of Question

What is the development at 11 Heppingstone Street classified as?

Summary of Response

Director Strategic and Regulatory Services stated it was classified as 2 Multiple Dwellings.



Summary of Question

Are Multiple Dwellings permitted under TPS6 for this site?

Summary of Response

The Mayor said no and stated that he believed the same question had been asked and responded to at the last meeting.

Summary of Question

If a new development application for 2 Multiple Dwellings was submitted to Council on land at 11 Heppingstone Street what would Council's response be?

Summary of Response

The Mayor said he believe that it would not be approved.

Summary of Question

What is the height of the current development at 11 Heppingstone Street.

Summary of Response

The Mayor said that this information was not to hand.

Summary of Question

Mr Drake stated that the height of the development at 11 Heppingstone Street is 15 metres and asked: What is the maximum building height of development in this Precinct?

Summary of Response

The Director Strategic and Regulatory Services stated 7 metres.

Close of Public Question Time

The Mayor closed Public Question time at 7.25pm

**7. CONFIRMATION OF MINUTES / BRIEFINGS**

**7.1 MINUTES**

**7.1.1 Ordinary Council Meeting Held: 26.6.2007**

MOTION

Moved Cr Trent, Sec Cr Ozsdolay

That the Minutes of the Ordinary Council Meeting held 26 June 2007 be taken as read and confirmed as a true and correct record.

AMENDMENT

Moved Cr Jamieson, Sec Cr Smith

That the Minutes of the Ordinary Council Meeting held 26 June 2007 be amended on page 9 by the following text:

Summary of Question

*Did the CEO have the Council's approval to be on the LGMA board.*

Summary of Response

*The Mayor responded yes.*

Cr Jamieson point of clarification - where does it say that? No record of this approval.

Mayor Collins stated that the information was made available to all Councillors at the time of Mr Frewing's appointment as CEO.



being replaced with:

Summary of Question

*Did the CEO have the Council's approval to be on the LGMA board.*

Summary of Response

*The Mayor responded yes.*

Cr Jamieson - *Please ensure that response is recorded in the minutes.*

Mayor Collins *stated that the information was made available to all Councillors at the time of Mr Frewing's appointment as CEO.*

*Mayor Collins asked Cr Jamieson if he was aware at the time of the CEO's appointment of the CEO's LGMA board membership.*

*Cr Jamieson thanked Mayor Collins for his participation in public question time, was happy to address the question and that he was not aware of Council having advised Mr Frewing he could remain on the LGMA board, but would be happy to be corrected if that did occur.*

The Mayor put the Amendment.

CARRIED (6/5)

AMENDMENT

Moved Cr Jamieson, Sec Cr Smith

That the Minutes of the Ordinary Council Meeting held 26 June 2007 be amended on page 122 by:

The text after the text *Cr Gleeson against the Motion*

· ...

· *believe this is shameful conduct, lacks a sense of decency, integrity or fairness* and before the subsequent text "*Cr Macpherson called a point of order*" being deleted.

Cr Jamieson opening for the Amendment

- I make no statement on whether or not the text in the draft minutes represents events that occurred
- the text was not a matter of meeting record
- the text was not made known to all Council members and was not addressed by the Chair of the meeting
- text does not belong as a record of the meeting

Cr Gleeson Point of Clarification - What are the 'words' being deleted?

Cr Gleeson against the Amendment

- seems to be two sets of rules operating - one set applies mostly to other side of the Chamber

Cr Smith Point of Order - inappropriate statement.

Mayor Collins stated the Councillor believes that there is duplicity in the rules. He asked Cr Gleeson to keep the debate to the Amendment.

Cr Gleeson against the Amendment (cont'd)

- a few months ago I left the Chamber saying “you are a mob of idiots”
- nobody came to my rescue - I got a censure motion against me
- tonight we have Cr Jamieson wanting to remove the words ‘*you are a slow learner*’ from the draft June Minutes
- its true that Cr Best said it - a lot of people heard it - furphy if you say not everyone heard it - a point of order was called as a result of it

Cr Smith - acknowledged that he did not hear the comment.

Mayor Collins - reminded Members that there is a long Agenda to get through. He said that personally he would have liked to have seen this left by itself as it was an offensive comment and could not understand why it was brought forward tonight to be withdrawn.

Cr Gleeson against the Amendment (cont'd)

- accept Cr Smith did not hear the comment made, but it was said
- why take what one Councillor said as the truth
- if anyone was to withdraw the comment thought it would be Cr Best
- why is Cr Jamieson seeking withdrawal - who asked him to do it
- if you remove the text that a Councillor called me a slow learner the Minute Secretary’s original notes will be retained by me
- against the Amendment

The Mayor put the Amendment

LOST (4/7)

AMENDMENT

Moved Cr Jamieson, Sec Cr Best

That the Minutes of the Ordinary Council Meeting held 26 June 2007 be amended on page 99 after the Council Decision for Item 10.6.5 and before the text "CARRIED 11/1" by the inclusion of the following words:

*"Mayor Collins interrupted Cr Jamieson when he was speaking to the Motion and accused him of making a personal attack on him as Mayor. Cr Jamieson objected to the accusation and requested that statement be withdrawn, which Mayor Collins refused to do. Cr Jamieson requested this to be recorded in the minutes."*

The Mayor put the Amendment

LOST (4/7)

<b>COUNCIL DECISION ITEM 7.1.1</b>
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The Mayor put the Amended Motion

That the Minutes of the Ordinary Council Meeting held 26 June 2007 be amended on page 9 by the following text:

Summary of Question

*Did the CEO have the Council’s approval to be on the LGMA board.*

Summary of Response

*The Mayor responded yes.*

Cr Jamieson point of clarification - where does it say that? No record of this approval.

Mayor Collins stated that the information was made available to all Councillors at the time of Mr Frewing’s appointment as CEO.

being replaced with:

Summary of Question

*Did the CEO have the Council's approval to be on the LGMA board.*

Summary of Response

*The Mayor responded yes.*

Cr Jamieson - *Please ensure that response is recorded in the minutes.*

Mayor Collins *stated that the information was made available to all Councillors at the time of Mr Frewing's appointment as CEO.*

*Mayor Collins asked Cr Jamieson if he was aware at the time of the CEO's appointment of the CEO's LGMA board membership.*

*Cr Jamieson thanked Mayor Collins for his participation in public question time, was happy to address the question and that he was not aware of Council having advised Mr Frewing he could remain on the LGMA board, but would be happy to be corrected if that did occur.*

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

CARRIED (9/2)

**NOTE:** CRS JAMIESON AND BEST REQUESTED THEY BE RECORDED AS HAVING VOTED AGAINST THE MOTION

**7.1.2 Special Council Meeting Held: 10.7.2007**

**COUNCIL DECISION ITEM 7.1.2**

Moved Cr Trent, Sec Cr Hearne

That the Minutes of the Special Council Meeting held 10 July 2007 be taken as read and confirmed as a true and correct record.

CARRIED (11/0)

**7.2 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.

As per Council Resolution 10.5.6 of the Ordinary Council Meeting held 26 June 2007:

- the "Work in Progress" *draft* Agenda is made available to members of the public at the same time the Agenda is made available to Members of the Council; and
- applicants and other persons affected who wish to make Deputations on planning matters be invited to make their Deputations to the Agenda Briefing.

**7.2.1 Agenda Briefing - June Ordinary Council Meeting Held: 19.6.2007**

Officers of the City presented background information and answered questions on items identified from the June Council Agenda. Notes from the Agenda Briefing are included as **Attachment 7.2.1.**

**7.2.2 Concept Forum: Draft Budget and 2007/08 Capital Works Program Update Meeting Held: 20.6.2007**

Officers of the City presented an update in relation to the draft Budget and the 2007/2008 Capital Works Program. Questions were raised by Members and responded to by officers. Notes from the Concept Briefing are included as **Attachment 7.2.2.**

**7.2.3 Concept Forum: Fiesta 2008 Program, Parking Survey Results and Planning Matters Meeting Held: 3.7.2007**

Officers of the City presented an update in relation to the Fiesta 2008 Program. Questions/comments were raised by Members. A copy of the presentation was distributed. Due to time constraints the Parking Survey Results presentation was deferred. Mr Ernie Samec of Kott Gunning Lawyers attended in relation to planning issues, addressed Members and responded to questions raised. Notes from the Concept Briefing are included as **Attachment 7.2.3.**

**7.2.4 Concept Forum: Major Planning Proposals relating to Scott Street Development, Waterford Plaza and South Perth Hospital (Acquisition of Land) Meeting Held: 4.7.2007**

Officers of the City presented an overview of Major Planning proposals relating to the Scott Street Development, Waterford Plaza and South Perth Hospital (Acquisition of Land). Questions raised by Members and were responded to by officers. Notes from the Concept Briefing are included as **Attachment 7.2.4.**

**COUNCIL DECISION ITEMS 7.2.1 TO 7.2.4 INCLUSIVE**

Moved Cr Trent, Sec Cr Smith

That the comments and attached Notes under Items 7.2.1 to 7.2.4 inclusive on Council Agenda Briefings held since the last Ordinary Meeting of Council on 26 June 2007 be noted.

CARRIED (11/0)

**8. PRESENTATIONS**

**8.1 PETITIONS -**

A formal process where members of the community present a written request to the Council

Nil

**8.2 PRESENTATIONS -**

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

Nil

**8.3 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.

1. **DEPUTATIONS AT COUNCIL AGENDA BRIEFING HELD 17.7.07**

**Note:** The following Deputations were made at the July Council Agenda Briefing held 17 July 2007:

**8.3.1 Mr Bob Mahar representing South Perth Hospital - Agenda Item 10.3.5**

Mr Mahar spoke **for** the officer recommendation on the following topics:

- hospital needs to upgrade facilities
- construction of day surgery essential for future of hospital
- land in question required to accommodate infrastructure to support new facility
- existing trees not an issue - hospital planted the Jacaranda 15 years ago
- sought support for hospital's request

**8.3.2 Mr Mark Scott-Jeffs representing Prada Corp Developments - Agenda Item 10.3.1**

Mr Mark Scott-Jeffs representing Prada Corp Developments spoke **for** the officer recommendation on the following topics:

- 13 Multiple Dwelling proposal presented to Council at Development Forum on 4 July
- prominent site - seek to create a high quality building
- plot ratio, set backs
- balcony issue
- water feature

**8.3.3 Mr Shane Fanderlinden, 1/34 Mary Street, Como - Agenda Item 10.3.4**

Mr Fanderlinden spoke **against** the officer recommendation on the following points:

- seek to enclose existing carport within front setback area
- existing carport already there
- streetscape no affected
- ask Council support request - support approval

**8.3.4 Mr James Williams, 1/111 Welwyn Ave, Salter Point - Agenda Item 10.3.2**

Mr Williams spoke **against** the officer recommendation and raised the following points:

- seek support for deletion of Condition 2 requiring 'matching materials' between front/rear dwelling
- due to age of house difficult to match colour/profile of existing tiles
- colourbond roof cover proposed
- ask Council support request to delete Condition 2 of approval

**2. DEPUTATIONS AT COUNCIL MEETING HELD 24.7.07**

Opening of Deputations

The Mayor opened Deputations at 7.44pm

**8.3.5 Mr Barrie Drake, 2 Scenic Crescent, South Perth - Agenda Item 10.0.1**

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

- building at No. 11 Heppingstone Street exceeds plot ratio by 18%
- building is built too close to Heppingstone Street
- building does not comply with 'grant of planning consent'
- request Council write to property owners in relation to conditions of planning approval that have not been complied with
- tabled draft Council resolution for consideration
- as an adjoining property owner have rights - will take to Supreme Court if necessary
- ask Council support request

Close of Deputations

The Mayor closed Deputations at 8.00pm

**8.4 DELEGATES' REPORTS**

Delegate's written reports to be submitted to the Minute Secretary prior to **6 July 2007** for inclusion in the Council Agenda.

Nil

**9. METHOD OF DEALING WITH AGENDA BUSINESS**

The Mayor advised the meeting of the en bloc method of dealing with the items on the Agenda. He then sought confirmation from the Chief Executive Officer that all the en bloc items had been discussed at the Agenda Briefing held on 17 July 2007.

The Chief Executive Officer confirmed that this was correct.

**COUNCIL DECISION ITEM 9.0 - EN BLOC RESOLUTION**

Moved Cr Trent, Sec Cr Maddaford

That the officer recommendations in relation to Agenda Items 10.0.2, 10.0.3, 10.3.3, 10.3.4, 10.3.6, 10.4.1, 10.4.2, 10.4.4, 10.5.1, 10.5.2, 10.5.3, 10.6.1 and 10.6.2 carried en bloc.

CARRIED (11/0)

**10. REPORTS**

**10.0 MATTERS REFERRED FROM PREVIOUS COUNCIL MEETINGS**

**10.0.1 Assessment of Building 11 Heppingstone Street against provisions of TPS6 (Item 9.0.2 referred February 2007 Council )**

Location:	Lot 38 (No. 11) Heppingstone Street, South Perth
Applicant:	Council
File Ref:	HE5.11            11/5163
Date:	6 July 2007
Author / Reporting Officer:	Cliff Frewing, Chief Executive Officer

### **Summary**

The purpose of this report is to present recent advice received from Mr Ernie Samec of Kott Gunning and review actions taken since November 2006 in relation to the assessment of No. 11 Heppingstone Street.

### **Background**

The background to this issue is fully described in 'CEO Comment' which is set out at pages 125 -127 of the November 2006 Council meeting minutes. The gist of that advice to Council was as follows:

- Planning approval was given in December 2000, under Town Planning Scheme No. 5;
- The building at 11 Heppingstone Street was completed in October 2003;
- The City's Planning Officers prepared a comprehensive review of the matter in a report to Council in March 2004 - at which time Council, being satisfied with the Officers' report, resolved to take no further action;
- In October 2005, the Minister for Planning & Infrastructure referred representations from a Mr Drake to the State Administrative Tribunal, as provided for under section 18(2) of the former *Town Planning & Development Act 1928*, [now section 211 of the *Planning & Development Act 2005*] whereby the Tribunal subsequently made a finding that the building was not compliant with respect to plot ratio as calculated under TPS No. 5;
- In August 2006, a subsequent assessment of the plot ratio by City Planning Officers, facilitated by an independent audit of planning scheme compliance conducted by the City of Belmont on behalf of the City, determined that due to changes between Scheme No. 5 and Scheme No. 6, the plot ratio of the constructed building was in fact compliant with T PS No. 6 (which commenced operation in April 2003) ;
- The matter of plot ratio and Scheme compliance remains exclusively with the Minister for Planning & Infrastructure, acting in accordance with the *Planning & Development Act*, and the Minister is yet to respond to the findings and recommendations of the SAT.

The Council resolution adopted at the meeting held on 28 November 2006 at Item 11.1, is as follows:

*That the Chief Executive Officer provide a report, in the form of the attached table, (Attachment 11.1 refers) assessing 11 Heppingstone Street, South Perth (as built) under the Town Planning Scheme No 6 as if it was a new application, to the December 2006 meeting of Council.*

[Attachment 11.1 referred to a "grid like" table which had been presented by Cr Best.]

The Administration complied with the November 2006 Council resolution and submitted a comprehensive report to the December Council meeting as requested.

The report advised that it was not possible to complete the table in the form suggested because it was impossible to do so. For this reason many of the boxes that were required to be filled in the "table" were given the annotation of "N/A".



The Officers' recommendation in the December report was as follows:

*That the report on the assessment of the building comprising two (2) Multiple Dwellings on Lot 38 (No. 11) Heppingstone Street be received.*

However, this recommendation was not supported by Council and Council adopted an alternative resolution, in the following terms:

*That officers be requested to complete and present to the next Ordinary Council Meeting the columns showing "N/A" in the table as presented in report Item 9.0.2 of the December 2006 Agenda relating to the assessment of the building comprising two (2) Multiple Dwellings on Lot 38 (No. 11) Heppingstone Street.*

In compliance with the December 2006 resolution, another report was prepared for consideration by Council at its Ordinary meeting on 27 February 2007 (item 9.0.2).

However, as it was clear to the Administration that it was not possible to add any further information, in January 2007, the CEO referred the matter for independent legal advice to Mr Samec from Kott Gunning.

The requested advice was not received for the February meeting so the following Officers' recommendation was adopted:

*That it be noted that the independent report being carried out by Kott Gunning on the assessment of the building comprising two (2) Multiple Dwellings on Lot 38 (No. 11) Heppingstone Street is yet to be received.*

At the March 2007 meeting of Council (again at item 9.0.2) a further report was prepared in order to update Council on preliminary advice received from Kott Gunning. In this report, it was noted that numerous requests had been made to Kott Gunning in an attempt to extract a final advice – all without success. The report noted Mr Samec's concluding comment in his preliminary letter of advice that he has outlined his preliminary advice in a narrative form, rather than in a table because:

*"We are not able to present a meaningful planning assessment as if TPS 6 applied merely in the spaces provided within the table. We propose to insert information in the table one (sic) this exercise is completed."*

At the March 2007 Council meeting, the following resolution was adopted:-

*That, in respect of the assessment of the existing building comprising two (2) Multiple Dwellings on Lot 38 (No. 11) Heppingstone Street, South Perth under Town Planning Scheme No. 6, the information provided by Kott Gunning Lawyers be noted.*

Despite repeated requests to Mr Samec, no further information had been received from Kott Gunning on this subject until the letter dated 26 June 2007 was received.

#### **Comment**

The Kott Gunning letter of 26 June is contained as **Confidential Attachment 10.0.1** to this agenda and is self-explanatory. The letter confirms the previous preliminary advice given to Council by Mr Samec and it confirms previous advice given by officers that the completion of the table contained in Council's November and December 2006 resolutions cannot be complied with in the terms set within the accompanying table.

The concluding comments of Mr Samec's latest letter are particularly relevant:

*We have outlined our advice in the form as indicated above, rather than in a table. We are not able to provide a meaningful planning assessment as if TPS6 applied in the spaces provided within the table. The suggested table provides inadequate space for providing a proper justification of the conclusions reached.*

The Officers' position as outlined in the November and December 2006 reports therefore has been totally justified throughout and based on all information available to the City, has been confirmed as being correct. It is also clear from the above commentary and the documentation referred to below that the Administration has at all times responded to Council's resolutions and requests for information properly, professionally and promptly.

It is also clear that the City has expended considerable resources on this issue without progressing the matter further compared with the position adopted by Council in March 2004. As it stands, the matter of plot ratio remains exclusively in the hands of the Minister.

Accordingly, it is again proposed that no further action be taken on this subject unless and until the Minister advises or requires otherwise.

#### **Consultation**

Matter referred to Kott Gunning for review.

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

Relevant provisions of the former City of South Perth Town Planning Scheme No. 5, current Town Planning Scheme No. 6, former Residential Planning Codes 1991 and current Residential Design Codes 2002 were taken into consideration as part of the review.

#### **Financial Implications**

Significant internal officer time and resources and external legal costs have been incurred in seeking advice and preparing reports to Council as requested. A portion of the work performed by the City of Belmont audit also related to this development.

#### **Strategic Implications**

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

<b>OFFICER RECOMMENDATION ITEM 10.0.1</b>
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That....

- (a) the correspondence from Kott Gunning dated 26 June 2007 be received; and
- (b) no further action be taken in relation to No. 11 Heppingstone Street, South Perth unless and until the Minister for Planning and Infrastructure, in the exercise of her powers under the *Planning & Development Act*, directs otherwise.

#### MOTION

Cr Ozsdolay moved the officer recommendation, Sec Cr Gleeson

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

##### Cr Ozsdolay opening for the Motion

- thank Mr Drake for his Deputation / information provided
- understand his frustration
- matter is with the Minister - we are going through proper process
- most appropriate course of action is await decision by Minister

Cr Gleeson for the Motion

- endorse Cr Ozsdolay's comments
- support the Motion

Cr Best against the Motion

- 6.1/2 years ago Barrie Drake ask questions
- if he had known at the time he could have issued a writ
- as Ernie Samec advised recently we should act quickly if we have concerns about development
- Barrie Drake raised concerns that building did not comply with planning approval
- Council at the time did not take him seriously - it then went to SAT
- SAT findings are on public record
- SAT findings state *City failed to enforce provisions of TPS5 and TPS6*
- pressure then put on City officers (Cr Best read from correspondence from planning officer Greg Bowering)
- believe City have let Barrie Drake down - they did not listen
- refer letter to Minister dated 22 August 2006 (Cr Best read aloud the third paragraph from the letter)
- refer to report from Ernie Samec, Kott Gunning which says *...constitutes a significant departure in a number of areas.....*"

EXTENSION OF TIME

Moved Cr Hearne, Sec Cr Jamieson

The Cr Best be granted an extension of time of 5 minutes to complete his debate.

CARRIED (11/0)

Cr Best against the Motion (cont'd)

- not a decision this Council made but one we have inherited
- we do have power to fix it - why are we not accountable
- if Council received a development application for 2 Multiple Dwellings at this site, under TPS6 the matters of non-compliance are such Council would be bound to refuse the application (refer page 7 of Ernie Samec's report)
- refer email from the City to the Minister - why does Minister not resolve this matter - because the City has written to her advising it complies under TPS6
- implore Councillors to take some responsibility and move to resolve this matter
- as recently as May 2007 the Legal and Governance Officer has written to the Minister stating... *"the City has reviewed correspondence and notwithstanding some incorrect and gratuitously offensive comments from Mr Drake, sees no merit in responding further other than to confirm that its position is correctly set out in its letter to the Minister of 22 August 2006"*
- suggest CEO counsel the Legal and Governance Officer

Cr Ozsdolay Point of Order - not appropriate comment

Mayor Collins asked Cr Best to stick to the topic

- how do we engender trust - to do so we must demonstrate we are accountable
- believe we must enforce Grant of Planning Consent
- to do nothing else is morally bankrupt
- acknowledge building does not comply - refer page 9 of the SAT report
- congratulate Barrie Drake on his research / documentation presented
- make a personal apology to Barrie Drake

FORESHADOWED MOTION

Cr Best foreshadowed that he would be moving an alternative Motion if the current Motion is Lost.

Cr Gleason point of clarification - - Cr Best read just parts of memo / report referred to - hard to come to grips when just part of correspondence read out.

COMMENT ON DEPUTATION

The Chief Executive Officer said that there has been much written about 11 Heppingstone Street over the last 6 years. It is the administration's point of view that this matter has gone as far as it can and is with the Minister for Planning and Infrastructure in this state for decision. The Minister is in the best position to respond to this following the SAT appeal. If it was as easy as Mr Drake makes out I believe the Minister would have made a decision before this. Personally I cannot see how ratepayers are disadvantaged by this decision and the suggestion that ratepayers have been cheated out of \$2M, as referred to by Mr Drake, cannot be supported by facts. He further stated that he will certainly be taking up the possible allegation that Mr Ernic Samec has been discussing City legal advice with a ratepayer. In response to Cr Best the Chief Executive Officer said that the letter of 22 August 2006, if only read out 'in part' does not give a true picture. The letter refers to the SAT consideration of plot ratio and plot ratio only. It is clear the building does not comply with TPS6 because it was assessed under TPS5 and that is why the table referred to in the December 2006 resolution could not be completed. This is supported by Mr Samec's report. The SAT decision of October 2005 was a 'land mark decision' in the way plot ratio was calculated by local governments in relation to how plot ratio was calculated for store rooms and other such facilities. All similar buildings assessed prior to that time would be over in plot ratio, this has been acknowledged and does not only apply to the City of South Perth. That is why the City over the last 18 months has changed the way it assesses developments, has obtained two sets of legal advice from McLeods and Kott Gunning, refined procedures and is currently about to adopt new policies in this regard. He said he had no knowledge of the memo of 2000 referred to but that it is also clear that the City has expended considerable resources on this issue without progressing the matter any further. As it stands, the matter of plot ratio remains exclusively in the hands of the Minister.

Mayor Collins

It has come to a situation where we are waiting for the Minister to make a decision. To pre-empt action before that decision is made would not be wise. I would recommend that we immediately get in touch with the Minister and ask her to bring down a decision. When we receive that decision then that is the time to start making alternative arrangements.

AMENDMENT

Moved Cr Trent, Sec Cr Cala

That the officer recommendation be amended by the inclusion of the following new part (c):  
(c) Council respectfully seeks advice from the Minister for Planning and Infrastructure as to when a decision will be forthcoming in relation to No. 11 Heppingstone Street, South Perth.

Cr Hearne against the Amendment

- have concerns - sought legal advice from Kott Gunning
- heard CEO response to Barrie Drake as to why building complies
- refer page 7 of Kott Gunning report in particular 5 bullet points and final paragraph
- believe if we write to the Minister we have an obligation to advise her of these issues

FORESHADOWED MOTION

Cr Hearne foreshadowed that he would be moving to include the 5 bullet points and final paragraph of page 7 of the Kott Gunning Report of 26 June 2007 in the letter to the Minister if the current Motion is Lost.

**Note:** The Mover and Seconder of the Amendment concurred with Cr Hearne's suggestion to include the 5 bullet points and final paragraph of page 7 of the Kott Gunning Report of 26 June 2007 in the letter to the Minister.

Cr Wells point of clarification - can we write to the Premier explaining what this issue is doing to residents of the City?

Mayor Collins stated that as the matter was with the Minister that process needed to be followed through to a decision.

The Mayor put the Amendment.

CARRIED (10/1)

**NOTE: CR BEST REQUESTED THAT HE BE RECORDED AS HAVING VOTED AGAINST THE AMENDMENT.**

AMENDMENT

Moved Cr Jamieson, Sec Cr Hearne

That part (b) of the officer recommendation be deleted.

The Mayor put the Amendment.

CARRIED (9/2)

Cr Ozsdolay closing for the Motion

- urge Councillors support the Motion
- appreciate frustration Barrie Drake is going through
- history - could we have done it differently / better - probably
- have seen no legal advice suggesting we go down path suggested by Barrie Drake
- believe way to go is through the Minister - any other way is irresponsible

<b>COUNCIL DECISION ITEM 10.0.1</b>
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The Mayor put the Amended Motion

That....

- (a) the correspondence from Kott Gunning dated 26 June 2007 be received; and
- (b) Council:
  - (i) advise the Minister of the '5 bullet points and final paragraph as contained on page 7 of the Kott Gunning Report of 26 June 2007 in relation to No. 11 Heppingstone Street, South Perth; and
  - (ii) respectfully seek advice from the Minister for Planning and Infrastructure as to when a decision will be forthcoming in relation to this matter.

CARRIED (10/1)

Reason for Change

Council believed it was important to pursue an urgent decision being handed down.

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

**10.0.2. Electronic Voting** (*Item 12.1 referred from June 2007 meeting*)

Location: City of South Perth  
Applicant: Council  
File Ref: GO/108  
Date: 9 July 2007  
Author: Kay Russell  
Reporting Officer: Cliff Frewing, Chief Executive Officer

**Summary**

The purpose of this report is to advise on the progress of implementing Council's resolution in relation to electronic voting.

**Background**

At the June 2007 meeting Council resolved as follows:

*That....*

- (a) *a report be prepared for the July Meeting of Council to achieve the following outcomes:*
- (i) *in order to take up technological opportunities and provide greater accountability for decision making, Council moves to introduce electronic voting at all Council Meetings;*
  - (ii) *the votes cast electronically by each individual Council Member at all Council Meetings are to be tabulated and displayed publicly in real time at each Council meeting; and*
  - (iii) *votes cast by each Council Member are to be recorded electronically by Agenda Item in digital format for an official voting record to form part of the Council Meeting Minutes.*
- (b) *the report to the July Council Meeting to include a projected timeline for the implementation of electronic voting.*

**Comment**

Director Financial and Information Services Comment

The City's Information Services Team have been researching Best Practice in audio recording, available software solution and practical aspects of the implementation of audio recording of Council meetings. This has included a number of site visits at other organisations and practical demonstrations of software for managing the recording process.

A technical specification has also been developed for additional software programming to facilitate the affective operation of electronic voting at Council meetings. Following receipt of a suitable quotation for modification of the existing meeting management software in use in the Chamber, Vizcom Technologies have been engaged to undertake programming to give effect to parts (ii) and (iii) of the above Council resolution. After this work is completed, City staff will undertake system testing and draft a set of necessary modifications to meeting procedures to ensure the orderly operation of electronic voting.

Chief Executive Officer Comment

At the June Council Agenda Briefing the Director Financial and Information Services provided Members with a verbal update on the implementation strategy and practical workings of electronic voting. Further information will be conveyed via the Councillors Bulletin as the project progresses.

In addition to the technical implications there will need to be time dedicated to refining meeting procedures and Member training in relation to the operation of the technology.



**Consultation**

N/A

**Policy and Legislative Implications**

In accordance with section 2.17 of the *Local Government Act* the Council is to determine the local government's policies.

**Financial Implications**

Negligible on the basis of aligning to the proposed Policy P517 "Audio Recording of Council Meetings. If significant operational changes were made to the policy then the financial implications would have to be re-assessed.

**Strategic Implications**

The process of policy development is consistent with Strategy 5.10 of the Strategic Plan encompassed in **Goal 5 - Organisational Effectiveness: *To be a professional, effective and efficient organisation.***

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.0.2</b>
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That....

- (a) report Item 10.0.2 of the July 2007 Agenda be received; and
- (b) electronic voting be implemented as soon as technically feasible and following completion of appropriate officer /member training but no later than the September 2007 Ordinary Council Meeting.

CARRIED EN BLOC RESOLUTION

<b>10.0.3 Certificate of Occupancy (Item 11.3 referred Council Meeting 27.3.2007)</b>
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Location:	City of South Perth
Applicant:	Council
File Ref:	PH/203
Date:	12 July 2007
Author/Reporting Officer:	Steve Cope, Director Strategic and Regulatory Services

**Summary**

To provide an update on the progress of research into Council's request at its March 2007 meeting for investigation of the requirement for provision of Compliance Certificates prior to issue of a Certificate of Occupancy Certificate of Classification for any multiple dwelling unit.

**Background**

At its March 2007 meeting Council resolved that:

- “(a) a report be submitted to the next available Council meeting on the proposed adoption of the following procedures as Council policy:

*That prior to the issuing of a Certificate of Occupancy or Classification for any Multiple Dwelling Unit, that the City requires a signed Compliance Certificate from a registered Building Surveyor or other appropriate professional on behalf of the Building Owner or Owners. Specific compliance issues to be identified in this certificate shall be Plot Ratio, setbacks and height.*

- (b) in addition, the report will also examine the validity of the issuing of Strata Certificates before the issuing of a Certificate of Classification”.



The City administration noted at the time that the proposed new *Building Act* proposes mandatory inspections for buildings under construction and submission of inspection reports to local government by private accredited building professionals but that it would be necessary to determine whether the introduction of the proposed certification can legally be implemented under present legislation.

#### **Comment**

Legal advice has been sought from McLeods, the City's solicitors on this matter and is attached as **Confidential Attachment 10.0.3(a)**. It is noted that a concept forum briefing was held on 18 April 2007 with Denis McLeod and Craig Slarke of McLeods in attendance on the subject of Plot Ratio compliance and the Strata Titles Act. The Notes from this Workshop (Attachment 6.2.2) formed minutes of the May 2007 Council meeting and are attached hereto as **Attachment 6.2.2 (b)**.

Part (b) of the Council's resolution at Item 11.3 of the March 2007 Council meeting relating to the sequence of issue of the Strata Titles Act s23 certificate and certificate of classification (occupancy) was effectively responded to by McLeods at the concept forum. McLeods commented that the Strata Title Act requires an inspection to be conducted prior to issue of a Form 7 Strata Certificate however, there is no requirement under legislation that one inspection occur before the other and in practical terms it is logical to undertake the strata inspection first.

With respect to part (a) of Council's resolution at Item 11.3 of the March 2007 Council meeting in the preamble to the advice now received from McLeods it is advised that the issues raised by the City seem to have importance not only for the City of South Perth but for local governments generally.

The background to the request for advice cited by McLeods in the advice provided is in summary:

- (a) The City of South Perth is reviewing its internal procedures with respect to compliance with plot ratio, building height and set back requirements particularly in the case of substantial multiple dwelling buildings.
- (b) Given the City's limited resources, it is difficult for the City using its own staff to ensure that buildings as constructed comply with the approved plans.
- (c) The concerns of the City have been highlighted in recent times by the decision (of Templeman J in the Supreme Court) in the 'Old Soap Factory' case involving the City of Fremantle.

In the advice provided McLeods reaches a number of conclusions as follows:

- When dealing with an application for a Strata Titles Act section 23 certificate, a local government cannot carry out a reconsideration of the question of whether the development complies with planning standards such as plot ratio setbacks and height; those matters should be considered on the determination of the application for planning approval. McLeods notes that it may be appropriate in an extremely limited set of circumstances for the local government to consider amenity issues again on receipt of an application for a s23 certificate but only to the limited extent provided by Strata Titles Act.
- To illustrate this point McLeods cites the case *Rennet Pty Ltd and the City of Joondalup* [2006] WASAT 289 and makes particular reference to paragraph 53 of the judgement of Judge Chaney quoting from that judgement as follows:

*"In my view the use of the words 'the development of the parcel as a whole' and the reference to 'the building' do broaden the scope for considerations as to the effect of the amenity beyond issues arising from separate occupation. To hold otherwise would be to render those words in the subsection meaningless. Having said that, the words 'having*

*regard to the circumstances of the case and to the public interest' are important. Where, as in this case, a development approval has been granted in respect of the construction of a building in respect of which strata subdivision is highly likely, the fact that amenity issues have been resolved in that context is an important 'circumstance of the case'. It could hardly be in the 'public interest' for a local authority to grant an approval to develop land which is likely to lead to separate occupation of the lots, and then to revisit its consideration and refuse a certificate under s 23 simply because its subsequently took a different view on amenity issues. There must be some significantly different circumstance which arises which will justify a refusal of the certificate on amenity grounds where the development has received recent planning approval".*

- The McLeods advice notes that based on Section 23 of the Strata Titles Act and Section 39 of the Strata Titles Regulations when dealing with an application for a Strata Titles Act Section 23 certificate the local government is permitted to consider the laws relevant to building control for the purpose of deciding whether the building is of sufficient standard to be brought under the Strata Titles Act. McLeods notes that the local government should have regard to certain matters including the use to which the building in question is put and the amenity of the neighbourhood however goes on to note that the only things that might be relevant to plot ratio, setback and building height in subsections (1) and (2) of Section 23 are:
  - (a) the consideration in s23(1) (c) namely consistency with the building plans and specifications; and
  - (b) the considerations in s23 (2) (c) - namely 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 future amenity of the neighbourhood etc.
- Practice has been to compare building plans with 'as built' plans and then issue certifications when satisfied. McLeods considers that a local government should adopt a policy or set of guidelines for the achievement of satisfaction of the matters referred to in subsections (1) and (2) of s23 before the City issues a s23 certificate. Further that the policy or guidelines might reasonably require independent certification, provided at the applicant's expense.
- McLeods notes that there is nothing in the Strata Titles Act which obliges a local government to issue a s23 certificate before it is properly satisfied in terms of the matters referred to in subsections (1) and (2). Further McLeods notes that the decision in the recent 'Old Soap Factory' case underlines the fact that local governments must approach the issuing of a s23 certificate responsibly and that a local government should not certify itself to be satisfied and should not be compelled to issue a s23 certificate until it is responsibly satisfied on the matters in subs (1) and (2).
- McLeods notes that the City could be satisfied of the matters in subsections (1) and (2) following an inspection and advice by its own planning or building officers or on independent advice by an independent expert. Mcleods notes however that having regard to the extent of duty of care in inspection for the purpose of a s23 certificate which was recognised in the 'Old Soap Factory' case a local government ought to be able to insist on having an independent suitably qualified consultant inspect the building and submit a report before a decision is made by the local government on the issuing of a s23 certificate.
- McLeods also notes that having regard to the heavy duty of care imposed on a local government in the issuing of a s23 certificate, it would be appropriate for a local government to require that::

- (a) an applicant for a s23 certificate bear the cost of independent certification;
  - (b) the independent expert have qualifications approved by the local government;
  - (c) the independent expert provide his/her report to the local government recognising a duty owed to the local government as principal; and
  - (d) any person selected as an independent expert carry appropriate professional indemnity insurance
- McLeods notes that a local government may choose to select a panel of suitably qualified experts.
  - With regard to the ability of local government to withhold issue of a certificate of classification and s23 Certificate, McLeods concludes that:
    - (a) a local government could reasonably argue that the matters upon which it is required to be satisfied for the purpose of a s23 certificate have regard to building control matters and consequently if the circumstances exist where a local government could reasonably withhold the issuing of a s23 certificate [then] it is arguable that the local government could also in those circumstances withhold the issuing of a certificate of classification.
    - (b) it would not be open to a local government to refuse to issue either a s23 certificate or a certificate of classification on the basis that it has discovered that the building does not comply with standards under the local government (Town Planning) scheme or the R Codes in relation to the setbacks, plot ratio and height.

### **Conclusion**

On the basis of the advice provided by McLeods on private certification prior to issue of a Strata Titles Act S 23 certificate and certificate of classification, it is considered that it would be appropriate for Council to adopt a policy and guidelines detailing the requirements to satisfy the matters referred to in subsections (1) and (2) of Section 23 of the Strata Titles Act before the City issues a S 23 certificate; such policy and guidelines to incorporate:

- Applicant to bear cost of independent certification;
- Independent expert to have qualifications approved by local government;
- Independent expert to provide report of inspection to the City recognising a duty owed to the City or principal; and
- Independent expert to carry appropriate professional indemnity insurance

### **Consultation**

Matter referred to McLeods for advice.

### **Policy and Legislative Implications**

Relevant provisions of the *Local Government Act* and Regulations, the *Strata Titles Act* and Regulations and other legislation requires consideration.

### **Financial Implications**

The issue has no particular impact on this particular area.

### **Strategic Implications**

The report is aligned to Goal 3 “Environmental Management” and Goal 5 “Organisational Effectiveness” within the City’s Strategic Plan. Goal 3 is expressed in the following terms: *“To effectively manage, enhance and maintain the City’s unique natural built environment”*.

Goal 5 is expressed in the following terms: *“To be a professional effective and efficient organisation”*.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.0.3</b>
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That....

- (a) Council note the advice received from McLeods on private certification prior to issue of strata titles certificate and certificate of classification and agrees in principle with the advice that independent certification is a valid tool that the City may use to ascertain compliance with approved plans; and
- (b) a further report be presented advising of a draft policy outlining the City's revised procedure for processing applications for 23 Strata Title Act Section 23 Certificates and certificates of occupancy and/or classification based on advice received from McLeods on this matter.

CARRIED EN BLOC RESOLUTION

**10.1 GOAL 1 : CUSTOMER FOCUS**

Nil

**10.2 GOAL 2: COMMUNITY ENRICHMENT**

DECLARATIONS OF INTEREST : ITEM 10.2.1

CR OZSDOLAY

*"I wish to declare a Conflict of Interest in Agenda Item 10.2.1 - 'Community Funding Program Round One' - on the Council Agenda for the meeting to be held 24 July 2007. I disclose that I am on the Carson Street School Council and also in their employee. The Carson Street School is a proposed recipient of the Community Funding Program and in view of this I will leave the Council Chamber at the Agenda Briefing on 17 July and at the Ordinary Council Meeting on 24 July 2007 while Item 10.2.1 is discussed."*

CR TRENT

*"I wish to declare a Conflict of Interest in Agenda Item 10.2.1 - 'Community Funding Program Round One' on the Council Agenda for the meeting to be held 24 July 2007. As the Chair of the Kent Street District Council, a proposed recipient of the funding program, I will leave the Council Chamber at the Agenda Briefing on 17 July and Council Meeting on 24 July while Item 10.2.1 is discussed."*

CR SMITH

*"I wish to declare a Conflict of Interest in Agenda Item 10.2.1 - 'Community Funding Program Round One' on the Council Agenda for the meeting to be held 24 July 2007. As President of the Manning Senior Citizens Centre, a proposed recipient of the funding program, I will leave the Council Chamber at the Council Meeting on 24 July while Item 10.2.1 is discussed."*

**Note:** Crs Ozsdolay, Trent and Smith left the Chamber at 8.36pm

<b>10.2.1 Funding Assistance Program - Round One Community Development Category</b>
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Location:	City of South Perth
Applicant:	Council.
File Ref:	GS/103
Date:	4 July 2007
Author:	Natasha Newbold, Community Projects Officer
Reporting Officer	Roger Burrows, Director Corporate & Community Services

**Summary**

To consider applications in the Community Development category of the Funding Assistance Program - Round One - 2007/2008.

### **Background**

In June 2001 the City implemented a Funding Assistance Program to enable the City to equitably distribute funding to community organisations and individuals to encourage community and personal development, and foster community services and projects.

The Funding Assistance Program incorporates a number of levels and categories in response to identified areas of need, these are:

**Community Partnerships** - with identified organisations that provide a major benefit to the City of South Perth community.

### **Community Funding**

- Community Development Category - for incorporated groups, these are assessed in 2 rounds annually.
- Individual Development Category - financial assistance for individuals attending interstate or international sporting, cultural or academic activities.

**Community Grants** - grants up to \$1,000 for groups proposing projects that do not fit within the Community Development program.

### **Comment**

Seven applications were received in this round requesting a total of \$33,780 **Attachment 10.2.1** refers. The applications all comply with the requirements of the program and cover a range of community service, cultural and recreational projects. These applications were submitted by:

- Carson Street School P & C
- YouthCare WA - Como District Council
- Kent Street District Council
- Lions Club of South Perth
- Manning Senior Citizens Centre
- South Perth Senior Citizens Centre
- Communicare Inc (VIP Plus Project)

### **Consultation**

This funding round was advertised in the Southern Gazette, the Peninsula Newsletter, the City's Community Information Directory and on the City's website. It was also promoted directly to past applicants and at the two networking forums coordinated by the City - SPARKYS (South Perth and Vic Park Youth Services) which focuses on Youth services, and the Community Services Forum which has a more general brief across all demographics.

### **Policy Implications**

This report refers to the Funding Assistance Policy P202

### **Financial Implications**

A total amount of \$175,000 is allocated in the 2007/2008 budget for the Community Development, Individual Development, Community Grants and Community Partnership categories of the Funding Assistance program. The recommendation of this report is within budgetary parameters.

### **Strategic Implications**

This report is complimentary to Goal Two, Community Enrichment, and directly relates to Strategy 2.3. *'Implement the Community Funding Program to equitably distribute funding between community organisations to encourage and foster community development services and projects.'*

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.2.1</b>
--

Moved Cr Maddaford, Sec Cr Hearne

That \$32,555 be distributed to seven organisations from City funds for Round One of the Community Development category of the Funding Assistance Program as detailed in **Attachment 10.2.1.**

CARRIED (8/0)

**Note:** Crs Ozsdolay, Trent and Smith returned to the Chamber at 8.38pm

**Note:** Manager Community, Culture and Recreation retired at 8.38pm

**10.3 GOAL 3: ENVIRONMENTAL MANAGEMENT**

<b>10.3.1 Proposed 13 Multiple Dwellings within 9 Storey Building. Lot 5 (No. 4) Scott Street, cnr Stone Street, South Perth .</b>
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Location:	Lot 5 (No. 4) Scott Street, South Perth
Applicant:	Campion Design Group for Prada Corp Developments Pty Ltd
Lodgement Date:	6 November 2006
File Ref:	11.2006.538 SC2/4
Date:	6 July 2007
Author:	Christian Buttle, Manager, Development Assessment
Reporting Officer:	Steve Cope, Director, Strategic and Regulatory Services

**Summary**

To consider an application for planning approval for a proposed 9 storey building on Lot 5 (No. 4) Scott Street, cnr Stone Street, South Perth containing 13 Multiple Dwellings. It is recommended that planning approval be granted subject to conditions.

**Background**

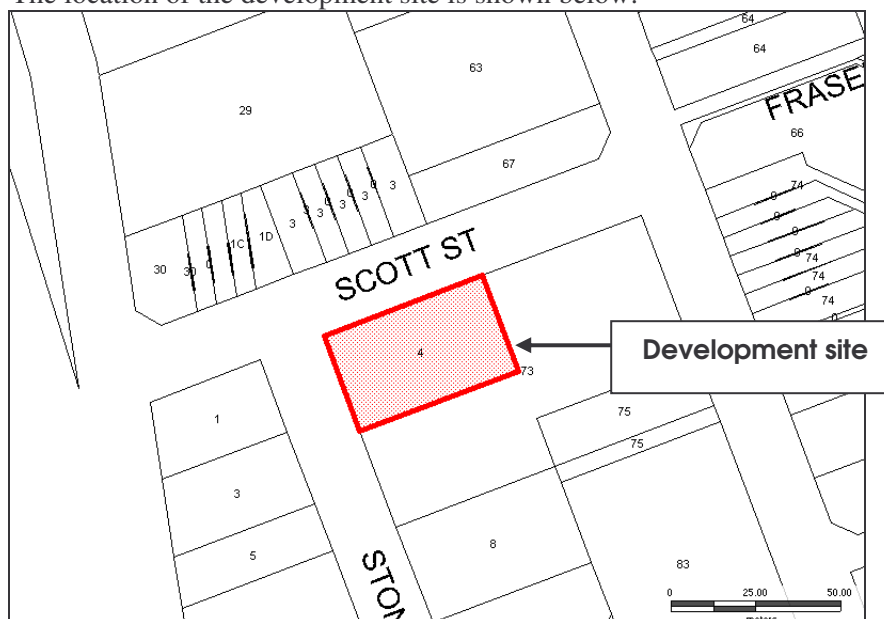
The development site details are as follows:

<b>Zoning</b>	Mixed Use Commercial
<b>Density coding</b>	R80/100
<b>Lot area</b>	1,518 sq. metres
<b>Building height limit</b>	28.0 metres
<b>Development potential</b>	15 Multiple Dwellings (at R100)
<b>Plot ratio</b>	1,897 sq. metres (at R100)

This report includes plans of the proposed development referred to as *Confidential Attachment 10.3.1.*



The location of the development site is shown below:



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

***Large scale development proposals***

- (i) *Proposals involving buildings 9.0 metres high or higher based upon the Scheme definition of the term “height”. This applies to both new developments and additions to existing buildings resulting in the building exceeding the nominated height; and*
- (ii) *Proposals involving 10 or more dwellings.*

**Comment**

**(a) Description of the proposal**

The following information provides a brief summary of the proposed building:

- **Basement:** Storerooms for each of the 13 dwellings (note: in accordance with the definition contained within the Residential Design Codes 2002, plot ratio does not include non-habitable space that is wholly below natural ground level);
- **Ground Floor:** Residents car park containing 28 car parking bays (2 bays each for 11 units and 3 bays each for two Penthouses) and 3 visitor parking bays forward of security gates;
- **First Floor:** Communal open space and communal amenities (gym, lounge, conference room)
- **Second to Seventh Floors:** Two dwellings per level (note: on the seventh floor, one of the two dwellings is the lower level of one of the two Penthouses)
- **Eighth Floor:** Upper floor of Penthouse on seventh floor and second Penthouse
- **Ninth Floor:** Plant Room and Roof decks allocated to each of the Penthouses.

**(b) Dual density coding**

Town Planning Scheme No. 6 assigns an R80/100 dual density coding to the subject property. In order to qualify for development at the higher density code (as proposed), it is necessary for the applicant to satisfy a minimum number of specified performance criteria. As the site satisfies 4 out of 8 criteria, it qualifies for development at the higher R100 density code.



(c) **Plot ratio**

Using the R100 density code and site area of 1518 sq.metres, a total of 1897.5 sq.metres of plot ratio floor area is allowed. Calculations show that the proposed plot ratio floor area is 1906.9 sq.metres (1.256). It is recommended that a condition of approval be imposed requiring the applicant to demonstrate compliance with the 1897.5 sq.metre maximum, prior to the issue of a building licence.

No part of the balconies on the Scott Street and Stone Street frontages of the site have been included in the plot ratio calculations. A glazed feature panel which extends for the full height of the building is attached to each of the Scott Street and Stone Street balcony faces. The glazed panel attached to the Scott Street balcony is a consistent width of 5.9 metres, while the glazed panel on the Stone Street frontage of the building increases in width as the height of the building increases. It ranges from 0.8m in width for the lowest (second floor unit) and increases to around 3.7 metres in width for the highest (eighth floor unit).

The perspective drawings which have been provided by the applicant also show an intention to provide a series of sliding louvered screens along the face of the Stone Street balcony to assist with sun shading.

The perspective drawings also show a purple coloured rendered wall panel adjacent to a section of the rear (eastern) face of the balcony. Since the preparation of the perspective drawings, the architectural drawings have been modified to 'open up' this panel so that this portion of the balcony is not included in plot ratio calculations. However, Officers are of the opinion that the extent to which this section of balcony has been 'opened' up is insufficient, and that it is appropriate that a condition of approval be imposed to address this matter. The following table provides detailed information with respect to the balconies on the Scott and Stone Street frontages of the building, the proportion of the balcony perimeter occupied by the glazed panels on each of the street frontages and the proportion of the balcony perimeter occupied by the purple coloured feature wall panel on the eastern elevation of the building:

<b>Scott Street Balcony</b>		
	<b>Length</b>	<b>Percentage</b>
Total perimeter of outside face of balcony	35.39 metres	100%
Glazed panel	5.9 metres	16.66%
Purple coloured rendered feature wall panel	Approx. 1.6 metres (2 <sup>nd</sup> floor) to 3.5 metres (8 <sup>th</sup> floor)	Approx. 4.5% to 9.8%

<b>Stone Street Balcony</b>		
	<b>Length</b>	<b>Percentage</b>
Total perimeter of outside face of balcony	28.32 metres	100%
Glazed panel	Approx 0.8 metres (2 <sup>nd</sup> floor) to 3.7 metres (8 <sup>th</sup> floor)	Approx. 2.8% to 13%

Officers are satisfied that the inclusion of the glazed panels referred to in the tables above does not affect plot ratio calculations by causing the balconies to be enclosed on more than two sides.

**(d) Boundary setbacks including boundary walls**

For corner sites, it is sometimes not readily apparent as to which boundary should be classified as the 'primary' street frontage and which should be classified as the 'secondary' street frontage. At an R100 density code, the R-Codes prescribe a 4 metre primary street setback, while the prescribed setback to the secondary street frontage varies depending upon the length, height and nature of openings in the wall.

The building has been provided with setbacks to each of the street frontages as follows:

Scott Street

Ground Floor: 4.0 metres to car park generally; 1.5 metre setback to awning associated with pedestrian entry

Upper Floors: 2.8 metre minimum to balconies.

Stone Street

Ground Floor: 6.5 metres to car park

Upper Floors: 5.0 metre minimum to balconies.

Although the setbacks are generally supported, it is recommended that the minimum setback of the balconies adjacent to Scott Street be increased from 2.8 metres to 3.0 metres minimum.

The southern side of the building incorporates a setback variation adjacent to the recently completed Stone Street facing portion of the 'Eden' apartments. By the eighth level of the building, the prescribed setback is 4.8 metres against a proposed setback of 3.45 metres. The proposed variation is seen to satisfy the 'performance criteria' contained within the R-Codes, and does not detrimentally affect the amenity of the adjoining property. It is recommended that the proposed setback variation adjacent to the southern property boundary be accepted as proposed.

**(e) Building height**

The drawings show that the building complies with the maximum prescribed 28 metre wall height measured above a base reference point of 2.0 metres AHD (highest point of original ground level beneath proposed building). Sections of roof toward the corner of the site (i.e. at the junction of Stone Street and Scott Street) project through the notional 25 degree envelope measured above the maximum permissible building height, however, this can be accepted as TPS6 specifies a maximum wall height and not a maximum roof height. The projection of the roof through the 25 degree envelope affects neither the amenity of the adjoining property owners nor the surrounding locality generally.

**(f) Open space including communal open space**

The proposed development complies with overall open space and communal open space requirements.

**(g) Car parking**

28 car parking bays are provided for the occupiers of the 13 dwellings and 3 visitor car parking bays have been provided. All bays incorporate a minimum width of 2.5 metres, and where support columns are situated adjacent to a bay, the columns have been situated in accordance with Figure 5.2 "Design Envelope Around Parked Vehicle to be Kept Clear of Columns, Walls and Obstructions" of AS/NZS 2890.1:2004 Parking Facilities - Part 1 : Off-Street Car Parking. AS/NZS 2890.1:2004 only requires an additional 300mm width to be provided adjacent to the side of a car bay

within a central door opening zone and at the rear of the bay, as opposed to the provisions of TPS6 which generically specifies a requirement for an additional 300mm width to be added to the side of a bay where situated adjacent to a column, wall or pier. It is recommended that the parking arrangement be approved as proposed.

**(h) Visual privacy**

The proposal complies with relevant visual privacy provisions of the R-Codes on the basis that conditions have been incorporated into the recommendation relating to the first floor communal amenities area and ninth floor roof deck.

**(i) Solar access for adjoining sites**

The proposal complies with the amount of overshadowing allowed by the R-Codes.

**(j) Water features**

The proposed building includes a number of water features as described below:

- (1) Pond on communal amenities level which flows into a waterfall cascading from the building to the ground on the Scott Street frontage of the site; and
- (2) Pond around the main pedestrian entry to the building at the corner of Scott Street and Stone Street.

Neither TPS6, the R-Codes nor Council Planning Policies have specific requirements with respect to such design features, noting that the proposed water features are not being included in response to a Council requirement.

While the water features are not required by Council in this instance, it is important to note that TPS6 indicates that water features can contribute towards the achievement of “outstanding landscaping”. In this regard, the following information is provided:

As noted in Part (b) above, the development site is assigned an R80/100 dual density coding. The site qualifies for R100 density development because the necessary 4 out of 8 performance criteria are satisfied. In this instance, the proposed development does not rely upon Performance Criterion (viii) relating to “outstanding landscaping”. To satisfy this criterion, it is necessary to comply with the provisions of Clause 6.14(1) of TPS6. This clause states that, where outstanding landscaping is required, such landscaping is to comprise planting and at least one other decorative feature selected from the listed features. “Water features” are included in the list. Therefore, water features could contribute to the site qualifying for development at the higher (R100) density.

With regard to sustainability implications, the City’s Sustainability Coordinator has provided the following comments:

*“The City’s Sustainability Strategy - Settlements vision at goal 7, Water Future, states ‘The City promotes the sustainable use of water’. The City is also a participant in the International Council of Environmental Initiatives (ICLEI) Water Campaign, which encourages the community to consider the conservation of water in the overall design and planning process in regard to building developments.*

*The use of potable (high quality drinking water) for landscape water features and similar, has the potential to be viewed as unacceptable by the community at large. Increased restrictions to the use of potable water may result as a consequence of the impact of Climate Change.*

*The use of harvested (stormwater and rainfall) and recycled water would provide a more sustainable alternative to potable water, particularly if this were to be incorporated into irrigation systems.”*

Discussions have been held with the applicants regarding a sustainable design solution for the water supply to the water features. The applicants aim to build an environmentally friendly building. They advise that they would welcome any input from the City that would assist them in achieving a 'green' building.

Having regard to all of the preceding comments, it would not be appropriate for Council to require the deletion of the water feature. However, a condition of planning approval has been included in the recommendation requiring the use of a sustainable source of water rather than relying upon mains supply potable water. The recommendation also contains advice to the applicants to the effect that Council would support an alternative kind of decorative landscaping feature such as rockeries, sculpture or other urban artwork if the applicant elects to delete the water feature.

**(k) Finished floor levels**

Clause 6.9 of TPS6 specifies a minimum finished floor level of 1.75 metres AHD for the building. The storerooms for each of the dwellings have been proposed with a finished floor level of -1.10 metres AHD. The storerooms have been placed below ground as non-habitable space which is situated wholly below natural ground level does not attract plot ratio.

Clause 6.9(3) of TPS6 goes on to state that:

*“The Council may permit land to be developed with lower levels than prescribed in sub-Clauses (1) and (2), if:*

- (a) provision is made in the design and construction of the floor and walls of the building for adequate protection against subsoil water seepage;*
- (b) the applicant provides the Council with certification from a consulting engineer that adequate water-proofing has been achieved; and*
- (c) the applicant satisfies the Council in such manner as the Council may specify that the proposed levels are acceptable having regard to the 100 year flood levels applicable to the lot.”*

A standard condition has been included in the recommendation which will require this matter to be addressed prior to the issue of a building licence.

**(l) Corner truncation**

A corner truncation has not yet been excised from lot 5. In accordance with normal practice, a condition has been included within the recommendation which requires the excision of a standard corner truncation from the lot for inclusion in the adjacent road reserve.

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

Having regard to the preceding comments, in terms of the general objectives listed within Clause 1.6 of TPS6, the proposal is considered to broadly meet the following objectives:

- (a) Maintain the City's predominantly residential character and amenity;*
- (c) Facilitate a diversity of dwelling styles and densities in appropriate locations on the basis of achieving performance-based objectives which retain the desired streetscape character and, in the older areas of the district, the existing built form character;*

- (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.*

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

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

- (a) *the objectives and provisions of this Scheme, including the objectives and provisions of a Precinct Plan and the Metropolitan Region Scheme;*
- (c) *the provisions of the Residential Design Codes and any other approved Statement of Planning Policy of the Commission prepared under Section 5AA of the Act;*
- (i) *the preservation of the amenity of the locality;*
- (j) *all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*
- (n) *the extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area, in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details;*
- (w) *any relevant submissions received on the application, including those received from any authority or committee consulted under Clause 7.4.*

**Consultation**

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

The design of the proposal was considered by the City's Design Advisory Consultants at their meetings held during January, February and March 2007. Comments made by the advisory architects were satisfactorily addressed via the provision of revised drawings.

**(b) Neighbour consultation**

Neighbour consultation has been undertaken for this proposal to the extent and in the manner required by Policy P104 "Neighbour and Community Consultation in Town Planning Processes". The owners and occupiers of properties at Nos. 1-5 Stone Street, 1-3 Scott Street, 67 and 73 Mill Point Road were invited to inspect the application and to submit comments during a 14-day period. A total of 14 neighbour consultation notices were mailed to individual property owners and occupiers. During the advertising period, 1 submission was received which objected to the proposed development. The comments of the submitter, together with an officer response, is summarised as follows:

Submitter's Comment	Officer Response
The boundary walls along the north-east and south-east sides of the proposal are longer than permitted under the R-Codes and should be shortened so that they comply.	The design originally incorporated a boundary wall adjacent to both the eastern and southern property boundaries. The boundary wall adjacent to the southern boundary has been removed in its entirety, while the wall adjacent to the eastern property boundary sits adjacent to a car parking area of the recently completed 'Eden' apartments. The boundary wall causes no adverse amenity impact on the adjoining property owners. The submitters' comment is <b>NOT UPHELD</b> .

<p>The Scott Street setback should be at least 4.5 metres.</p>	<p>As discussed within the report, a setback of 4.0 metres has been provided from Scott Street, with a lesser setback to balconies. The submitters' comment is <b>NOT UPHELD</b>.</p>
<p>We believe that the cone of vision at 7.5 metres extends past the south-east boundary and therefore does not comply.</p>	<p>The drawings were originally deficient with respect to screening details associated with the first floor communal amenities area. This matter has now been satisfactorily resolved via the provision of amended drawings and recommended conditions of approval. The submitters' comment is <b>UPHELD</b>.</p>
<p>Overshadowing - while the total percentage of shadow cast complies with R-Code requirements, the entire outdoor living area to our client's site is in shadow at ground levels.</p>	<p>The drawings demonstrate total compliance with the relevant provisions of the R-Codes with respect to overshadowing. The submitters' comment is <b>NOT UPHELD</b>.</p>
<p>Zincalume roof will reflect into adjoining dwellings and should be changed to Colorbond.</p>	<p>Having regard to the similar height of the proposed building and the adjoining 'Eden' apartments, adjoining owners will not be looking down onto the roof, so reflective glare should not become an issue. It is also noted that zincalume metal is an acceptable roofing material for use in the City and that this material does lose its reflectivity as it fades over time. The submitters' comment is <b>NOT UPHELD</b>.</p>
<p>Balcony wall height is higher than the 25 degree angle. Also, the roof extends past the 25 degree line.</p>	<p>The balcony wall height is not higher than the 25 degree line. As discussed within the report, the roof does project through the notional 25 degree envelope above the maximum permissible building height. TPS6 specifies a maximum permissible wall height rather than a maximum top of roof height. The projection of the roof beyond the 25 degree envelope is within Council's discretion to approve. The submitters' comment is <b>NOT UPHELD</b>.</p>
<p>No screens have been provided to open living areas, i.e. tennis court and pool area.</p>	<p>As mentioned, screens were originally omitted from the original drawings, but have now been shown on the revised drawings. The submitters' comment is <b>UPHELD</b>.</p>

(c) **Manager, Engineering Infrastructure**

The Manager, Engineering Infrastructure, was invited to comment on a range of issues relating to car parking and traffic, arising from the proposal. He has commented that dewatering will be a major issue to the extent that a comprehensive dewatering plan / strategy will be required prior to the issue of a building licence. It was also noted that stormwater drainage for the building must be designed in accordance with the provisions of Policy P415 "Stormwater Drainage Requirements for Proposed Buildings".

(c) **Manager, City Environment**

The Manager, City Environment was invited to comment on the proposed proximity of a crossover on the Scott Street frontage of the property in relation to an existing street tree. As a result of concerns in relation to the proximity of this crossover to the street tree, vehicular access from Scott Street was deleted.



(c) **Manager, Environmental Health and Regulatory Services**

The Manager, Environmental Health and Regulatory Services was invited to comment on a range of issues relating to matters such as bin storage and the parking of vehicles during the construction phase of the project. He has provided confirmation that the bin storage area as shown on the drawings is adequate in size and appropriately located.

The City's Sustainability Coordinator has also been consulted in relation to the proposed water features. The Officer's advice in this regard is contained in the "Comments" section of the report.

**Policy and Legislative Implications**

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

**Financial Implications**

The issue has no impact on this particular area.

**Strategic Implications**

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

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

<b>OFFICER RECOMMENDATION ITEM 10.3.1</b>
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That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for 13 Multiple Dwellings on Lot 5 (No. 4) Scott Street, cnr Stone Street, South Perth **be approved**, subject to:

(a) **Standard Conditions**

340 (eastern), 351, 352, 353, 376, 377, 390, 393 (Scott Street and Stone Street), 416, 445, 446 (building), 457, 465, 470, 471, 509, 510 (10), 550, 575 (5)(8.5m), 625, 660.

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

- (i) Revised drawings shall be submitted, and such drawings shall incorporate the following:
  - (A) A reduction of the plot ratio floor area contained within the building by 9 sq.metres to a figure not exceeding 1897.5 sq.metres;
  - (B) An increase in the minimum setback of balconies from the Scott Street frontage of the site from 2.8 metres as proposed to a minimum of 3.0 metres;
  - (C) Pedestrian paving between the building and visitor car bay 31 shall be flush with the adjacent vehicular paving in order to accommodate vehicular egress from visitor car bay 29;
  - (D) The 1650mm high screen which is provided above the 6.2 RL pool deck shall return around the planter which is situated in line with the northern face of the pool plant room as marked in red on the approved drawings;
  - (E) Visual privacy screening shall be provided to the southern face of the "shaded area" adjacent to the conference room on the first floor of the building;



- (F) Demonstrate compliance with the visual privacy provisions of the R-Codes in relation to the southern face of the ninth floor roof deck, or alternatively, provide screening to the southern face of the ninth floor roof deck which satisfies the screening requirements of the R-Codes while also maintaining compliance with the maximum permissible building height.
- (G) The portion of the purple coloured rendered wall panel on the eastern face of the building shall be modified by:
  - (1) Reducing the solid wall height to a maximum of 1600mm above floor level;
  - (2) Increasing the vertical height of the opening by extending the opening to the level of the floor slab above;
  - (3) Increasing the horizontal width of the opening by extending the opening to within 500mm of the northern edge of the panel; and
  - (4) Adding a second opening, reflective of the first opening, on the eighth floor of the building.
- (H) The water serving the water features shall be:
  - (1) recycled in a continuous circuit by means of pumping;
  - (2) drawn and replenished from a sustainable water source harvested from stormwater and rainfall collected in on-site storage facility. Potable water from the mains supply shall not be used.
- (ii) The car parking bays shall be allocated to the respective dwellings as shown on the approved drawings.
- (iii) Perforations or openings in any of the visual privacy screening shall not comprise more than 20% of the surface area of the screen.
- (iv) Prior to the issuing of a Certificate of Occupancy or Classification for the completed development, the City requires a signed Compliance Certificate from a registered Building Surveyor or other appropriate professional on behalf of the Building Owner or Owners certifying that the building has been constructed in accordance with the approved drawings with respect to plot ratio floor area, setbacks from all boundaries of the site and overall building height.

(c) **Standard Advice Notes**

641 (subdivision), 645, 646, 646A, 647, 648, 649A, 651

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

- (i) Engineering Infrastructure
  - (A) The City's Engineering Infrastructure Department will require a comprehensive dewatering plan / strategy, prior to the issue of a Building Licence. A dewatering licence may require a bond to cover replacement of the "jockey" pump for premature failure or call out charges to re-set the system;
  - (B) Stormwater drainage is to be designed in accordance with the requirements of Policy P415 "Stormwater Drainage Requirements for Proposed Buildings" and associated Management Practice for the Mill Point Precinct. A drainage design is to be submitted by a Hydraulics Engineer detailing the system including on site storage. The ability to store stormwater run off from the design event on site for re-use is encouraged. The stormwater drainage system is to be designed for a 1:10 year Annual Recurrence Interval (ARI). Soak wells can not be included in the design, other than for temporary detention purposes.

- (ii) Environmental Health
  - (A) The detailed design of the bin store will need to comply with all of the requirements contained within the City of South Perth Health Local Laws 2002 pertaining specifically to bin stores;
  - (B) The swimming pool will need to comply with all requirements of the Health Act (Swimming Pool) Regulations 1964. The builders will have to apply to the Department of Health (Applied Environmental Health) for swimming pool approval, prior to the issue of a building licence by the City.
- (iii) The applicants be advised that, if they elect to delete the water feature, Council would support the substitution of an alternative kind of decorative landscaping feature such as rockeries, sculpture or other urban artwork. If an alternative proposal of this kind is submitted, the Manager, Development Assessment be authorised to determine such application following consultation with the City's Design Advisory Consultants.

#### MOTION

Cr Maddaford moved the officer recommendation, Sec Cr Cala

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

##### Cr Maddaford opening for the Motion

- had briefings from developers on this development
- believe development proposed will be a 'breath of fresh air' / asset to City
- support approval

#### AMENDMENT

Moved Cr Jamieson, Sec Cr Best

That the officer recommendation be amended by the addition of the following **Specific Condition:** (b)(i)(H) the proposed water features shall be deleted.

##### Cr Jamieson opening for the Amendment

- Perth and Australia are in the grip of a water crisis, indication it is likely to get worse
- modern society holds the view that implementation of sustainable design measures to conserve water are more important in today's context than incorporating decorative water features in a development
- even if the proposal involves the use of recycled or harvested water, our society now expects water to be used sparingly as a precious resource

##### Cr Best for the Amendment

- support Cr Jamieson's view
- Council funded 'waterworks' program with schools as part of Fiesta
- believe this Council needs to incorporate sustainability into development conditions
- support the amendment

Cr Gleeson for the Amendment

- advised by designer that this is a 'green building' - that it is sustainable
- support this type of sustainable development situation
- believe great idea to have water features / use recycled water - enhances landscape
- if we 'ban' water features are we then going to ban pools / en suites
- need to implement measures to sustain same
- proposed water features will use recycled water
- we have our own recycled water - fountain at Windsor Park, McDougall Park, Collier Park Golf Course etc
- compliment developers on using recycled water
- against amendment to delete water features.

Cr Ozsdolay for the Amendment

- believe Cr Jamieson is correct - support his comments
- days of water features are behind us
- important the message we give - there are alternatives such as a piece of art
- opportunity for both City and developers to make a statement
- support the Amendment

Cr Jamieson closing for the Amendment

- applaud that it is a 'green' building
- talking about aesthetic features / artistic in value
- would give greater credibility to have something else other than a water feature

The Mayor put the Amendment

CARRIED (7/4)

Cr Hearne point of clarification - refer to page 23 of the Agenda and comments under the heading **Corner Truncation** - which states a conditions has been included in the recommendation which requires the excision of a standard corner truncation from the lot for inclusion in the adjacent road reserve. Which is the relevant condition?

**COUNCIL DECISION - CHANGE TO ORDER OF BUSINESS ITEM 10.3.1**

Moved Cr Trent, Sec Cr Smith

That the Order of Business be changed and Item 10.3.1 considered later in the Agenda to allow officers time to provide an answer to the question raised by Cr Hearne in relation to the corner truncation.

CARRIED (11/0)

**Note:** At this point in the meeting Items 10.3.2 and 10.3.5 were dealt with while officers researched a response to the question raised by Cr Hearne. (Note: Items 10.3.3, 10.3.4 were carried en bloc)

Director Strategic and Regulatory Services confirmed that the condition in the officer recommendation which refers to the required corner truncation is **Standard Condition** number: 575(5)(8.5m) contained on page 26 of the Agenda paper.

Cr Best point of clarification - on page 27 of the Agenda paper, in particular, **Specific Condition** (b)(ii) relating to car parking bays, is this approved under the Australian standard or TPS6?

Director Strategic and Regulatory Services read aloud from the memo dated 18 July circulated to Councillors which provided a response in relation to this question raised at the July Council Agenda Briefing:

*In response to questions raised in relation to TPS6 vs AS/NZ Standards - Town Planning Scheme 6 is dominant over AS/NZS 2890.1 : 2004 - Parking Facilities, however Council has discretion under TPS 6 (Clause 7.8) to approve the car parking configuration proposed. The report at Item 10.3.1. indicates that the City's planning team is satisfied with the car parking configuration proposed on the basis that it complies with AS/NZS 2890.1 : 2004 - Parking Facilities. The AS/NZ standard appears to be the preferable benchmark for parking facilities. The exercise of discretion is also reflected in recommendation 10.3.1(b)(ii)*

AMENDMENT

Moved Cr Best, Sec Cr Smith

That **Specific Condition (b)(ii)** of the officer recommendation be amended to read as follows:

- (b)(ii) The dimensions of the car parking bays shall fully comply with Town Planning Scheme No. 6 and shall be allocated to the respective dwellings as shown on the approved drawings.

Cr Best opening for the Amendment

- residents want to be able to get out of cars without hitting the car/column next to them
- Town Planning Scheme No. 6 contains better provisions than Australian Standards
- do not believe it is up to developers to go with a lesser standard
- car bays need to be sufficiently wide enough to be able to open car door without leaving paint on adjoining vehicle or column
- support Amendment

Cr Smith for the Amendment

- support Cr Best - refer Stone Street issue with car bays
- we operate under provisions of Town Planning Scheme No. 6
- if we are going to have a standard better to follow TPS6 than to chop between Australian standard and TPS6
- TPS6 is our Scheme - it is law
- until we alter provisions under TPS6 that is what we should stick to
- do not want ratepayers cross because car bays are not sufficiently wide enough to prevent reasonable opening of car doors
- support Amendment

Cr Gleeson point of clarification - refer page 21 of the Agenda section (g) - Why was this development recommended for approved using the Australian Standard ie what is the difference?

Director Strategic and Regulatory Services stated that the difference between the Scheme and the Australian Standard is that the Australian Standard requires an additional 300mm width to be provided where a column, wall or pier is adjacent to the side of a car bay within a central door opening zone, as opposed to the provisions of TPS6 which generically specifies a requirement for an additional 300mm width to be added to the side of a bay where situated adjacent to a column, wall or pier irrespective of location.

Cr Cala against the Amendment

- possibly a misleading comment referring to Australian Standard
- under Town Planning Scheme there is a element of common sense
- position of column in relation to cars / car doors can be opened without difficulty - refer to drawings
- cannot support as no detrimental effect - has a gap between two columns
- no doubt amendment proposed well intentioned
- designers have designed problem out by position of columns
- need to exercise the common sense approach
- against the amendment

Cr Best closing for the Amendment

- during my time on Council have been conscious Town Planning Scheme is paramount
- developers crimp a bit here and there - columns will still be there
- implore you to uphold Town Planning Scheme - make decision accordingly
- support Amendment

The Mayor put the Amendment.

CARRIED (6/5)

Cr Jamieson point of clarification how much of the balconies, for example on the top floor, are actually enclosed ie not considered in plot ratio?

Director Strategic and Regulatory Services referred to page 19 of the Agenda and in particular the second paragraph under item (c) Plot Ratio.

Cr Jamieson against the Motion

- in relation to plot ratio - balconies not included if there is an opening
- we have balconies on each floor / part enclosed
- occurs to me if you have 2m wide balcony not open it needs to be included in plot ratio
- on average we have a significant area of each balcony eg average 15 sq.m
- areas that are actually blocked in need to be included in plot ratio
- if areas not open they need to be included in plot ratio
- against the Motion

Mayor Collins - what I am hearing is a situation that occurred in Heppingstone Street where a decision was made at SAT in relation to enclosed balconies and the Councillor is alluding to that decision. My understanding is it has to be specific as to what areas it actually covers.

Director Strategic and Regulatory Services - the R Codes say to be exempt balconies must be open on at least two sides.

Cr Best point of clarification - how can it be 'enclosed' on two sides?

Acting Manager Development Assessment advised that there is a wall and glass panel taking up two sides with the remaining two sides of the balconies remaining open.

Director Strategic and Regulatory Services stated that the officer who made the calculations is on leave, however, as indicated in his report no part of the balconies is included in the plot ratio calculations which indicates that the balconies are open on two sides.

Cr Jamieson point of clarification - why is the purple rendered area not included in the plot ratio?

Director Strategic and Regulatory Services referred to page 26 of the Agenda page and in particular Condition (G) of the officer recommendation which states:

- (G) *The portion of the purple coloured rendered wall panel on the eastern face of the building shall be modified by:*
- (1) *Reducing the solid wall height to a maximum of 1600mm above floor level;*
  - (2) *Increasing the vertical height of the opening by extending the opening to the level of the floor slab above;*
  - (3) *Increasing the horizontal width of the opening by extending the opening to within 500mm of the northern edge of the panel; and*
  - (4) *Adding a second opening, reflective of the first opening, on the eighth floor of the building.*

Cr Maddaford - it is a pity all Councillors do not come to Briefing Sessions where these questions could have been made clear to them - questions that are now being asked again and again.

Cr Maddaford closing for the Motion

- amicable discussions held at briefing with developer / went over all these questions raised
- only sticking point with proposal raised at the briefing was the water feature
- believe building proposed will be an attractive addition to City of South Perth
- looking down from Kings Park this building will provide a land mark
- we have brilliant architects in this City being hampered by lay people
- support Motion

<b>COUNCIL DECISION ITEM 10.3.1</b>
-------------------------------------

The Mayor put the Motion

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for 13 Multiple Dwellings on Lot 5 (No. 4) Scott Street, cnr Stone Street, South Perth **be approved**, subject to:

(a) **Standard Conditions**

340 (eastern), 351, 352, 353, 376, 377, 390, 393 (Scott Street and Stone Street), 416, 445, 446 (building), 457, 465, 470, 471, 509, 510 (10), 550, 575 (5)(8.5m), 625, 660.

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

- (i) Revised drawings shall be submitted, and such drawings shall incorporate the following:
  - (A) A reduction of the plot ratio floor area contained within the building by 9 sq.metres to a figure not exceeding 1897.5 sq.metres;
  - (B) An increase in the minimum setback of balconies from the Scott Street frontage of the site from 2.8 metres as proposed to a minimum of 3.0 metres;
  - (C) Pedestrian paving between the building and visitor car bay 31 shall be flush with the adjacent vehicular paving in order to accommodate vehicular egress from visitor car bay 29;
  - (D) The 1650mm high screen which is provided above the 6.2 RL pool deck shall return around the planter which is situated in line with the northern face of the pool plant room as marked in red on the approved drawings;



- (E) Visual privacy screening shall be provided to the southern face of the “shaded area” adjacent to the conference room on the first floor of the building;
  - (F) Demonstrate compliance with the visual privacy provisions of the R-Codes in relation to the southern face of the ninth floor roof deck, or alternatively, provide screening to the southern face of the ninth floor roof deck which satisfies the screening requirements of the R-Codes while also maintaining compliance with the maximum permissible building height.
  - (G) The portion of the purple coloured rendered wall panel on the eastern face of the building shall be modified by:
    - (1) Reducing the solid wall height to a maximum of 1600mm above floor level;
    - (2) Increasing the vertical height of the opening by extending the opening to the level of the floor slab above;
    - (3) Increasing the horizontal width of the opening by extending the opening to within 500mm of the northern edge of the panel; and
    - (4) Adding a second opening, reflective of the first opening, on the eighth floor of the building.
  - (H) The proposed water features shall be deleted.
- (ii) The dimensions of the car parking bays shall fully comply with Town Planning Scheme No. 6 and shall be allocated to the respective dwellings as shown on the approved drawings.
  - (iii) Perforations or openings in any of the visual privacy screening shall not comprise more than 20% of the surface area of the screen.
  - (iv) Prior to the issuing of a Certificate of Occupancy or Classification for the completed development, the City requires a signed Compliance Certificate from a registered Building Surveyor or other appropriate professional on behalf of the Building Owner or Owners certifying that the building has been constructed in accordance with the approved drawings with respect to plot ratio floor area, setbacks from all boundaries of the site and overall building height.
- (c) **Standard Advice Notes**  
641 (subdivision), 645, 646, 646A, 647, 648, 649A, 651
- |                  |  |
|------------------|--|
| <b>Footnote:</b> | A full list of Standard Conditions and Advice Notes is available for inspection at the Council Offices during normal business hours. |
|------------------|--|
- (d) **Specific Advice Notes**
- (i) Engineering Infrastructure
    - (A) The City’s Engineering Infrastructure Department will require a comprehensive dewatering plan / strategy, prior to the issue of a Building Licence. A dewatering licence may require a bond to cover replacement of the “jockey” pump for premature failure or call out charges to re-set the system;
    - (B) Stormwater drainage is to be designed in accordance with the requirements of Policy P415 “Stormwater Drainage Requirements for Proposed Buildings” and associated Management Practice for the Mill Point Precinct. A drainage design is to be submitted by a Hydraulics Engineer detailing the system including on site storage. The ability to store stormwater run off from the design event on site for re-use is encouraged. The stormwater drainage system is to be designed for a 1:10 year Annual Recurrence Interval (ARI). Soak wells can not be included in the design, other than for temporary detention purposes.



- (ii) Environmental Health
  - (A) The detailed design of the bin store will need to comply with all of the requirements contained within the City of South Perth Health Local Laws 2002 pertaining specifically to bin stores;
  - (B) The swimming pool will need to comply with all requirements of the Health Act (Swimming Pool) Regulations 1964. The builders will have to apply to the Department of Health (Applied Environmental Health) for swimming pool approval, prior to the issue of a building licence by the City.
- (iii) The applicants be advised that, if they elect to delete the water feature, Council would support the substitution of an alternative kind of decorative landscaping feature such as rockeries, sculpture or other urban artwork. If an alternative proposal of this kind is submitted, the Manager, Development Assessment be authorised to determine such application following consultation with the City's Design Advisory Consultants.

CARRIED (7/4)

**NOTE: CRS JAMIESON AND BEST REQUESTED THAT THEY BE RECORDED AS HAVING VOTED AGAINST THE MOTION**

Reasons for Change

1. **Specific Condition (H)** in relation to the water feature **deleted**. Perth and Australia are in the grip of a water crisis with indications that it is likely to get worse. Our modern society holds the view that implementation of sustainable design measures to conserve water are more important in today's context than incorporating decorative water features in a development. Even if the proposal involves the use of recycled or harvested water, our society now expects water to be used sparingly as a precious resource.
2. **Specific Condition (b)(ii)** amended as Members endorsed the car bays being fully compliant with the Town Planning Scheme No. 6.

<p><b>10.3.2 Request for Re-Consideration of Condition of Planning Approval for Additions / Alterations to Grouped Dwelling. Lot 28 (No. 1/111) Welwyn Avenue, Salter Point.</b></p>
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Location:	Lot 28 (No. 1/111) Welwyn Avenue, Salter Point
Applicant:	Mr J Williams
Lodgement Date:	27 June 2007
File Ref:	11.2006.550.1 WE1/111 - 11/278
Date:	2 July 2007
Author:	Stephanie Radosevich, Trainee Planning Officer
Reporting Officer:	Steve Cope, Director Strategic and Regulatory Services

**Summary**

On 12 June 2007, planning approval was granted under delegated authority for additions / alterations to the front Grouped Dwelling on Lot 28 (No. 1/111) Welwyn Avenue, Salter Point. The applicants have requested reconsideration of Condition 2 of that approval, which requires that:

*"The proposed materials and external finish of the roof to the front existing dwelling shall match that of the existing rear dwelling, details of which shall be provided with the working drawings, prior to the issuing of a building licence."*

**Background**

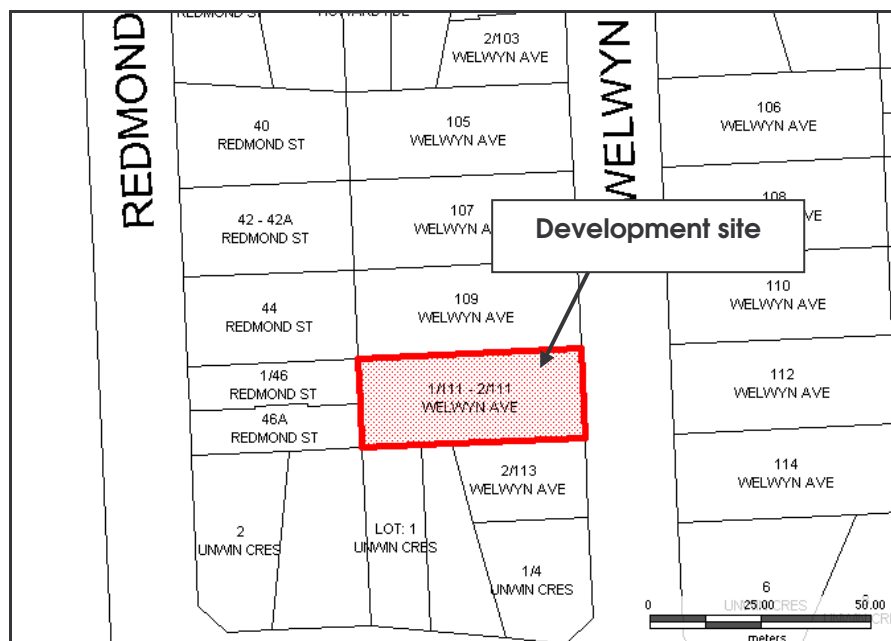
This report includes plans of the proposed development referred to as *Confidential Attachment 10.3.2*.

The development site details are as follows:

<b>Zoning</b>	Residential
<b>Density coding</b>	R20
<b>Lot area</b>	1012 sq. metres
<b>Building height limit</b>	7.0 metres
<b>Development potential</b>	2 Grouped Dwellings (as existing)
<b>Plot ratio</b>	Not applicable

In accordance with normal procedure, the planning approval offered a right of review at a Council meeting if the applicant was aggrieved by the delegated decision. The applicant has requested that this review process be implemented.

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



**Comment**

**(a) Description of the proposal**

Planning approval has been granted for the addition of a new garage and other minor ancillary works to the existing dwelling.

The existing dwelling is constructed with a tiled roof. The property owner wishes to construct the proposed garage with a colorbond metal roof and re-roof the remainder of the roof of the main dwelling with the same colorbond metal. The selected colour is “Woodland Grey” which is a dark grey colour. The existing rear dwelling has an orange tiled roof.

As previously identified, Condition 2 of the planning approval for the additions / alterations for the front Grouped Dwelling, requires that:

*“The proposed materials and external finish of the roof to the front existing dwelling shall match that of the existing rear dwelling, details of which shall be provided with the working drawings, prior to the issuing of a building licence.”*

This condition was imposed in order to achieve compliance with both an objective and a specific provision of Council’s Planning Policy No. P370\_T “General Design Guidelines for Residential Development”.

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

The Policy objective seeks to enhance residential amenity standards generally, with the Policy provisions offering specific guidance as to Council’s expectations in this respect. The specific relevant policy provision is expressed in the following manner:

*“Where proposed dwellings are to be located behind one another, or behind an existing house, all dwellings, including the existing house shall match each other.”*

The proposed roof colour and material does not match the existing rear dwelling with respect to material nor colour.

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

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

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

**(d) 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:

*(f) any planning policy, strategy or plan adopted by the Council under the provisions of Clause 9.6 of this Scheme;*

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

*(n) the extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area, in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details.*

**Consultation**

Neighbour consultation

Although neighbour consultation was undertaken during the assessment of the application for planning approval in relation to a proposed setback variation, neighbour consultation has not been undertaken specifically in relation to the matter which is the subject of Council’s current consideration.

**Policy and Legislative Implications**

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

**Financial Implications**

The issue has no impact on this particular area.

**Strategic Implications**

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

<b>OFFICER RECOMMENDATION ITEM 10.3.2</b>
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That, in respect of the planning approval dated 12 June 2007 issued for proposed additions and alterations to an existing Grouped Dwelling on Lot 28 (No. 1/111) Welwyn Avenue, Salter Point, the applicant be advised that Council is not prepared to delete Condition 2 of the planning approval which requires the selected external materials and colour finish to demonstrate compatibility with the existing rear dwelling, as it is considered that the proposed development does not have any unique attribute that would justify a departure from the provisions of Council’s Policy P370\_T “General Design Guidelines for Residential Development”.

OFFICER RECOMMENDATION

The Mayor called for a mover of the officer recommendation. The officer recommendation Lapsed.

MOTION

Moved Cr Ozsdolay, Sec Cr Hearne

That...

- (a) the officer recommendation not be adopted;
- (b) in respect of the planning approval dated 12 June 2007 issued for proposed additions and alterations to an existing Grouped Dwelling on Lot 28 (No. 1/111) Welwyn Avenue, Salter Point, Condition 2, which requires the external materials and colour finish to demonstrate compatibility with the existing rear dwelling, be deleted.

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Ozsdolay opening for the Motion

- heard Deputation at Agenda Briefing
- anticipate change / policy discussed at length in Council
- alternative Motion reflects proposed new policy
- unreasonable not to give applicant benefit of new policy proposed

Cr Hearne for the Motion

- endorse Cr Ozsdolay’s comments
- support Motion

**COUNCIL DECISION ITEM 10.3.2**

The Mayor put the Motion

That ....

- (a) the officer recommendation not be adopted;
- (b) in respect of the planning approval dated 12 June 2007 issued for proposed additions and alterations to an existing Grouped Dwelling on Lot 28 (No. 1/111) Welwyn Avenue, Salter Point, Condition 2, which requires the external materials and colour finish to demonstrate compatibility with the existing rear dwelling, be deleted.

CARRIED (11/0)

Reason for change

The officer recommendation quite correctly reflects current policy but this alternative Motion reflects the suggested draft policy. This proposed change to policy has been initiated at the request of Council and is consistent with approvals granted by Council in recent times.

**10.3.3 Proposed Additions / Alterations to Single House. Lot 57 (No. 87) Brandon Street, Kensington.**

Location: Lot 57 (No 87) Brandon Street, Kensington  
Applicant: Mr M Kinsella  
Lodgement Date: 12 April 2007  
File Ref: 11.2007.162.1 BR2/87  
Date: 2 July 2007  
Author: Simon Bain, Planning Consultant  
Reporting Officer: Steve Cope, Director, Strategic and Regulatory Services

**Summary**

This application for planning approval is for additions and alterations to an existing single house at Lot 57 (No. 87) Brandon Street, Kensington. The recommendation is for approval subject to relevant conditions.

**Background**

The development site details are as follows:

<b>Zoning</b>	Residential
<b>Density coding</b>	R15
<b>Lot area</b>	736 sq. metres
<b>Building height limit</b>	7.0 metres
<b>Development potential</b>	One Single House
<b>Maximum plot ratio</b>	Not Applicable

This report includes the following attachments:

- Confidential Attachment 10.3.3(a)** Plans of the proposal.
- Attachment 10.3.3(b)** Submission by owner dated 15 June 2007.

The location of the development site is shown below:



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

**1. The exercise of a discretionary power**

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

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

**2. Amenity impact**

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

In relation to Items 1 and 2 above, the extent of amenity impact arising from the proposal will be the impact of the design of the proposed additions, comparative to the design of the existing dwelling. Whereas the existing weatherboard cottage is constructed of weatherboard and hardiflex wall cladding with a hipped metal roof, the walls of the proposed addition are intended to be constructed of colorbond metal with a 'reverse skillion' metal roof. Policy P370\_T "General Design Guidelines for Residential Development" states that "additions and alterations to an existing building shall be designed in such a way that they match that existing building."



**Comment**

**(a) Description of the proposal**

The proposal is for demolition of the existing carport structures to the side of the dwelling and construction of a new carport with a skillion roof and addition of two bedrooms, bathroom and family / dining area and an alfresco area at the rear of the dwelling. The proposal retains the existing weatherboard dwelling.

**(b) Skillion roof carport**

The skillion roof is located well back from the street and as such will not impact on the streetscape. In addition the structure replaces two existing carport structures that are not as sympathetic to the existing dwelling in terms of design. The Design Advisory Architects made no comment concerning the skillion roofed carport.

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

Having regard to the preceding comments, in terms of the general objectives listed within Clause 1.6 of TPS6, the proposal is considered to broadly meet the following objectives:

- (a) Maintain the City's predominantly residential character and amenity;*
- (c) Facilitate a diversity of dwelling styles and densities in appropriate locations on the basis of achieving performance-based objectives which retain the desired streetscape character and, in the older areas of the district, the existing built form character;*
- (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;*
- (k) Recognise and preserve areas, buildings and sites of heritage value.*

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

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

- (a) the objectives and provisions of this Scheme, including the objectives and provisions of a Precinct Plan and the Metropolitan Region Scheme;*
- (b) the 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;*
- (c) the provisions of the Residential Design Codes and any other approved Statement of Planning Policy of the Commission prepared under Section 5AA of the Act;*
- (f) any planning policy, strategy or plan adopted by the Council under the provisions of clause 9.6 of this Scheme;*
- (i) the preservation of the amenity of the locality;*
- (j) all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*

- (n) *the extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area, in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details.*

### **Consultation**

**(a) Neighbour consultation**

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Policy P104 “Neighbour and Community Consultation in Town Planning Processes”. The owner of the adjoining property at No. 89 Brandon Street was invited to inspect the application and to submit comments during a 14-day period with respect to a proposed setback variation adjacent to south-eastern (left hand side) of the development site. No comments were received in response to this notification, and it is recommended that the proposed setback variation adjacent to the south-eastern property boundary be approved as proposed.

**(b) Design Advisory Consultants’ comments**

The design of the proposal was considered by the City’s Design Advisory Consultants at their meeting held on 21 May 2007. The proposal was favourably received by the consultants and the following suggested design modifications made:

- Suggest a more defined break between the old and new; i.e. around 900mm by 300mm.
- Provide a negative detail on one side only (in the vicinity of Bed 2).

It is recommended that the comments of the DAC be conveyed to the applicant by way of a footnote on the Council’s determination.

### **Policy and Legislative Implications**

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

### **Financial Implications**

The issue has no impact on this particular area.

### **Strategic Implications**

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

### **Conclusion**

The proposal will have no detrimental impact on adjoining residential neighbours, and is seen to meet relevant Scheme objectives. It is therefore recommended that approval be granted subject to relevant conditions and an advice note as to the Design Advisory Architects suggested design modifications.

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

**OFFICER RECOMMENDATION AND  
COUNCIL DECISION ITEM 10.3.3**

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for additions and alterations to an existing Single House on Lot 57 (No. 87) Brandon Street, Kensington **be approved**, subject to:

(a) **Standard Conditions**  
377, 470, 471, 550, 660.

(b) **Standard Advice Notes**  
646, 648, 649A, 651.

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

(c) **Specific Condition:**  
An indentation measuring 900mm wide by 300mm deep shall be provided in the south-east facing wall of the proposed Bedroom 2 adjacent to the existing dwelling, as marked in "red" on the plan drawing, to create a visually pleasing connection between the existing building and the proposed additions.

CARRIED EN BLOC RESOLUTION

**10.3.4 Proposed Additions/Alterations to Grouped Dwelling (Conversion of Carport to Garage). Lot 3 (No. 1/34) Mary Street, Como.**

Location: Lot 3 (No. 1/34) Mary Street, Como  
Applicant: Mr S Fanderlinden  
Lodgement Date: 16 May 2007  
File Ref: 11.2007.220.1 MA8/34 - 11/2312  
Date: 2 July 2007  
Author: Stephanie Radosevich, Trainee Planning Officer  
Reporting Officer: Steve Cope, Director Strategic and Regulatory Services

**Summary**

This application for planning approval proposes the conversion of an existing carport to a garage to within the front setback area forward of a Grouped Dwelling at No. 1 / 34 Mary Street, Como.

The Officer report recommends that the application be refused, as the proposal does not promote the objectives contained within Policy P370\_T "Residential Design Guidelines" which is to preserve or enhance desired streetscape character, and to promote strong design compatibility between existing and proposed residential buildings. The proposal is also in conflict with the Acceptable Development provisions contained within Clause 3.2.3 (A3.5) "Set Back of Garages and Carports" of the Residential Design Codes 2002 and Council Policy P376\_T "Residential Boundary Walls". Additionally, the internal dimensions of the garage do not meet the 5.6 metre minimum width prescribed by Clause 6.3 "Car Parking" and Schedule 5 "Minimum Dimensions of Car Parking Bays and Accessways" of the City of South Perth Town Planning Scheme No. 6.

**Background**

This report includes plans of the proposed development referred to as *Confidential Attachment 10.3.4*.

The development site details are as follows:

<b>Zoning</b>	Residential
<b>Density coding</b>	R30/R40
<b>Lot area</b>	899 sq. metres
<b>Building height limit</b>	7 metres
<b>Development potential</b>	4 Grouped Dwellings
<b>Plot ratio</b>	Not applicable

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

1. **The exercise of a discretionary power**  
*Proposals involving the exercise of a discretionary power which, in the opinion of the delegated officer, should be refused. In this instance, the reason for refusal would be a significant departure from the No. 6 Town Planning Scheme, relevant Planning Policies or Local Laws.*
  
2. **Amenity Impact**  
*In considering any application, the delegated officers shall take into consideration the impact of the proposal on the general amenity of the area. If any significant doubt exists, the proposal shall be referred to a Council meeting for determination.*

The location of the development site is shown below. The site is adjoined by residential uses on all boundaries.



**Comment**

- (a) **Description of the proposal**  
 The proposal is for the conversion of a carport to a garage within the front setback area forward of the front dwelling of a group of 4. The proposed garage would be set back 2.9 metres from the street alignment.

**(b) Setbacks**

The applicant is requesting the Council to exercise discretion under the Performance Criteria set out in Clause 3.2.3 P3 of the R-Codes with respect to the following setback variations:

The 2.9 metre garage setback does not meet the Acceptable Development provisions contained within Clause 3.2.3 A3.5 “Set Back of Garages and Carports” of the R-Codes, which requires a setback of 4.5 metres from the primary street.

The associated Performance Criteria require:

*“The setting back of carports and garages so as not to detract from the streetscape or appearance of dwellings, or obstruct views of dwellings from the street and vice versa.”*

The proposed carport conversion does not satisfy the associated Performance Criteria as the garage has a much more imposing impact on the existing streetscape character than the existing carport.

**(c) Dimensions of car parking spaces**

The internal dimensions of the proposed garage do not meet the minimum width requirements specified in Town Planning Scheme No. 6. A 5.6 metre minimum width is required for the garage (clear of the face of any column, wall or pier), however an internal width of only 5.3 metres has been provided.

**(d) Policy P370\_T “General Design Guidelines for Residential Development”**

The objectives of Policy P370\_T seek to enhance the residential amenity standards generally, with the Policy provisions offering specific guidance as to Council’s expectation in this respect. The specific relevant policy provision is expressed in the following manner:

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

The proposed siting of a garage with a 2.9 metre setback from the front property boundary is not consistent with the established streetscape character within the Mary street “focus areas” (section of Mary Street between Ednah Street and Thelma Street).

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

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

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

**(f) 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:

- (c) the provisions of the Residential Design Codes and any other approved Statement of Planning Policy of the Commission prepared under Section 5AA of the Act;*
- (i) the preservation of the amenity of the locality;*
- (j) all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*
- (n) the extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area, in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details.*

**Consultation**

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

The design of the proposal was considered by the City's Design Advisory Consultants at their meeting held on 20 June 2007. Their comments are summarised below:

*The Advisory Architects recommended that rather than a solid side boundary wall and security door, that the security enclosure to the side and front the parking structure could be provided via open grille panels, without taking away from the openness of the streetscape.*

**(b) Neighbour consultation**

Neighbour Consultation has been undertaken for this proposal for the proposed boundary wall on the left side of the development site to the extent and in the manner required by Policy P104 "Neighbour and Community Consultation in Town Planning Processes". The owners and occupiers of the property at No. 32 Mary Street were invited to inspect the application and to submit comments during a 14-day period. During the advertising period no submissions were received in relation to the proposed development.

**Policy and Legislative Implications**

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

**Financial Implications**

The issue has no impact on this particular area.



**Strategic Implications**

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

<p><b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.3.4</b></p>
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That ...

- (a) pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for the conversion of a carport to a garage on Lot 3 (No. 1/34) Mary Street, Como **be refused** for the following reasons:
- (i) The proposal is in conflict with the provisions of Policy P376\_T “Residential Boundary Walls”, which generally requires a 6 metre minimum setback from the street alignment for boundary walls in lieu of the proposed 2.9 metre setback.
  - (ii) The proposal is in conflict with Clause 3.2.3 A3.5 “Set Back of Garages and Carports” of the Residential Design Codes of Western Australia 2002, which requires garages to be setback 4.5 metres from the street alignment, and does not satisfy the associated Performance Criteria contained within Clause 3.2.3 (P3) of the R-Codes.
  - (iii) The proposed garage width does not comply with the 5.6 metre minimum prescribed by the City of South Perth Town Planning Scheme No. 6.
  - (iv) The proposal is in conflict with Council Policy P370\_T “ General Design Guidelines for Residential Development”, as the siting of a garage within the front setback area is not consistent with the established streetscape character within the Mary Street focus area.
  - (v) Having regard to the matters identified in reasons (i - iv) above, the proposed development conflicts with the “Scheme Objectives” identified in Clause 1.6 of the City of South Perth Town Planning Scheme No. 6.
  - (vi) Having regard to the matters identified in reasons (i - iv) above, the proposed development conflicts with the “Matters to be Considered by Council” in Clause 7.5 of the City of South Perth Town Planning Scheme No. 6.
- (b) the applicant be advised that the City would be willing to consider an alternative proposal which incorporated “open grille” security panels to the side and front of the existing carport in order to retain the open appearance of the existing parking structure as advocated by the City’s Design Advisory Consultants (advisory architects).

CARRIED EN BLOC RESOLUTION

DECLARATION OF INTEREST : ITEM 10.3.5 : MAYOR COLLINS

*"I wish to declare a conflict of interest in Agenda Item 10.3.5 on the Council Agenda for the meeting to be held 24 July 2007. Due to my close association with Members of the Board of the South Perth Hospital in Fortune Street, South Perth I will leave the Council Chamber and not seek to discuss or vote on this matter."*

**Note:** Mayor Collins left the Council Chamber at 9.05pm.

Deputy Mayor Maddaford took the position as Chair.

<b>10.3.5 South Perth Hospital request for land purchase. Portion of Pt Lot 1 at eastern end of Burch Street, South Perth.</b>
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Location:	Portion of Pt Lot 1 at eastern end of Burch Street, South Perth
Applicant:	South Perth Hospital
Lodgement Date:	18 May 2007
File Ref:	CP.505 11/349
Date:	1 July 2007
Author:	Rod Bercov, Strategic Urban Planning Adviser
Reporting Officer:	Steve Cope, Director, Strategic and Regulatory Services

**Summary**

In September 2005 and June 2006, the Council granted planning approval for two similar applications for additions to the South Perth Hospital. In reviewing their expansion proposals before lodging a building licence application, the Hospital Board has found that essential infrastructure which had not been shown on the approved drawings, needs to be provided to support the intended expansion of Hospital facilities. They advise that this infrastructure cannot be accommodated on the Hospital site in the optimum manner. Therefore, they have submitted a request to purchase Council-owned land at the eastern end of Burch Street, adjoining the Hospital site ("the subject land"). If the Council supports this request in principle, rezoning would be necessary as the subject land is currently part of a "Parks and Recreation" reserve under the No. 6 Town Planning Scheme (TPS6).

The recommendation is that Council agrees 'in principle' to the sale of around 76% of the subject land, conditional upon the Hospital agreeing to meet all costs associated with their proposal. It is further recommended that, following receipt of the Hospital's agreement to meet the costs, the prerequisite statutory procedures be implemented, and that upon completion of those procedures, the land sale be executed.

**Background**

This report includes the following attachments:

- **Attachment 10.3.5(a)** Plans and elevations of the proposed infrastructure on the subject land.
- **Attachment 10.3.5(b)** Explanatory material from the Hospital and project architects.
- **Attachment 10.3.5(c)** Perspective photographs of proposed infrastructure on the subject land.
- **Attachment 10.3.5(d)** Plans and elevation of an alternative site for the infrastructure on the Burch Street frontage of the Hospital site.
- **Attachment 10.3.5(e)** Comparative photographs of the subject land, with and without proposed infrastructure.
- **Attachment 10.3.5(f)** Photographs of trees on the subject land and adjacent land to the north.
- **Attachment 10.3.5(g)** Plan 1 'Hospital's Land Purchase Proposal'; and Plan 2 'Extent of Land Sale Offer'.

Background information relating to the current request, the description of the subject land, and previous proposals for Hospital expansion is provided below:

**(a) Current land purchase request**

The subject land at the eastern end of Burch Street is owned by the City. In relation to the land purchase request, the South Perth Hospital submitted a letter of enquiry to the City on 2 February 2006. Since that time, the Hospital and the City have been communicating intermittently regarding the extent and details of the proposal. The land in question is described in Part (b) below. By letter dated 18 May 2007, the Hospital has confirmed that they wish to proceed with the purchase. The plans and elevations comprising **Attachment 10.3.5(a)** depict the infrastructure that the Hospital wishes to place on the subject land. This is further explained in the written submissions from the Hospital and the project architects (**Attachment 10.3.5(b)**). The perspective photographs comprising **Attachment 10.3.5(c)** provide a visual impression of the proposed works.

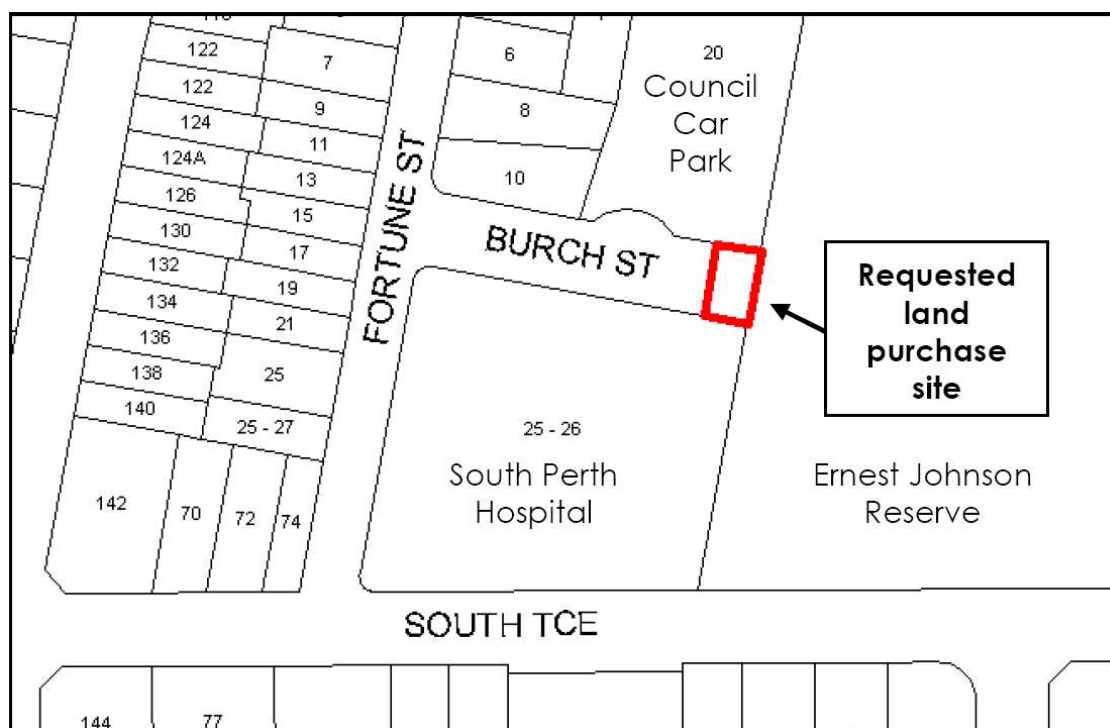
The need for upgraded fire service equipment is one of the factors that led to the Hospital's request to purchase the subject land. This need came to light as a result of comparatively recent advice from the Fire and Emergency Services Authority (FESA). At an earlier stage, in the context of the development approval issued in September 2005, FESA had advised that the existing available water pressure was adequate for fire service needs. However that department provided contrary advice more recently. The more recent FESA advice brought to light the need for the Hospital to have its own fire service water tanks and pumps.

**(b) Description of the subject land**

The details of the land which is the subject of the purchase request are as follows:

<b>Title particulars</b>	Portion of Pt Lot 1 on Certificate of Title Vol. 1792 Fol. 763. The balance of this lot comprises the Ernest Johnson car park.
<b>Ownership</b>	City of South Perth under freehold title.
<b>Zoning</b>	Park and Recreation Reserve (Local).
<b>Density coding</b>	Not applicable.
<b>Lot area</b>	Approximately 249 sq. metres.
<b>Building height limit</b>	7.0 metres.
<b>Permitted land use</b>	Uses related to the applicable Park and Recreation reservation of the land.
<b>Existing land use</b>	Public open space containing two large mature trees, grass, steps leading to the Ernest Johnson Reserve, and a 'No Standing' sign. Public utility services below ground level.

The location of the subject land is shown below:



The subject land is bounded by the South Perth Hospital to the south and a Council car park to the north. In the east - west direction, the site extends from the eastern end of Burch Street to the Ernest Johnson Reserve. The land in question is some 0.8 metres lower than the level of the adjoining Ernest Johnson Reserve. The change of level is managed by a gravel rock retaining wall. Concrete steps situated on the subject land provide pedestrian access to the higher level of the adjacent reserve.

Currently, the subject land is an area of grassed open space, partly occupied by two large mature trees. The land has been used in this manner for the past 14 years. Until early 1993, a paved access road was situated on the subject land. This access road extended down the east side of the Hospital and provided a link between South Terrace and the Ernest Johnson car park. The access road was removed when the strip of Council-owned land adjoining the eastern side of the Hospital was sold to the Hospital for expansion of the operating theatres. The subject land remains as a portion of the lot comprising the Ernest Johnson car park.

**(c) Previous development approvals and future application for Hospital expansion**

At the September 2005 meeting, the Council granted planning approval for two storey additions to the Hospital. In order to remain valid, the September 2005 approval requires construction to be substantially commenced by 27 September 2007.

The Hospital Board subsequently decided not to proceed with the September 2005 proposal and submitted a revised proposal comprising single storey additions and alterations, which was approved at the June 2006 Council meeting. In order to remain valid, the June 2006 approval would require construction to be substantially commenced by 27 June 2008. However the Hospital Board has decided not to proceed with that particular proposal.

In April 2007, in response to Council resolutions when the previous development proposals were approved in September 2005 and June 2006, the Hospital submitted the 'South Perth Hospital Master Plan' prepared by Planning Consultants. The Master Plan refers to the Hospital's request to purchase the subject land to accommodate infrastructure.

No further approvals have been granted since June 2006. However from recent discussions, it is anticipated that in the very near future, a further development application will be submitted, based on the September 2005 approval but with various modifications including the addition of the required infrastructure on the Hospital site.

While the required infrastructure could be accommodated on the Hospital site, the Hospital Board's clear preference is to place it on the Council-owned land they wish to purchase. If the Council supports the sale of some or all of the subject land, before the sale could take place, an amendment to the No. 6 Town Planning Scheme (TPS6) would be necessary, together with procedures under the *Local Government Act* for disposal of Council property. Due to the extended time period associated with these procedures and the uncertainty about the final outcome, the alternative development application would be submitted as a 'contingency plan' to ensure that the Hospital expansion can still proceed in the event that the Scheme Amendment and the land sale are not finally approved.

If the Hospital does acquire some or all of the subject land, at the conclusion of the prerequisite statutory processes, another development application would need to be lodged for the proposed infrastructure, brick fencing and other works.

### **Comment**

#### **(a) Infrastructure proposed to be located on the additional land**

Should the Hospital's request be supported, and construction proceed in the manner indicated on the submitted drawings, this would require the removal of two large mature trees. This issue is discussed further below. The proposed infrastructure, perimeter fencing and security enclosures are described as follows:

##### **(i) Description of infrastructure**

- Fire service equipment required by the Fire and Emergency Services Authority of WA (FESA). This equipment comprises two fire management water tanks and associated pumps. The submitted plan also shows an area intended to accommodate additional fire management water tanks, if required in the future.
- Medical oxygen bulk storage vessel. This facility will reduce oxygen delivery to approximately once every three to four weeks. A 24-hour oxygen supply is separately stored in the medical gas storage area on the Hospital site, in compliance with the current Australian Standard.
- Two air conditioner chillers. The proposed additional operating theatres will require upgrading of air conditioning services generally, and the new chillers would be located on the subject land in conjunction with this upgrading.

##### **(ii) Description of perimeter fencing and boundary walls**

The perimeter fencing and boundary walls would all be of brick construction, with open metal grille panels in the fencing. The various portions of fencing and boundary walls are described as follows:

East side on boundary of Ernest Johnson Reserve:

- 1.8 metres high for a length of 12.1 metres;
- two open grille panels each 1.4 metres high and 1.0 metre wide; and
- 2.25 metre high parapet wall 5.9 metres long forming part of a flat-roofed building containing the fire pumps.

North side facing Council car park:

- 3.1 metre high parapet wall 4.6 metres long forming part of the flat-roofed building containing the fire pumps;
- an open grille panel 1.9 metres high and 0.9 metres wide; and
- 2.4 metres high for a length of 6.9 metres.

West side facing Burch Street:

- 2.4 metres high for a length of 7.3 metres;
- an open grille panel 1.9 metres high and 1.0 metre wide;
- 1.95 metres high for a length of 4.2 metres;
- a pair of gates 1.95 metres high and 4.5 metres wide; and
- a pair of gates 3.95 metres high and 2.9 metres high.

**(iii) Description of security enclosures within the compound**

It is proposed that the fire pumps would be located in a flat-roofed building in the north-eastern corner of the compound adjacent to the Ernest Johnson Reserve. The parapet walls would be taller than the brick fencing enclosing the compound. Apart from the greater height, the fire pump building would be indistinguishable from the adjacent perimeter fencing. Construction of this building will require the removal of the existing steps and construction of replacement steps further north.

The oxygen bulk storage vessel would also be located in a separate flat-roofed enclosure in the south-western corner of the compound. This enclosure would consist of 4.0 metre high masonry walls on three sides with panelled metal gates providing access to Burch Street.

**(b) Issues to be considered in relation to purchase request**

In arriving at a decision as to whether to sell the subject land to the Hospital for the intended use, the Council should consider the following issues:

**(i) Master Plan**

When approving the development applications for Hospital additions in September 2005 and in June 2006, the Council resolved that, prior to the submission of any further development applications, the Hospital was to submit a Master Plan / Impact Assessment Report addressing a broad range of issues relating to the future needs of the Hospital. The current land purchase request relates to expansion proposals already approved by the Council.

On 10 April 2007, the "South Perth Hospital Master Plan" was submitted by Planning Consultants, Peter D Webb and Associates. It contains the following comments in relation to the subject land:

*"This plan also acknowledges that the Hospital has recently approached the City with a proposal for the Hospital to acquire a small parcel of land (approximately 245 sq. metres) situated at the eastern end of Burch Street, adjacent to the north-eastern corner of the Hospital and between it and the public car park to the north of Burch Street. Following the City's agreement to this and the necessary Scheme Amendment which would zone the land*



*appropriately, the hospital would be anxious to progress a proposal to relocate some of its ancillary equipment and facilities out of the Hospital complex, onto this site. The freed up space within the existing Hospital complex is likely simply to be used to expand already existing, surrounding approved uses rather than introduce new uses or those which might result in additional beds being installed in the Hospital.”*

**(ii) Alternative options investigated by the Hospital**

The required infrastructure could be accommodated on the Hospital site. However, in that event, the Hospital says the design solution would be less satisfactory than the design outcome if infrastructure is placed on the subject land. If the current land purchase request is not approved, the Hospital would accommodate the fire pumps and tanks in the service yard adjacent to Burch Street. The project architects advise that this is the only potentially suitable alternative location on the Hospital site.

The plans and elevation comprising **Attachment 10.3.5(d)** depict possible accommodation of the fire service equipment in the alternative location on the Burch Street frontage of the Hospital site. To facilitate early commencement of their expansion project, the Hospital will be submitting a new development application incorporating the fire service equipment in this alternative location. In support of that application, the conceptual Burch Street elevation comprising **Attachment 10.3.5(d)** will need to be refined to improve the design. Side elevation drawings showing the fire service equipment in this alternative location would also need to be submitted.

The siting of the fire service equipment on the Burch Street frontage of the Hospital site would provide a functional solution. However the Hospital representatives consider this to be an inferior option due to -

- structural concerns in relation to the size of the water tanks and fire pumps, if the . tanks need to be placed above the pump room due to space constraints;
- the visual impact of the resultant screened enclosure measuring 9.0 metres in length and 5.0 metres in height;
- noise generated by the equipment possibly being an issue if located closer to existing residences;
- this location providing no space for increasing capacity of the water tanks or the air conditioning chillers at a later stage, if required.

**(iii) Existing amenity value of the land**

The subject land provides visual relief between the Hospital complex to the south and the large car park to the north. It also provides an unimpeded vista towards the Ernest Johnson Reserve from Burch Street and from the Fortune Street houses. From the Reserve, the subject land also provides an open view towards Burch Street. In terms of the visitor approach to the Hospital, the subject land enhances the appearance of the northern elevation of the Hospital which contains a heavily used visitor entrance.

In close proximity to the subject land there is a children’s playground on the adjacent Ernest Johnson Reserve. The subject land provides an opportunity for visual surveillance of the playground from Burch Street.

Due to its location, the existing use of the land has high amenity value as an important piece of passive open space.



**(iv) Visual impact of proposed infrastructure**

Boundary fences higher than 1.8 metres can have an excessively dominant visual impact. For this reason, clause 6.7 of TPS6 restricts the height of any boundary fence to a maximum of 1.8 metres unless Council expressly approves a greater height. Significant portions of the proposed screen fencing and security enclosure boundary walls are higher than 1.8 metres. The most dominant parts are the buildings housing the fire pumps and the oxygen tank in the north-eastern and south-western corners of the compound. The fire pump building would be clearly visible from the Council car park and Ernest Johnson Reserve, where the eastern wall would be 2.3 metres high and the northern wall 3.1 metres high. The 4.0 metre high oxygen tank enclosure would be more than double the standard 1.8 metre fence height. The western boundary fence would abut the road kerb at the end of Burch Street, leaving no space for landscape screening.

If the development on the subject land were to proceed in the manner indicated on the submitted drawings, this would totally transform the character of the locality. Any construction which involves the removal of the two existing mature trees and obstructs the existing vistas to and from the Reserve, would have an adverse impact on the existing character of the land. The current proposal involving portions of the perimeter walls and fences substantially exceeding 1.8 metres in height, would have an even greater impact. **Attachment 10.3.5(e)** comprises photographs showing the appearance of the site at the present time, compared with its appearance if the current proposals are implemented. While there may be a need for the infrastructure to be placed on the subject land, it is considered that the visual impact of the current proposal is not acceptable.

The unacceptable visual impact could be ameliorated to some extent if the proposal were modified, with the east-west dimension of the compound reduced sufficiently to retain and protect the two existing mature trees and to provide space for additional landscape screening. This suggestion is discussed further below.

**(v) Existing trees on the land and adjoining reserves**

Two large and mature trees are situated near the western perimeter of the subject land. Another mature tree is situated to the north of the subject land near the Council car park. These three trees are further described as follows:

**(A) Jacaranda**

A Jacaranda tree is situated near the southern end of the subject land close to the Hospital in the location designated for the medical oxygen storage vessel and entry gates to the compound. If development were to proceed in accordance with the submitted concept plan, this tree would need to be removed.

**(B) Kurrajong**

A large Kurrajong tree is situated centrally near the western perimeter of the subject land, approximately 3.0 metres north of the entry gates to the compound. If development were to proceed in accordance with the submitted concept plan, this tree would also need to be removed.

**(C) Marri**

A large Marri tree is situated beyond the northern boundary of the subject land near the steps leading to the Ernest Johnson Reserve. If development were to proceed in accordance with the submitted concept plan, this tree would be preserved.

A Box tree, smaller than those referred to above, is situated some 8.0 metres to the north of the subject land close to the Council car park. This tree would not be affected by the proposal under consideration. **Attachment 10.3.5(f)** presents photographs of the two trees on the subject land and the other two trees north of the subject land.

The trees described above have high amenity value, add character to the locality and, having regard to the City's commitment to environmental and social sustainability, City Officers consider that all of the existing trees should be preserved. Therefore, in order to preserve all trees, if the Council supports the Hospital's request to any extent, a lesser amount of land than the requested land area would be transferred to the Hospital. To avoid damage to the trees and the proposed infrastructure, the Manager, City Environment advises that the perimeter fence of the infrastructure compound must be no closer than 2.0 metres from the trunks of the Jacaranda and Kurrajong trees. This would require a new design for the disposition of the infrastructure and perimeter fences.

**(vi) Noise**

The project architects have provided the following information on the noise level generated by the fire pumps when being serviced or tested, and the air conditioning chillers:

The fire pumps would be the most significant noise source. Unattenuated, the diesel engine would generate 88 dBA, equating to the noise level of a domestic lawn mower. The exhaust would generate 78 dBA. The pumps need to be tested weekly for a duration of 5 minutes in accordance with Australian Standard AS 1851. The actual noise level would be significantly lower because the pumps will be housed in a roofed, brick-walled enclosure.

The electric pumps on the water tanks would not be attenuated, however, these generate far less noise than the diesel pumps.

The combined noise of the two air conditioning chillers would be 78 dBA at a constant level. The submitted drawings show that noise from the chillers would not be further attenuated. The chillers are proposed to be located alongside the brick fence on the Ernest Johnson Reserve boundary. They would be approximately 60 metres from the closest residence. The existing chiller is located in a similar position and generates 75 dBA.

Comments from the Manager, Environmental Health and Regulatory Services regarding noise from the infrastructure are contained in the 'Consultation' section of this report.

**(vii) Access and servicing**

The infrastructure plan submitted by the Hospital shows vehicular gates providing access to the compound from the end of Burch Street. As previously described, a pair of gates will individually serve the separate enclosure housing the oxygen bulk storage vessel and a second pair of gates will provide access to the main compound for servicing the fire equipment and air conditioning chillers. One objective of installing the oxygen vessel is to reduce the frequency of delivery to once every three to four weeks. It is understood that oxygen deliveries currently occur on a daily basis.

For the purpose of servicing, it will be necessary for vehicles to reverse up to or through the gateways at the end of Burch Street. The City's Manager, Engineering Infrastructure advises that the main access point should be located between the Kurrajong tree and the street light pole, positioned to ensure that service vehicles will not obstruct the existing car park at any time.

(c) **Statutory processes and Hospital Board's obligations**

If Council wishes to support the Hospital's request, the following statutory and administrative processes need to be followed:

(i) **Land valuation**

Having regard to the provisions of section 3.58 of the *Local Government Act 1995* discussed in detail below, before presenting the Hospital's request to the Council, it was necessary to obtain a valuation of the subject land. The City originally obtained a valuation from a land valuer with experience in the locality. In June 2006, the valuer advised that, based on the limited available comparative commercial sales evidence, the subject land would have an approximate market value of \$800 to \$850 per square metre. This valuation was based on a land area of 239 sq. metres. He therefore concluded that, based on a value of \$800 per sq. metre, the subject land would have a minimum value of \$190,000.

In considering the original valuation, it should be noted that, firstly, the land area referred to is slightly smaller than the currently proposed land area. Secondly, the nominated value is based upon the lower estimate of the 'per square metre' value of the land. The land area now under consideration is 249 sq. metres. This figure has been arrived at through more accurate measurement based on dimensions depicted on the Certificate of Title for the subject land. Using the land area of 249 sq. metres, and the valuer's higher 'per square metre' estimate, the total value of the subject land in June 2006 could have been \$211,650. This figure is \$21,650 higher than the nominated minimum value.

The Hospital wrote to the City on 19 September 2006 confirming their agreement to pay the sum of \$190,000. In that letter, they enquired as to the documentation they would need to provide to enable the request to be considered by Council. On 4 October the City advised that the Hospital needed to submit the Master Plan previously requested, concept drawings of the proposed infrastructure, and an explanatory report. The Master Plan was received on 10 April 2007. Some of the other requested documentation was received on 17 May. The final concept plans and additional explanatory letter from the project architects were received on 28 June 2007.

Having regard to the extended time which had elapsed since the June 2006 valuation was obtained, the City requested an updated valuation from Landgate, being the State agency. That valuation was received on 2 April 2007. Landgate advised that general commercial sales in the vicinity illustrate a rate per square metre ranging from \$911 to \$2300 and they adopted a rate of \$1,000 per sq. metre for valuing the subject land. Accordingly, Landgate advises that the current value is \$250,000 based on the 249 sq. metre area of the subject land.

The City has requested written confirmation of the Hospital's agreement to pay \$250,000 (the current valuation) for purchase of the subject land, should the Council agree to the sale. In a letter dated 26 June 2007, the Hospital reaffirmed that they wish to proceed with the purchase, however, their letter does not confirm the price they would be prepared to pay. The Hospital acknowledges that the current valuation may not prove to be the final sale price.

Part (v) below describes the requirements of section 3.58 of the Local Government Act relating to disposal of Council property. When advertising the proposed sale of the land, the Notice must nominate the sale price which must be set in the context of a professional valuation undertaken not more than six months before the proposed sale. Therefore, if the Council decided to sell any of the land, a further valuation would be required prior to advertising that intention. The final valuation would be based upon the agreed land area to be transferred.

**(ii) Council decision to initiate rezoning and disposal processes**

Before embarking upon any statutory procedures relating to rezoning and disposal of the subject land, or a portion of the land, a resolution would need to be adopted to the effect that, subject to all prerequisite statutory processes being completed, the Council would be prepared to sell the land to the Hospital for the intended use. Unless Council's 'in principle' support is indicated, no further action would be taken. After the 'in principle' agreement to the sale, the following sequence of processes would be implemented:

- Amendment to Town Planning Scheme No. 6 to rezone the land 'Private Institutions';
- A further valuation of the land, noting that the procedures to be implemented under section 3.58 of the *Local Government Act* require Council to have obtained a professional valuation not more than six months prior to the sale of the land;
- Advertising of the intended sale of the land in accordance with section 3.58 of the *Local Government Act* and consideration of any resultant submissions; and
- Transfer of any remnant land to the Burch Street road reserve.

**(iii) TPS6 provisions relating to alternative use of Reserved land**

The subject land is currently reserved for Parks and Recreation purposes. In relation to reserved land, clause 2.2(2) of TPS6 provides limited ability for the Council to approve a change of land use without implementing a Scheme Amendment. However, before deciding whether or not to approve a proposed change of use of reserved land under clause 2.2(2), the Council must have regard to a wide range of matters specified elsewhere in the Scheme, and also the ultimate intended purpose for the Reserve. In this particular instance, it would not be appropriate to invoke clause 2.2(2) to circumvent the proper rezoning process. Proceeding in this manner would deny the community the opportunity to comment on the proposed zoning and land use that would be offered under the statutory Scheme Amendment process.

**(iv) Amendment to Town Planning Scheme No. 6**

If the Council agrees in principle to the sale of any part of the subject land for the intended use, the next step is to implement an appropriate Scheme Amendment to assign the 'Private Institution' zoning to the subject land. In accordance with the Council's adopted fee schedule, the Hospital would be required to pay the prescribed fee for the rezoning process. The Scheme Amendment process extends over a period in excess of twelve months.

A critical part of the Amendment process is advertising for public submissions. Any resultant submissions are considered by the Council and the Western Australian Planning Commission before the Minister for Planning and Infrastructure makes the final decision. Even if Council resolves to initiate the Scheme Amendment process for the purpose of advertising, any public submissions objecting to the proposal could lead to Council deciding not to proceed further with the Scheme Amendment. Such a decision would constitute a recommendation to the Minister, who makes the final decision, and could result in the Scheme Amendment not being approved by the Minister. In that event, the sale of the land would not proceed.

(v) **Section 3.58 of *Local Government Act 1995***

The procedure for amending Town Planning Scheme No. 6 is described above. If the rezoning (Scheme Amendment) process reaches finality, the Council can then implement the required procedure for disposal of Council property as prescribed in section 3.58 of the *Local Government Act 1995*. Based upon the proper consideration of Council's obligation under the Act, the City's Legal and Governance Officer has advised that the Council should proceed in the following manner:

- The City must be in possession of a valuation undertaken by a licensed valuer not more than six months before the proposed sale.
- The sale price to be set in the context of the valuation.
- Council's intended sale of the land is to be advertised by State-wide public notice. The notice must describe the subject land and provide information relating to: the purchaser; the current valuation; and the intended sale price. The notice is to invite submissions during a period of not less than two weeks.
- Any submissions received following publication of the notice must be considered at a Council meeting before a final decision is made as to whether the sale is to proceed. If no submissions are received, the matter must still be referred to a Council meeting for a final decision.

(vi) **Transfer of any remnant land into Burch Street road reserve**

As advised previously, the subject land forms part of a much larger lot (Pt. Lot 1) which also contains the Ernest Johnson car park. This is freehold land owned by the City. If Council decides to sell some, but not all of, the subject land to the Hospital, any remnant portion should be dealt with in an appropriate manner. Based on the recommendation in this report, the remnant portion would be isolated from the balance of the existing lot comprising the Ernest Johnson car park. This remnant portion would be situated between the end of the Burch Street cul-de-sac and the land being transferred to the Hospital. **Attachment 10.3.5 (g) Plan 2** to this report shows the remnant land. In this situation, rather than remaining as a separate lot, procedures under the *Land Administration Act* should be implemented to dedicate this remnant land as public road, which would be consolidated into the existing Burch Street road reserve. This procedure is not a prerequisite to the sale of the land and the granting of development approval for the infrastructure. Therefore the 'public road dedication' procedure would not need to be finalised prior to the issuing of development approval for infrastructure on the subject land.

**(vii) Development application for infrastructure on the subject land**

Following completion of all of the prerequisite processes described above, the Hospital would need to lodge an application for planning approval relating to the proposed infrastructure to be installed on the subject land. That development application would involve payment of the prescribed fee, neighbour consultation and referral to a Council meeting.

When dealing with the future development application for the infrastructure on the subject land, if deemed necessary, the Council may decide to apply conditions of development approval calculated to further ameliorate the visual impact of the proposed development. Among others, these conditions could relate to additional landscape planting and the design detailing of the boundary fences and walls.

Due to the inherent time delay associated with the prerequisite statutory procedures, and the uncertainty about a successful outcome regarding with the requested land purchase, an alternative development application will shortly be submitted as a contingency plan, with all infrastructure confined to the existing Hospital site. From the Hospital's viewpoint, this alternative would be a less desirable option.

**(viii) Costs payable by Hospital**

If Council agrees in principle to the sale of the land and decides to initiate the prerequisite processes, the Hospital would be responsible for meeting all related costs, fees and charges. These would include the following:

- Scheme Amendment: Planning fee (estimated to be \$6,000), plus cost of site notices.
- Purchase of the land: Purchase price (current value \$250,000 to be updated within six months of advertising the intention to sell), together with any future fee charged by the valuer. The Hospital would also be required to meet any costs associated with the statutory process for disposal of Council property, including advertising costs.
- Council infrastructure: Removal / relocation of existing steps and reinstatement of retaining wall and link mesh fence (estimated to be \$10,000) and relocation of parking sign.
- Drainage from Ernest Johnson Reserve: The Hospital is responsible for the cost of any remedial drainage works necessitated by the proposed Hospital works.
- Public utility infrastructure: Removal / relocation of existing cabling and associated access pits (costs to be determined by and payable to State agency).
- Trees and other planting: Costs relating to any additional screen planting outside perimeter fence and measures to protect existing trees on the subject land.
- Land survey, transfer and conveyancing: This would include possible dedication of any remnant portion of land into adjoining road reserve, if not all of the requested land is sold to the Hospital.
- Any other State agency fees and charges.



## **Consultation**

### **(a) Infrastructure Services Directorate**

The Manager, Engineering Infrastructure, and the Manager, City Environment have been consulted on the proposed use of the subject land by the Hospital. Based upon their comments, the following information is provided:

- (i) The two mature Jacaranda and Kurrajong trees on the cul-de-sac frontage plus the large Marri tree in front of the park steps should all be retained. To ensure the protection of the trees, and to avoid damage to any proposed infrastructure, the perimeter fence of the compound should be no closer than 2.0 metres from the trunks of these trees. The position of these trees and the separation distance between the trunks and the perimeter fence, need to be accurately recorded on the site plan of the proposed infrastructure. Retention of the trees would require modification to the dimensions of the land parcel under consideration.
- (ii) Vehicular access to the compound should be located between the Kurrajong tree and the street light pole. The vehicular access point should be positioned to ensure that service vehicles will not obstruct the existing car park at any time.
- (iii) The Hospital would be responsible for the cost of any works associated with the removal and replacement of the existing steps leading into the Ernest Johnson Reserve and modifications to the existing retaining wall and link mesh fencing. The estimated cost of these works is \$10,000. The proposed brick fence on the eastern boundary of the compound adjacent to the Ernest Johnson Reserve should be constructed in the same way as the previous Hospital brick fencing, with the existing retaining wall kept and filling material deposited between the retaining wall and the brick fence.
- (iv) The retaining wall has been constructed with 'weep' holes through the wall to enable the passage of excess water and therefore lower the pressure on the wall. Any structure in front of the existing retaining wall needs to take account of the requirement for the 'weep' holes and to accommodate them as necessary. The Hospital may need to undertake additional drainage works to prevent water damage to the proposed infrastructure and perimeter fencing. The City would not be responsible for any damage resulting from water run-off from the reserve.
- (v) Two access pits are located on the subject land. One pit is a connection point for lighting in the car park. The pit is marked as electrical. The other pit is the termination pit for the co-located communication cable. Both pits and associated cabling and/or conduits can be relocated at cost from the subject land into the road reserve of Burch Street. Any necessary alterations to these services would be the responsibility of the Hospital, in consultation with the relevant State agency.
- (vi) Infrastructure Services supports the transfer of land to the Hospital, subject to the retention and protection of the existing trees. Consequently, the size and shape of the transferred land should be modified to satisfy all of the preceding conditions.

### **(b) Legal and Governance Officer**

The City's Legal and Governance Officer and the Property and Insurances Officer have been consulted. Their advice is conveyed in the 'Comments' section of this report dealing with statutory processes.



(c) **Manager, Environmental Health and Regulatory Services**

In the 'Comment' section of this report dealing with the potential noise issue, information is provided in relation to the noise level that would be generated by the fire service equipment and the air conditioning chillers. The Manager, Environmental Health and Regulatory Services has considered the noise levels and advises that there would be no adverse amenity impact in this respect, as the noise levels are well within the acceptable range.

If the current proposal proceeds to the stage of submission of a development application, the detailed design of the infrastructure would be considered further. At that time, the noise issue would be reviewed.

(d) **Community consultation**

At this stage, no community consultation has been undertaken. If Council agrees to the requested purchase of the subject land and the associated Scheme Amendment, formal community consultation procedures will be implemented.

(e) **Design Advisory Consultants**

At this stage, the proposal has not been referred to the City's Design Advisory Consultants. Their comments would be sought when a development application is submitted at a later stage, if the Council supports the proposal in principle and agrees to initiate the prerequisite statutory processes.

**Policy and Legislative Implications**

The Hospital's request to purchase the subject land has legislative implications in terms of the requirements associated with the amendment to the No. 6 Town Planning Scheme and the disposal of Council property. Comments in relation to the statutory procedures have been provided earlier in this report.

**Financial Implications for the City**

If the sale eventuates, this issue will have financial implications for the City, in relation to:

- (a) the need for the Hospital to reimburse all costs incurred by the City; and
- (b) City revenue from the sale of Council property.

**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.*

In terms of financial implications for the City, the matter also relates to Goal 6 "Financial Viability" identified in the Strategic Plan. Goal 6 is: *'To provide responsible and sustainable management of the City's financial resources'.*

**Conclusion: Appropriate extent of land to be sold**

Having considered all of the issues discussed above, City officers consider that it would be appropriate to offer a substantial portion of the requested land for sale to the Hospital. However, due to the high amenity value of the Jacaranda and Kurrajong trees in their current location on the subject land, and the City's commitment to environmental and social sustainability, it is considered that a portion of the subject land in the immediate vicinity of those trees should not be sold, to ensure that the trees are protected. The Manager, City Environment has advised that the perimeter fence of the infrastructure compound must be no closer than 2.0 metres from the tree trunks. To meet this requirement, it has been calculated that a 4.6 metre wide strip of land measured from the cul-de-sac end of Burch Street, having

an area of approximately 60 sq. metres, would need to be retained. This would leave approximately 189 (say, 190) sq. metres of land that could be sold to the Hospital, representing in the order of 76% of the land area they wish to acquire. The portion being transferred would be 'L-shaped' to exclude the land near the trees, while still facilitating a functional design outcome for the Hospital.

**Attachment 10.3.5(g)** comprises two plans. Plan 1 'Hospital's Land Purchase Proposal' shows the Hospital's proposed disposition of infrastructure on the subject land if the Council were to agree to the sale of the entire land parcel requested. Plan 2 'Extent of Land Sale Offer' shows the recommended extent of land that could be sold while achieving the dual objectives of the Hospital and the Council.

<b>OFFICER RECOMMENDATION ITEM 10.3.5</b>
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That...

- (a) subject to the conditions in part (c), Council supports, in principle, the sale of a land area of approximately 190 sq. metres being a portion of Pt Lot 1 situated to the east of Burch Street, shown on Plan 2 'Extent of Land Sale Offer' in **Attachment 10.3.5(g)** to this report;
- (b) the South Perth Hospital be advised that, in accordance with the requirements of section 3.58 of the *Local Government Act 1995*, a further professional valuation of the land referred to in part (a) needs to be obtained within six months of the advertising of the proposed sale of the land;
- (c) Council's 'in principle' support for the sale of the land referred to in part (a) is conditional upon the Hospital agreeing in writing to:
  - (i) the purchase of the land being offered by Council at a price to be set in the context of the future valuation referred to in part (b);
  - (ii) meet all other costs, fees and charges associated with their proposal, including the reimbursement of all costs incurred by the City. Such costs, fees and charges would include, but are not limited to, those associated with the following:
    - (A) Scheme Amendment (Planning fee estimated to be \$6,000), plus cost of Scheme Amendment site notices.
    - (B) Future land valuation fee.
    - (C) Statutory process for disposal of Council property, including advertising costs.
    - (D) Removal / relocation of Council infrastructure, including existing steps; reinstatement of retaining wall and link mesh fence (estimated to be \$10,000); and relocation of traffic regulation signs.
    - (E) Any drainage works on the Ernest Johnson Reserve or on the land being purchased, necessitated by the Hospital's proposed development.
    - (F) Removal / relocation of any utility services, including electricity cabling and associated access pits, to meet the requirements of the relevant State agency.
    - (G) Any works that Council may require as a condition of a future development approval. Such works could include measures to protect the existing trees and additional screen planting on land external to the land being purchased.
    - (H) Land survey, transfer and conveyancing costs, fees and charges, including those associated with dedication of the remnant portion of land as a public road.
    - (I) Any other State agency costs, fees and charges.
- (d) upon receipt of the Hospital's written agreement in respect of the matters referred to in part (c), the Council would be prepared to initiate the Scheme Amendment process to rezone the land being purchased by the Hospital to 'Private Institution' zone, to enable that land to be used for Hospital purposes;

- (e) following Council's consideration of any submissions resulting from advertising of the draft Scheme Amendment, if Council recommends that the Scheme Amendment be finally approved, a further land valuation be obtained having regard to the requirements of section 3.58 of the *Local Government Act 1995* and a report be presented to a Council meeting for determination of the sale price;
- (f) when the Minister for Planning and Infrastructure has granted final approval to the Scheme Amendment, the proposed land sale be advertised in accordance with the requirements of section 3.58 of the *Local Government Act 1995*;
- (g) if the advertising under part (f) results in any objections to the land sale, a further report be presented to Council for a final decision as to whether the sale is to proceed. If no objections are received, the matter must still be referred to a Council meeting for a final decision.
- (h) following execution of the land sale, the Hospital be invited to submit a further development application for any proposed development and use of the purchased land.

OFFICER RECOMMENDATION

The Mayor called for a mover of the officer recommendation. The officer recommendation Lapsed.

MOTION

Cr Smith moved an alternative Motion, as tabled, Sec Cr Gleeson

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Smith opening for the Motion

- no question that officers want to get over dilemma of rezoning etc
- hospital need to go to day surgery and have facilities to support same
- other issue is the FESA problem / insufficiency of water is a possibility
- hospital need to overcome this - we have to help hospital
- if we rezone it may run over 9 months
- officers have tried to bring together proposal with a protection
- have to predicate us being able to cede land without going through amendment process
- we have a duty to get legal advice on proposed process
- does not appear to be any diverse opposition to proposal
- facilities will be far away from residential portion of Burch Street
- facilities can be softened with tree planting etc
- this is our hospital we need to support them
- utilising a portion of unused waste land - kill two birds with one stone - look after economical side and FESA concerns

Cr Gleeson for the Motion

- endorse Cr Smith's comments
- can remember our mothers / fathers 'buying a brick' to establish hospital
- alternative Motion put forward a good argument - as long as it is legal
- its out of necessity that the hospital establish a day surgery
- to establish day surgery need to establish supporting facilities
- support Motion

**COUNCIL DECISION ITEM 10.3.5**

The Mayor put the Motion

That the officer recommendation not be adopted; and that Council resolves as follows:

1. (a) an Amendment to the Town Planning Scheme No. 6 would ordinarily be a prerequisite to the Council granting development approval for the proposed Hospital infrastructure due to the existing Park and Recreation reservation applicable to the land being purchased by the Hospital. However, subject to legal advice confirming that it is permissible to consider a development application as per Clause 2.2 of TPS6, Council would be prepared to consider a development application for this purpose without zoning the land for 'Private Institution' uses;
- (b) subject to receiving legal advice stating that it is possible for the hospital to use the land for "Private Institution" purposed without rezoning and the Hospital complying with the conditions in part (c), Council supports, in principle:
  - (i) the sale of a land area of approximately 249 sq. metres being a portion of Pt Lot 1 situated to the east of Burch Street, shown on Plan 1 'Hospital's Land Purchase Proposal' in **Attachment 10.3.5(g)** to this report; and
  - (ii) the transplanting of the Jacaranda tree situated on the subject land shown on Plan 1 'Hospital's Land Purchase Proposal' in **Attachment 10.3.5(g)**;
- (c) Council's 'in principle' support for the sale of the land referred to in part (b) is conditional upon the Hospital agreeing in writing to:
  - (i) pay the sum of \$250,000 for the subject land consistent with the valuation advice received from Landgate dated 2 April 2007.
  - (ii) meet all other costs, fees and charges associated with their proposal, including the reimbursement of all costs incurred by the City. Such costs, fees and charges would include, but are not limited to, those associated with the following:
    - (A) Removal of the Jacaranda tree currently situated on the Council land being offered for sale to the Hospital, and transplanting of that tree to a nearby location to be determined by the Council.
    - (B) Statutory process for disposal of Council property, including advertising costs.
    - (C) Removal / relocation of Council infrastructure, including existing steps; reinstatement of retaining wall and link mesh fence (estimated to be \$10,000); and relocation of traffic regulation signs.
    - (D) Any drainage works on the Ernest Johnson Reserve or on the land being purchased, necessitated by the Hospital's proposed development.
    - (E) Removal / relocation of any utility services, including electricity cabling and associated access pits, to meet the requirements of the relevant State agency.
    - (F) Any works that Council may require as a condition of a future development approval. Such works could include realignment of the Burch Street kerbing, measures to protect the existing Kurrajong tree and additional screen planting on land external to the land being purchased.

- (G) Land survey, transfer and conveyancing costs, fees and charges, including those associated with dedication of the remnant portion of land as a public road.
  - (H) Any other State agency costs, fees and charges.
  - (d) the proposed land sale be advertised in accordance with the requirements of section 3.58 of the *Local Government Act 1995*;
  - (e) if the advertising under part (d)(ii) results in any objections to the land sale, a further report be presented to Council for a final decision as to whether the sale is to proceed. If no objections are received, the matter must still be referred to a Council meeting for a final decision; and
  - (f) following execution of the land sale, the Hospital be invited to submit a further development application for any proposed development and use of the purchased land; and
- 2.
- (a) If Council receives legal advice stating that it is **NOT** possible for the hospital to use the land for “Private Institution” purposes without rezoning and the Hospital complying with the conditions in part 2(c), Council supports, in principle:
    - (i) the sale of a land area of approximately 249 sq. metres being a portion of Pt Lot 1 situated to the east of Burch Street, shown on Plan 1 ‘Hospital’s Land Purchase Proposal’ in **Attachment 10.3.5(g)** to this report; and
    - (ii) the transplanting of the Jacaranda tree situated on the subject land shown on Plan 1 ‘Hospital’s Land Purchase Proposal’ in **Attachment 10.3.5(g)**;
  - (b) the South Perth Hospital be advised that, in accordance with the requirements of section 3.58 of the *Local Government Act 1995*, a further professional valuation of the land referred to in part 2(a)(i) needs to be obtained within six months of the advertising of the proposed sale of the land;
  - (c) Council’s ‘in principle’ support for the sale of the land referred to in part (a)(i) and is conditional upon the Hospital agreeing in writing to:
    - (i) the purchase of the land being offered by Council at a price to be set in the context of the future valuation referred to in part (b);
    - (ii) meet all other costs, fees and charges associated with their proposal, including the reimbursement of all costs incurred by the City. Such costs, fees and charges would include, but are not limited to, those associated with the following:
      - (A) Removal of the Jacaranda tree currently situated on the Council land being offered for sale to the Hospital, and transplanting of that tree to a nearby location to be determined by the Council.
      - (B) Scheme Amendment (Planning fee estimated to be \$6,000), plus cost of Scheme Amendment site notices.
      - (C) Future land valuation fee.
      - (D) Statutory process for disposal of Council property, including advertising costs.
      - (E) Removal / relocation of Council infrastructure, including existing steps; reinstatement of retaining wall and link mesh fence (estimated to be \$10,000); and relocation of traffic regulation signs.

- (F) Any drainage works on the Ernest Johnson Reserve or on the land being purchased, necessitated by the Hospital's proposed development.
  - (G) Removal / relocation of any utility services, including electricity cabling and associated access pits, to meet the requirements of the relevant State agency.
  - (H) Any works that Council may require as a condition of a future development approval. Such works could include realignment of the Burch Street kerbing, measures to protect the existing Kurrajong tree and additional screen planting on land external to the land being purchased.
  - (I) Land survey, transfer and conveyancing costs, fees and charges, including those associated with dedication of the remnant portion of land as a public road.
  - (J) Any other State agency costs, fees and charges.
- (d) upon receipt of the Hospital's written agreement in respect of the matters referred to in part (c), the Council will initiate the Scheme Amendment process to rezone the land being purchased by the Hospital to 'Private Institution' zone, to enable that land to be used for Hospital purposes;
  - (e) following Council's consideration of any submissions resulting from advertising of the draft Scheme Amendment, if Council recommends that the Scheme Amendment be finally approved, a further land valuation be obtained having regard to the requirements of section 3.58 of the *Local Government Act 1995* and a report be presented to a Council meeting for determination of the sale price;
  - (f) when the Minister for Planning and Infrastructure has granted final approval to the Scheme Amendment, the proposed land sale be advertised in accordance with the requirements of section 3.58 of the *Local Government Act 1995*;
  - (g) if the advertising under part (b) results in any objections to the land sale, a further report be presented to Council for a final decision as to whether the sale is to proceed. If no objections are received, the matter must still be referred to a Council meeting for a final decision; and
  - (h) following execution of the land sale, the Hospital be invited to submit a further development application for any proposed development and use of the purchased land. If this is not possible the land should be re-zoned prior to sale of land proceedings commence.

CARRIED (10/0)

Reason for change

The Hospital needs to acquire the subject land to enable the expansion of their 'Day Surgery' facilities. These facilities are required in order for the Hospital to remain viable. Under clause 2.2(2) of Town Planning Scheme No. 6 there is an ability for Council to grant development approval for the proposed Hospital infrastructure without the land being zoned from 'Park and Recreation' to 'Private Institution'. Although there is a clear process for amending the Town Planning Scheme to accommodate the intended use, the extended time frame involved is a matter of concern, having regard to the Hospital's expansion program.

**Note:** Mayor Collins returned to the Council Chamber at 9.16pm and resumed his position as Chair.



**COUNCIL DECISION - CHANGE TO ORDER OF BUSINESS ITEM 10.3.1**

Moved Cr Trent, Sec Cr Smith

That the Order of Business be changed and Item 10.3.1 be considered at this point in the Agenda.

CARRIED (11/0)

**Note:** In order to ensure continuity, the 'resumed debate' and Council decision for this item is inserted under Agenda Item 10.3.1 commencing at page 39 of the Minutes.

**10.3.6 Draft Planning Policy P397 “‘Battle-Axe’ Residential Development: Matching Materials and Colours not Required”**

Location:	City of South Perth
Applicant:	City of South Perth
Lodgement Date:	Not applicable
File Ref:	LP/801
Date:	1 July 2007
Author:	Rod Bercov, Strategic Urban Planning Adviser; and Gina Fraser, Senior Strategic Planning Officer
Reporting Officer:	Steve Cope, Director, Strategic and Regulatory Services

**Summary**

Council Planning Policies P377\_T 'Proposed Addition of Grouped Dwellings to Existing Single Houses' and P370\_T 'General Design Guidelines for Residential Development' both contain provisions relating to the need for proposed additional dwellings located behind an existing house to be constructed of matching materials and colours. Those provisions have caused several development proposals to be referred to Council meetings where applicants have sought approval for non-matching materials or colours. The Council has generally supported the applicants in such situations and has called for a review of the 'matching materials' provisions in the respective Policies. An appropriate new draft Policy is now being presented for endorsement prior to advertising.

**Background**

As noted above, Council Policies P377\_T and P370\_T require proposed additional dwellings located behind an existing house to be constructed of matching materials and colours. However, in March 2005, Council called for a review of these particular provisions. Having reviewed these provisions, the attached draft Policy (**Attachment 10.3.6**) has been prepared. The draft Policy states that it is not necessary for dwellings located behind one another on the same lot to have matching materials and colours. The draft Policy does not address the issue of 'streetscape compatibility' as this was not called for in the relevant Council resolution.

Rather than awaiting the consideration of the revised Residential Design Policy Manual covering many aspects of residential development, the attached draft Policy is being presented independently as the 'matching materials' issue arises frequently.

**Comment**

The attached draft Policy is presented for Council's endorsement prior to advertising for public comments. The Town Planning Scheme No. 6 sets out the procedure to be followed towards final adoption of a Planning Policy. The process is described in the 'Policy and Legislative Implications' section of this report.

**Consultation**

At this stage, no community consultation has been undertaken. Formal procedures will be implemented in this regard following Council's endorsement of the draft Policy.



In the course of preparing the draft Policy, the City's Director, Strategic and Regulatory Services; the Legal and Governance Officer; and the Manager, Development Assessment, have been consulted.

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

Clause 9.6 of TPS6 contains the procedure for preparation and adoption of planning policies. In accordance with clause 9.6 and Policy P104 relating to community consultation processes, the required procedure to be implemented is as follows:

- After Council has endorsed draft Policy P397, a notice is to be published once a week for two consecutive weeks in the *Southern Gazette* newspaper inviting comments on the draft policy. The submission period is to be not less than 21 days.
- At the conclusion of the submission period, a report on any submissions received is to be presented for Council's consideration. Having considered the submissions, the Council decides either to finally adopt the policy, with or without modification, or not to proceed with the policy.

In addition to the consultation procedures required by TPS6 and Policy P104, it is proposed that notices also be placed on the City's web site, in the City's Libraries and at the Civic Centre office. Following final adoption of Policy P397, notification to this effect will be published once in the *Southern Gazette* newspaper. The Policy will become operational from the date of that notice.

#### **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.*

The report is also aligned to Goal 5 "Organisational Effectiveness" within the Council's Strategic Plan. Goal 5 is expressed in the following terms: *To be a professional, effective and efficient organisation.*

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.3.6</b>
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That .....

- (a) draft Policy P397 "'Battle-Axe' Residential Development: Matching Materials and Colours not Required", **Attachment 10.3.6**, be adopted for the purpose of public consultation;
- (b) public advertising of the draft Policy be undertaken in accordance with the advertising intentions referred to in this report; and
- (c) a report on any submissions received be presented to the earliest available Council meeting following the conclusion of the advertising period.

CARRIED EN BLOC RESOLUTION

### **10.4 GOAL 4: INFRASTRUCTURE**

<b>10.4.1 Preston Street Parking Facility</b>
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Location:	City of South Perth
Applicant:	Council
File Ref:	PR1
Date:	6 July 2007
Author:	Les Croxford, Manager Engineering Infrastructure
Reporting Officer:	Glen Flood, Director Infrastructure Services

**Summary**

To consider the development of a public car park off Preston Street

**Background**

At the February 2007 Council meeting Item 9.3.9 “Progress Report - Parking Review Report”, reference was made to the parking demand within the Preston Street Commercial Precinct. In that report it was stated that vacant private land (with the agreement of the owners) off Preston Street could be utilised as a temporary parking facility to alleviate some of the demand.

**Comment**

An inspection has indicated the vacant lot could be transformed into a temporary parking facility for approximately 22 vehicles for an outlay of \$34,000. The construction would take the form of recycled/profiled road material from one of the many road projects, spread and compacted to form an even and dense surface but not water proof ie does not include a wearing surface of asphalt.

The area would be kerbed to prevent stormwater entering downhill properties and on-site soak wells would be installed. All of the drainage etc is included in the estimated cost.

The owner is aware of the City’s interest in developing a temporary car park off Preston Street and is supportive of the proposal. A Memorandum of Understanding or other appropriate form of agreement would need to be signed by both the owner and the City detailing the responsibilities/obligations of each party.

Essentially the City would:

- construct/maintain the temporary car park until such time as the land is required by the owner for redevelopment; and
- accept public liability for injuries to users of the temporary car park legitimately using the car park for the intended purpose but not for any loss or damage to parked vehicles within the parking; while

The owner would:

- continue to meet all outgoings for the vacant land now forming the car park;
- make available the land to the City for the intended purpose at no cost, until such time as the site is the subject of an approved planning approval for building works; and
- accept the removal of materials placed on the land for the temporary car park as incidental site works during redevelopment.

The use of the vacant land to ease public demand in Preston Street is advantageous to the City for a relatively low outlay and represents an opportunity worthy of pursuing.

**Consultation**

No public consultation is required other than the specific negotiations with the land owner. At the June Capital Works Briefing the car park proposal was specifically highlighted and discussed briefly.

**Policy and Legislative Implications**

There are no policy or legislative implications in respect to the contents of the report.

**Financial Implications**

Funding to be included in the 2007/08 Capital Works Budget.

### **Strategic Implications**

This proposed parking facility is consistent with Goal 4, Strategy 4.3 of the adopted Strategic Plan:

*Develop plans, strategies and management systems to ensure Public Infrastructure Assets (road, drains, footpaths, river wall, community buildings etc) are maintained to a responsible level.*

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.4.1</b>
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That....

- (a) Council supports the construction of a public parking area on vacant land off Preston Street; and
- (b) an appropriate draft agreement be prepared by the CEO between the land owner and the City for the use of the land as a public parking area. This agreement is to be brought back before Council for consideration and approval prior to signing by both parties.

CARRIED EN BLOC RESOLUTION

<b>10.4.2 National State Road Safety BlackSpot Program Submission 2008-2009</b>
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Location:	City of South Perth
Applicant:	Council
File Ref:	FS/FA/1
Date:	3 July 2007
Author:	Trevor Quinn, Traffic and Design Engineer
Reporting Officer:	Glen Flood, Director Infrastructure Services

### **Summary**

Each year the City is invited to submit for consideration projects qualifying for National and State BlackSpot Funding. The closing date for submissions for the 2008/09 National and State BlackSpot Programs is 21 July 2007. A schedule of projects from National and State BlackSpot lists has been developed in accordance with the guidelines and has been forwarded to Main Roads for consideration. This report seeks endorsement of the program and the actions of the officer.

### **Background**

The National and State Road Safety BlackSpot Program is a Commonwealth and State Government initiative administered by Main Roads Western Australia (MRWA). The program targets road locations where crashes are occurring and aims to fund cost effective, safety oriented projects by focusing on locations where the highest safety benefits and crash reductions can be achieved.

All submissions are considered on their merits and evaluated against the criteria set by the Australian Transport Safety Bureau (ATSB). Separate criteria apply for the National BlackSpot Program and its state counterpart.

Main Roads Western Australia collects all data relating to road crashes and has developed two lists relating to eligible projects within each local government i.e. National BlackSpot list, State BlackSpot list.

Not all crashes can be resolved by engineering means. The project list has been developed using familiar and successful treatments for reducing crashes.

The criteria used in the assessment to determine the Benefit/Cost Ratio (BCR) are:

- crashes for the 5 year period 2002 to 2006 inclusive for qualifying audits;
- crash costs based on crash type cost, not crash severity costs; and
- all capital costs, including contributions by others, and specific and ongoing maintenance costs.

**Comment**

The schedule of projects has been developed from crash data available to the City and the use of an “electronic work book” for the evaluation of Black Spot submissions developed by MRWA.

The “electronic workbook” uses crash data and the results obtained from other known treatments to determine the appropriate solution to minimise the incidence of the crash type. The Benefit to Cost Ratio is the probable savings in the incidence of crashes against the capital cost of effecting the improvements.

Based on the set criteria ten (10) intersections have been identified as warranting treatment. Each of the intersections has a record of either rear end or right angle crashes. It is acknowledged that a reduction in rear end and right angle crashes is possible by improving the various aspects of the intersection layout or by the installation/modification of traffic signals. If successful in attracting funding these projects will be programmed for completion by 1 January 2009.

Where an identified project involves a signalised intersection an “Agreement in Principle” from MRWA has been obtained.

The following Table summarises the intersections identified for inclusion in the National and State BlackSpot submission:

Intersection	Problem	Proposed Treatment	Total Cost
Manning Road & Ley Street	Pedestrian crossing of the intersection.	Traffic Signal upgrade	\$165,000 National & State
Manning Road & Ley Street	Rear end collisions	Anti-Skid Treatment	\$60,000 National & State
Mill Point Road & Way Road	Out of control, Rear end and right angle crashes on all approaches.	Traffic Median Islands on approaches	\$50,000 National & State
Todd Avenue & Throssell Street	Right angle crashes on approaches.	Installation of Roundabout	\$62,500 National
Mill Point Road & Coode Street	Rear end and crashes on Mill Point Road.	Anti Skid Treatment Mill Point Road	\$60,000 National & State
Manning Road & Kent Street	Rear end crashes on Manning Road.	Anti Skid Treatment on Manning Road	\$45,000 National & State
Manning Road & Challenger Avenue	Right turn Crashes	Close median to ban right turn	\$25,000 National & State
Kent Street / Jackson Avenue	Right angle crashes on Northbound approaches.	Install left turn slip lane	\$50,000 State
Henley Street & Ley Street	Right angle crashes.	Installation of Roundabout	\$60,000 State
Mary Street & Saunders Street	Right angle crashes.	Installation of Roundabout	\$70,000 State

### **Consultation**

In accordance with Policy P103 and Management Practice M103 Communication & Consultation the level of communication / consultation required for the proposed works is level I (inform). This consultation will be completed if the City is successful in attracting funding for these works. Notwithstanding the project schedule as developed and the success of the application Council could at any stage of the consultation process withdraw from any or all of the projects if at that time the project(s) were not seen to be in the best interests of the City.

### **Policy and Legislative Implications**

There are no policy or legislative implications in respect to this matter.

### **Financial Implications**

Projects that are approved under the National BlackSpot Program will have no financial implications for 2008/2009 financial year as the works would be fully funded. Where projects receive State funding then the City will be required to contribute one third of the project cost in 2008/09.

### **Strategic Implications**

This proposal is consistent with Goal 4 - 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”*.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.4.2</b>
--

That....

- (a) the schedule of projects as identified in report Item 10.4.2 of the Agenda for the July 2007 Council meeting be endorsed as the City of South Perth submission to Main Roads Western Australia for consideration of funding under the National and State Black Spot programs; and
- (b) the actions of the officers in forwarding the submission on or before 20 July 2007 be endorsed.

CARRIED EN BLOC RESOLUTION

<b>10.4.3 Ryrie Avenue- Bland Street to Blamey Place</b>
--

Location:	City of South Perth
Applicant:	Council
File Ref:	GO/101
Date:	3 July 2007
Authors:	Trevor Quinn, Traffic and Design Engineer; and Les Croxford, Manager Engineering Infrastructure
Reporting Officer:	Glen Flood Director Infrastructure Services

### **Summary**

On 21 April 2007 a vehicle parked in a property driveway in Ryrie Avenue rolled down the driveway crossed the road and verge and crashed through the boundary fence coming to rest on the rear wall of the Max Forman Close residence.

At the Council meeting held on 22 May 2007 this issue was raised by Ms D Courtney and a petition submitted in this regard.

### **Background**

On 26 April 2007 the City received a letter from a resident concerned over the absence of barriers on the Ryrie Avenue verge to “prevent vehicles hurtling six to eight foot down into our homes”. The properties in question are in Max Forman Court which are below the Ryrie Avenue road reserve behind a limestone retaining wall and wooden fence.

The letter referred to an incident which happened on 21 April 2007 where a vehicle parked in a driveway in Ryrie Avenue rolled down the elevated driveway across the road and verge and through the wooden boundary fence and into the property below. The letter also referred to a similar incident that had happened previously.

On 8 May 2007 the resident was advised (amongst other things) that “other locations around the City suffer similarly the one-off type incident where an out of control vehicle leaves the road and crashes into private property” and that “it would be unreasonable to expect the City to counter (at every location) the impact of a careless and unforgivable action of a motorist who fails to adequately control their parked vehicle”.

Subsequently at the Council Meeting held on 22 May 2007 another resident of Max Forman Court raised the same concern and submitted a petition from herself and 7 other residents of Max Forman Court.

The text of the petition read:

*“Collectively, we request that the City of South Perth take action to reduce the danger to property and lives inherent in an open and inadequately fenced ‘cliff’ verge with a six to eight foot drop, such as the Council verge in question along Ryrie Avenue which backs onto our properties.”*

The petition was forwarded to the Director Infrastructure Services for investigation.

### **Comment**

Ryrie Avenue runs notionally in an east/west direction. In the section Murray Street through to Blamey Place all properties on the north side are at a higher level than the street with driveways having excessively steep gradients (greater than 10%). With few exceptions all of the Avenues running parallel to Ryrie Avenue have similar topography with properties on one side of the street (invariably the north side) higher than the other. Any vehicle parked in the driveway without proper attention given to braking or ineffectively secured will roll down the driveway across the street and into the properties opposite. The fact that it has happened in Ryrie Avenue at one location should not be justification for doing anything at that location as equally it could have happened anywhere else along the street or in any of the adjoining Avenues. And the affect of the careless and unforgivable action had it occurred in any of the above would have been the same.

It should also be noted that the City regularly responds to concerned residents elsewhere in the City where for one of a variety of reasons (stolen vehicle, excessive speed, inattentive driving, driving under the influence) a vehicle has left the roadway and crashed through a fence or similar and come to rest at or on the building. To react to each of these locations as they occur by installing preventative measures would be expensive, unwarranted and unsightly.

It would therefore be unreasonable to expect the City to respond to every incident that has resulted from the careless and unforgivable action of a motorist who either fails to adequately secure the vehicle on a slope or allows the vehicle to leave the roadway as a direct consequence of inattention and or an illegal action.



However should a solution be sought for the specific location in Ryrie Avenue keeping in mind an incident in one of the other Avenues could prompt a similar request, a number of alternatives exist:

- The installation of w beam guard rail as used on highways and motorways to retain the vehicle on the roadway. Estimated cost \$20,000;
- The replacement of the existing low profile mountable kerb in the affected section with a barrier kerb having a kerb face of nominally 200mm. Estimated cost \$6,500;
- planting out of the verge with Jacaranda trees (in line with the Street Tree Precinct Plan) and understorey planting plus bollards. Estimated cost \$7,000; or
- the installation of wooden bollards nominally at 1500mm centres. Estimated cost \$4,000.

#### **Consultation**

The Officer recommendation is the collective opinion of Infrastructure Services. There has been no other consultation.

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

There are no policy or legislative implications.

#### **Financial Implications**

No provision has been made in the budget for any installation in the road verge.

#### **Strategic Implications**

The proposal to amend the Budget to facilitate additional works or variations to existing projects as a result of external circumstances is consistent with Goal 4 Infrastructure - Strategy 4.1 *“Develop appropriate plans, strategies and management systems to ensure public infrastructure assets (roads, drains, footpaths etc) are maintained to a responsible level.”*

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

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.4.3</b>
--

Moved Cr Smith, Sec Cr Cala

That in response to the petition requesting *“that the City of South Perth take action to reduce the danger to property and lives inherent in an open and inadequately fenced ‘cliff’ verge along Ryrie Avenue”* the, petitioner, Ms Dianne Courtney, 5 Max Forman Court, Como be advised that as the street verge is not inherently unsafe the City will not take any action in respect to this matter.

CARRIED (9/1)

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

<b>10.4.4 Tender 23/2007 for the Mowing of Verges, Median Strips and Rights of Way</b>
--

Location:	City of South Perth
Applicant:	Council
File Ref:	23/2007
Date:	4 July 2007
Author:	Craig Barker Parks Operation Coordinator
Reporting Officer:	Glen Flood, Director, Infrastructure Services



### Summary

The City has recalled tenders for the *Mowing of Verges, Median Strips and Rights of Way* (Tender 23/2007). This report reviews the process and recommends:

1. Council accepts Schedule 4 of the contract.
2. Programs all of Schedule 3 and parts of Schedule 2 in house; and
3. Schedule 1 and 5 and the remainder of Schedule 2 of the contract be re-packaged and re-advertised.

### 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 labour intensive and complex, or is considerably tougher on equipment due to the type of work required (dry and unkempt verge and ROW mowing).

At the April 2007 meeting, Council considered Tender 5/2007, for the *Mowing of Verges, Median Strips and Rights of Way* and resolved as follows:

- (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.*

The main reason for Council rejecting tenders was because of the large increases in prices submitted against the previous contract and a lack of industry comparison to support the rise in price.

As a result of Council's resolution, tenders were again 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).

The selection criteria tenders would be assessed against are as follows:

- |   |     |
|---|-----|
| • Demonstrated knowledge of traffic management and safety program | 15% |
| • Demonstration of resources to complete the works on time        | 15% |
| • Price   | 70% |

Tenders were re-called 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 Tuesday 5 June 2007.

**Comment**

Twelve sets of documents were distributed to prospective tenderers and at the close of the tendering period only one contractor had submitted a bid and that was for Schedule 4 of the contract only. No prices were received for Schedules 1, 2, 3 and 5.

The tender received was from a previous tenderer (*A Better Class Lawns and Gardens*), who also held the previous contract. The price received was identical to that company's previous bid for Schedule 4 in Tender 5/2007.

The tender was assessed against the qualitative and quantitative criteria and found to be compliant.

Based on the assessment for Tender 5/2007, *A Better Class Lawns and Gardens* were cheaper than the other bid received at that time (*Carringtons Traffic Services*). As no other bids have been received again, it could be construed that this is a true indication of the current market price.

The major reasons why officers believe there is a lack of contractors tendering for these works are as follows:

- Marked increases in fuel prices ;
- More onerous changes to the traffic management laws requiring a marked increase in equipment to undertake the work;
- Increase in labour costs plus a decrease in availability of labour willing to undertake this type of work;

It is the officers' view that Council should accept the Schedule 4 bid from *A Better Class Lawns and Gardens* as these are high profile areas requiring regular attention and that contractor has been honouring his previous contract prices to the City for 6 months. He will soon withdraw this service at the old price.

With this in mind, it is recommended that the bid from *A Better Class Lawns and Gardens* for Schedule 4 of Tender 23/2005 be accepted.

The City now has to determine what to do with the remaining schedules. A review of the City's ability to undertake some or all of this work 'in house' has been made. Officers are now confident that Schedule 3 - *Rights of Way Mowing & Clean Up* and some of Schedule 2 - *Broad Acre Mowing Non Irrigated Verges and Medians* could be done in-house utilising existing resources, but this may result in some of the work being completed on overtime.

To bring the remaining Schedules in house would require significant capital investment in purchasing machinery, and the recruitment of additional staff to carry out the work. Officers are reluctant to recommend this option due to:

1. The payback period against the capital cost of purchasing additional machinery is too high;
2. The difficulty in attracting and maintaining staff in the current economic climate.

As a result, it is the officer's recommendation that the City re-package and re-advertise tenders for Schedules 1, 2 (reduced scope) and 5.

**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 \$100,000.

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.

The following policies apply:

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

### **Financial Implications**

The Schedule 4 tender is for \$283,672.16 over three years which represents a considerable increase of the previous price. The City Environment operational budget has been amended to cope with this increase.

Completing Schedule 3 and some of Schedule 2 in-house will result in savings over a potential contract price; however there will be an overtime implication on the City Environment Salary budget.

The financial implications of Schedules 1, 5 and most of Schedule 2 remain unknown at this time, but it can be assumed that tenders for this work are eventually received the prices will be significantly higher than the previous contract.

### **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.*

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.4.4</b>
--

That...

- (a) the tender submitted for Schedule 4 of Tender 23/2007 - *Mowing of Verges, Median Strips and Rights of Way* by *A Better Class Lawns and Gardens* for \$283,672.16 over three years, be accepted;
- (b) the City re-package and re-advertise tenders for Schedules 1, 2 (reduced scope) and 5; and
- (c) a report be prepared for the earliest possible Council meeting reviewing new tenders.

CARRIED EN BLOC RESOLUTION

<b>10.4.5 Tender 21/2007 for the Upgrade of Collier Pavilion</b>
--

Location:	<i>City of South Perth</i>
Applicant:	<i>Council</i>
File Ref:	<i>Tender 21/2007</i>
Date:	<i>4 July 2007</i>
Author:	<i>Gil Masters, Buildings Asset Coordinator</i>
Reporting Officer:	<i>Glen Flood, Director Infrastructure Services</i>

### **Summary**

To consider tenders for the upgrade of Collier Pavilion, Thelma Street, Como.

### **Background**

The Collier Pavilion was opened in 1966 and at the time was considered to be an appropriate facility to compliment sporting activities on the adjacent playing arena. User requirements for sporting pavilions have changed considerably since the 1960's and the pavilion is now showing its age and lack of functionality.

Much of the infrastructure in the pavilion is in need of replacement or upgrading and the internal layout does not cater for male and female sport or disabled access. Ablution services can only be accessed through the change rooms, which limits the use of the pavilion for social activities.

In regard to the future viability of the pavilion, Council has considered and adopted for community comment the following report - *Future Directions and Needs Study for Sporting and Recreational Clubs - March 2006*. This study was developed with extensive input from local sporting clubs. The report discusses the future of the Collier Pavilion and makes the following recommendations:

2.2.3 *That, in the short term and as an interim measure, Council undertakes repairs at Collier Reserve Pavilion to accommodate the basic needs of the WA Gaelic Athletic Association, subject to a commitment from the WA Gaelic Athletic Association to continue to use Collier Reserve Pavilion via a seasonal hire agreement.*

2.2.4 *That the need for and future function of the Collier Reserve Pavilion be determined subject to the outcome of the Bill Grayden Pavilion Feasibility Study (see recommendation 2.2.20).*

2.2.20 *That in the short term, Council undertakes a feasibility study to investigate the viability of extending and upgrading the Bill Grayden Pavilion to provide a regional shared-use pavilion facility, and that the study include an investigation of the benefits of establishing an overarching sports association to lease / manage the improved facilities.*

Since the study was completed, the Gaelic Football Association has advised the City they will be leaving the site to move to new headquarters in Gosnells. They have also advised that they may still use the reserve and pavilion for some games. The City has recently been approached by Wesley College, who are keen to take on the lease for the facility for their junior sport. The South Perth Baseball Club is also committed to the facility for junior baseball during summer. There is also potential for more use by soccer clubs in winter as it is a fast developing sport and suitable ground space has become scarce.

### **Comment**

In view of the recommendations of the study, and circumstances since, officers have attempted to develop a design that reflects short term and interim repairs. Given the City's commitment to other major building projects within the Strategic Financial Plan (Civic Hall, Library, George Burnett Leisure Centre and Manning Hub) and within the Infrastructure Services Forward Works program (Challenger and WCG Thomas Pavilion), it is highly unlikely that the Bill Grayden Pavilion will be extended and upgraded within the next eight years. In addition, despite the potential departure of Gaelic Football, the Collier Pavilion still has functional use as change rooms and kiosk for several other sports. In response to this, officers have attempted to develop a design that meets these requirements as the current state of the facility is very poor. A new design was prepared which incorporated contemporary disability access requirements and toilets in keeping with the Study and the City's sustainable objectives. This will feature waterless urinals, ceiling and wall insulation, energy efficient water heating, energy efficient kitchen appliances, water saving devices and dual cisterns.

A more functional area has now been created for sporting groups both for game days, post games functions and meetings. The floor area has been increased with the addition of a new kitchen and servery. Previously these areas had been created as an add on and had limited value.

The City had allocated \$105,000 in the 2006/07 Capital Works budget for this project. The design prepared was in excess of this budget and it was the officer's belief that a suitable design could not be prepared to meet the budget. Officers were prepared to tender the project late in the financial year with the view of providing options to Council, including the possibility of allocating additional funds in the 2007/08 budget to complete the project.

Tenders were called for the building works following the design consultation and approval. The tender documentation included all drawings and specifications and general conditions of contract for the work. In calling tenders for the works a comprehensive specification was developed. Tenders were advertised in the West Australian on Saturday 21 April 2007 and at the close of tenders on 8 May three tenders were received.

The selection criteria that the tender would be assessed against are as follows:

- Referees                      15%
- Price                              85%

The prices received ranged from \$319,051 to \$476,439. In line with the current building market being heavily committed, the prices received were well in excess of what was budgeted or considered appropriate on the pre-tender estimate.

Other options were then considered. The City utilised the services of a licensed builder who is retained under the State Government Common Use Agreement to assess the tenders. The aim was to provide an alternative price using 'in house' quotes from contractors who were already either under tendered contract or being utilised by the City for other building works. Trades including a bricklayer, electrician, ceramic tiler, ceiling and wall plasterer and carpenter, which form the majority of the work, were requested to submit quotes based on the specification. The City also took advantage of its purchasing regime through the State Purchasing Common Use Agreement to receive quotations for some of the other items in the contract.

Under this option, the builder would provide site supervision and the normal building liability and legal obligations associated with the construction of the building. The final in house price was \$249,000, which represents a saving of some \$70,000 from the lowest tender. If Council resolved to upgrade the pavilion then it is recommended that tenders not be accepted and approval given to complete the work under the 'in house' arrangement.

In conclusion, Council needs to decide whether it is worth spending \$250,000 on Collier Pavilion, considering the Study, current and future use of the building and its condition. It is the officer's recommendation that it is for the following reasons:

- Structurally, the building is okay;
- It is being used by a number of clubs and organisations throughout the year;
- It will be some time before consideration can be given to an upgrade for Bill Grayden Pavilion.

If Council resolved not to upgrade the building then a report will be prepared recommending the allocation of funds to other building priorities.

### **Consultation**

Extensive user group consultation was carried out as part of the development of the *Future Directions and Needs Study for Sporting and Recreational Clubs - March 2006*. Additional specific design consultation was also undertaken with Wesley College, South Perth Baseball Club and the WA Gaelic Association. 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 \$100,000.

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.

The following policies apply:

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

### **Financial Implications**

The funding allocation of \$105,000 in the 2006/07 Infrastructure Capital Works budget was considered inadequate to complete the works. A further allocation of \$150,000 has been requested in 2007/08 budget to fund the shortfall.

### **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.*

<b>OFFICER RECOMMENDATION ITEM 10.4.5</b>
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That....

- (a) tenders received for Tender 21/2007 for the upgrade of Collier Pavilion not be accepted; and
- (b) work on the pavilion proceeds to a budget of \$250,000 on the basis of contracted rates and quotations under the supervision of a registered builder.

### MOTION

Cr Ozsdolay moved the officer recommendation, Sec Cr Maddaford

**Note:** Cr Gleeson returned to the Chamber at 9.53pm

### FORESHADOWED MOTION

Cr Hearne foreshadowed he would be moving a Motion that before a decision is made on the Collier Pavilion that a review of the cost of major building works including, but not limited to, the Civic Hall, Library, George Burnett Leisure Centre and Manning Hub, the Bill Grayden Pavilion and River Walls be carried out with a view to developing a strategy for the timely replacement of, or maintenance to the facilities, utilising funds strategically set aside on an annual basis in the appropriate reserve fund, if the current Motion is Lost.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.4.5</b>
--

That....

- (a) tenders received for Tender 21/2007 for the upgrade of Collier Pavilion not be accepted; and
- (b) work on the pavilion proceeds to a budget of \$250,000 on the basis of contracted rates and quotations under the supervision of a registered builder.

CARRIED (10/1)



**10.5 GOAL 5: ORGANISATIONAL EFFECTIVENESS**

**10.5.1 Applications for Planning Approval Determined Under Delegated Authority.**

Location: City of South Perth  
Applicant: Council  
File Ref: Not applicable  
Date: 2 July 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 June 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 June 2007, forty four (44) development applications were determined under delegated authority [**Attachment 10.5.1** 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 AND  
COUNCIL DECISION ITEM 10.5.1**

That the report and **Attachment 10.5.1** relating to delegated determination of applications for planning approval during the month of June 2007, be received.

CARRIED EN BLOC RESOLUTION

<b>10.5.2</b>	<b>Use of the Common Seal</b>
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Location: City of South Perth  
 Applicant: Council  
 File Ref: N/A  
 Date: 9 July 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 21.1 of the City’s Standing Orders Local Law 2007 provides that the CEO is responsible for the safe custody and proper use of the common seal.

In addition, clause 21.1 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 described in the document to which the common seal was affixed.

**Register**

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

*June 2007*

Nature of document	Parties	Date Seal Affixed
Deed of Agreement to Enter CPV Lease	CoSP & Clive and Linda Gregory	15 June 2007
Registration of CPV Lease	CoSP & Clive and Linda Gregory	15 June 2007
CPV Lease	CoSP & Clive and Linda Gregory	15 June 2007
CPV Hostel Residency Agreement	CoSP & Edith Jackson	15 June 2007

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

**Consultation**

Not applicable.

**Policy and Legislative Implications**

Clause 21 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.*

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.5.2</b>
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That the report on the use of the ‘Common Seal’ for the month of June 2007 be received.

CARRIED EN BLOC RESOLUTION

<b>10.5.3 Tenders for Catering Services to the City</b>
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Location:	City of South Perth
Applicant:	Council
File Ref:	17/2007
Date:	28 June 2007
Author:	Neil Kegie, Manager Community Culture and Recreation
Reporting Officer:	Roger Burrows, Director Corporate and Community Services

### **Summary**

Tenders were invited and have been received for the provision of a catering services for a range of meetings and functions held at the City of South Perth. The tender is for a period of twenty four months.

This report outlines the assessment process and recommends the two preferred tenderers, InHouse Catering Services and Comestibles.

### **Background**

Tender No. 17/2007 was advertised in the West Australian Newspaper on Wednesday 28 March 2007 and closed at the Civic Centre Sandgate Street South Perth on Friday 16 April 2007.

Tenders were received from InHouse Catering Services, Comestibles, Chef Excel and Temptations.

The Request for Tender (RFT) specified that the City required the services of suitably and experienced catering suppliers able to provide catering services for a range of meetings and functions in the following categories:

- Service Category A - Council Dinners
- Service Category B1 - Casual Civic Functions
- Service Category B2 - Formal Civic Functions
- Service Category C - VIP Receptions
- Service Category D - VIP Dinners

Potential Tenderers were advised that the City's approach is to award contracts to the tender which offers the best value for money - that is, the capacity to provide a high quality of service, experienced staff, flexibility and scope of service. Although price is considered in the evaluation, the tender with the lowest price schedule may not necessarily be accepted, as the primary aim is to obtain best value for money in the overall performance of any subsequent contract.

The scope of the RFT allows for one supplier to be contracted for all categories or for a panel of suppliers to be contracted to form a panel of suppliers in order to meet the requirements of the various function categories.

The City's preferences is for companies to tender at a fixed rate for a schedule of charges for the identified categories for the duration of the twenty four month contract or at fixed rates for 12 monthly periods of the contract. Alternatively, increases can be considered in accordance with Consumer Price Index movements as indicated in the consumer Price Index Catalogue, for each subsequent year.

The Request for Tender sought prices that included all materials, labour, charges, levies, taxes, delivery, the provision of staff to provide the service and any other elements which could reasonably be considered as inclusive in the provision of services of this type.

**Comment**

Evaluation of tenders was based on the following criteria:

• Local Supplier	5%
• Demonstrated experience in supplying catering services	30%
• Referees (testimonials)	25%
• Price	40%

Each company's price submission and response to the criteria was incorporated into a separate Selection Criteria matrix for each category of service. The total scores appear below.

Category A - Council Dinners

InHouse	Comestibles	Chef Excel	Temptations
7.87	6.33	6.24	3.97

Category B1 - Casual Civic Functions

InHouse	Comestibles	Chef Excel	Temptations
7.63	7.76	5.50	5.35

Category B2 - Formal Civic Functions

InHouse	Comestibles	Chef Excel	Temptations
7.12	7.71	4.55	5.35

Category C - VIP Receptions

InHouse	Comestibles	Chef Excel	Temptations
7.87	5.52	0.71	4.92

Category D - VIP Dinners

InHouse	Comestibles	Chef Excel	Temptations
7.12	7.71	4.55	5.35

The tenders supplied by InHouse and Comestibles achieved the highest scores based on the criteria assessment and are therefore recommended as the panel of suppliers for catering services to the City. It is anticipated that the tenderer with the highest score in each category will provide the most significant proportion of catering services for that category, however access to a panel of two suppliers allows for a degree of flexibility and ensures that the broad range of City functions are serviced at an optimum level.

The total price for the supply of catering services by the recommended panel of suppliers for the 24 month period of the contract is estimated at \$175,000. The final amount paid for catering services under this tender is dependant upon the number and type of functions held during the period and the number people attending these functions. The estimated figure assumes a similar number and type of function as held during the 2006/07 financial year and a similar number of people attending these functions.

**Consultation**

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

**Policy and Legislative Implications**

Section 3.57 of the *Local Government Act 1995* (as amended) requires a local government to call tenders when the expected value is likely to exceed \$100,000. Part 4 of the Local Government (Functions and General) Regulations 1996 sets regulations on how tenders must be called and accepted.

Policy P605 - Purchasing & Invoice Approval

Policy P607 - Tenders and Expressions of Interest

**Financial Implications**

The estimated cost for catering services for the 24 month period of the tender is \$175,000 which is in keeping with the various budget allocations for these services.

**Strategic Implications**

The report aligns to Goal 5 “Organisational Effectiveness” within the Council’s Strategic Plan. Goal 5 is expressed in the following terms:

*“To be a professional, effective and efficient organisation.”*

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.5.3</b>
--

That tenders be accepted from InHouse Catering Services and Comestibles to form a panel of two for the provision of the range of tendered catering services for a combined contract value of approximately \$175,000 for a period of twenty four months.

CARRIED EN BLOC RESOLUTION

**10.5.4 WALGA Annual General Meeting - Proposed Motions**

Location: City of South Perth  
Applicant: Council  
File Ref: GO/105  
Date: 10 July 2007  
Author and Reporting Officer: Cliff Frewing, Chief Executive Officer

**Summary**

At the June 2007 Council meeting Council resolved the Western Australian Local Government Association (WALGA) be advised that Council's appointed delegates to the Annual General Meeting of WALGA on 5 August 2007 be Mayor John Collins; and Cr Kevin Trent, with Cr Cala being the first Deputy Delegate and the CEO, Cliff Frewing as second Deputy Delegate for the purpose of voting at the WALGA Annual General Meeting.

WALGA has now provided details of motions to be considered at the Annual General Meeting on Sunday, 4 August 2007.

**Motion 1 - Industry Benchmarking**

*That the Western Australian Local Government Association seeks to improve the performance of the local government industry as a whole by lobbying the Minister for Local Government and Regional Development to implement industry wide performance benchmarking.*

**Summary of Issue**

Industry benchmarking may improve financial sustainability  
The Minister for Local Government & Regional Development has indicated support.  
Previous "user pays" models for benchmarking have failed.  
The Government should implement industry wide bench marking for Local Governments

**Summary of WALGA Secretariat Response**

Industry benchmarking is an acknowledged strategy for performance improvement across the sector.

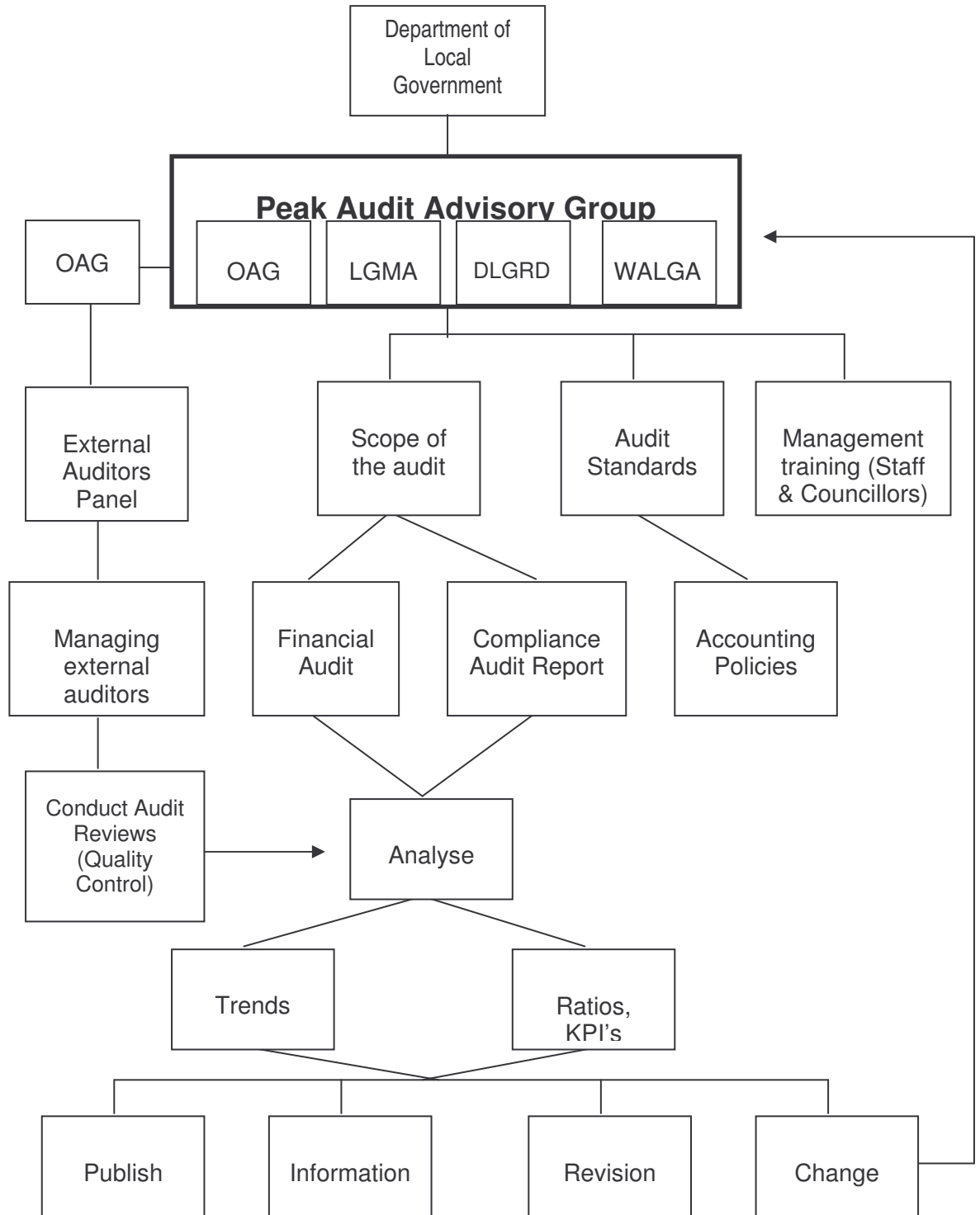
The Association established a Benchmarking Bureau for WA Local Governments in the late 1990s, which enjoyed only limited success due to the financial costs and administrative workloads required of councils to participate. These impediments would need to be taken into account in establishing any new benchmarking system.

Also of relevance are the recommendations made to the Minister for Local Government & Regional Development in relation to the Public Accounts Committee Inquiry into Local Government Accountability.

Under the structure (refer chart) for involving the Auditor General in Local Government audits that was endorsed by the Association (and recommended by the Ministerial Reference Group), in February 2007, publishing of statistical analysis (trends, ratios, KPIs, etc) was identified as an important responsibility of the Department of Local Government & Regional Development under the auspices of the proposed Peak Audit Advisory Group. Cost effective Industry benchmarking may be achievable through the information resources that would be established by this structure, if adopted and endorsed by the Minister.

The Systemic Sustainability Study Finance Expert Team is reviewing the Peak Audit Advisory Group model and the Public Accounts Committee report and recommendations as part of its deliberations.





**City of South Perth Administration Response**

For the reasons outlined, an industry wide professionally managed benchmarking exercise can only have beneficial results. It is recommended that Council's delegates to the WALGA AGM support the motion.

**Motion 2 - Frequency of Land Valuations by the Valuer Generals Office**

*That the Western Australian Local Government Association seek a commitment from the Minister for Land Information to review the frequency of land valuations provided by the Valuer General's Office to standardise the frequency for each local government depending on the rate of development and past experience in the increase in land values.*

*If the change in timing of valuations is related to resources then request the government increase the funding available to the Valuer General's Office to provide a more effective service to the community.*

**Summary of Issue**

- Frequency of property valuations provided by the Valuer General.
- Disparity in Valuer General providing UV Valuations yearly as opposed to GRV every 3/4 years.
- Request standardised frequency of revaluations.
- Request Government to increase funding to the Valuer Generals Office.

**Summary of WALGA Secretariat Response**

The current system of the Valuer Generals Office providing revaluations on the two (2) valuation systems at different intervals, certainly provides difficulties for Local Authorities in managing the rate level adjustments required. As stated in the submission the most equitable and simplest way to apply the valuations across all properties is to have the valuations for all provided at the same time. In addition the Shire of Dardanup are requesting that the frequency for revaluations for each local authority should be considered on the rate of development and past experience in the increase in land values.

As part of the Systemic Sustainability Study (SSS) Project, the Revenue Expert Team are considering the issue of the best method of valuations for the rating system and are also reviewing the entire rating system.

**City of South Perth Administration Response**

Whilst this motion does not directly impact on the City of South Perth because it only has one valuation system - a gross rental valuation (GRV) system, the proposal has merit from an industry point of view and should be supported. It is recommended that Council's delegates to the WALGA AGM support the motion.

**Motion 3 - Pre-Selling Vacant Land**

*That the Western Australian Local Government Association make political representation to the State Government expressing concern at the implications arising from developers pre-selling land and seek its assistance in promulgating legislative reform which renders the practice of pre-selling, other than with a fixed contract, unlawful.*

**Summary of Issue**

WALGA to complete

- Current legislation enables land to be pre-sold of the plan.
- Contract conditions may enable buyer or seller to cancel O&A contract.
- New legislation could clarify the circumstances under which cancellations can occur.

### **Summary of WALGA Secretariat Response**

Current legislation does enable land to be pre-sold, off the plan, prior to issue of the Land Title.

The Planning and Development Act 2005, which came into force on 9 April 2006, consolidated the previous planning Acts and maintained most of the earlier planning processes, including sale of land prior to subdivision.

Specifically, section 140 of the 2005 Act enables land to be sold prior to subdivision provided the approval of the WAPC is subsequently obtained.

In short, provision for the pre-sale of lots exists. Usually an offer to buy property is made using both the *Contract for Sale of Land by Offer and Acceptance* form, commonly called the "O & A", and the *Joint Form of General Conditions for the Sale of Land*, commonly referred to as the General Conditions. Together, the O & A and the General Conditions constitute the standard contract for the sale of real estate in WA.

Clause 13 of the Joint Form of General Conditions for the Sale of Land (2002 Revision) complies with the requirements of section 140.

However, a O&A may be varied by specifying special conditions , time limitations and expiry dates which may enable a buyer or seller (in this case the land developer) to cancel a contract.

Whilst it is the responsibility of the buyer to be aware of any conditions attached to the contract that may enable a seller to cancel a contract and buyers can seek recourse through the Magistrates Court, it may be prudent to clarify under what circumstances pre-sale contracts can be cancelled and what if any compensation is due.

For instance, if the reasons for the land developers inability to meet the conditions and therefore honor the contract are outside of the developers control, there is minimum, if any compensation. But if the reasons for the developers inability to meet the terms of the contract are within the developers control, eg completion of road works, the developer is required to honor the contract or pay adequate compensation. This may deter land developers that are trying to cancel contracts previously entered into, to 'cash in' on the higher land values currently being experienced.

### **City of South Perth Administration Response**

If current legislation and practices are unclear and creating difficulties, it is desirable that amendments are made to the legislation to correct any anomalies. If the motions seek to address these anomalies, they should be supported. It is recommended that Council's delegates to the WALGA AGM support the motion.

### **Motion 4 - Funding - Volunteer St John's Ambulance Services**

*That the State Minister for Police and Emergency Services; Community Safety be requested to pursue whatever legislative changes are necessary to make funding from the Emergency Services Levy available to fund volunteer St John's Ambulance Services*

### **Summary of Issue**

- Under the terms of the *Fire and Emergency Services Act (2002)* St Johns Ambulance is not entitled to the ESL funding.
- Need to review and increase funding for volunteer Ambulance Services.

**Summary of WALGA Secretariat Response**

Under the terms of the Legislation, *Fire and Emergency Services Act 1998* and its amendment to include the ESL of 2002, St Johns Ambulance is not entitled to the ESL funding. If it were a state managed body, as in other states of Australia, funding may be provided.

St Johns Ambulance is a private organisation that currently has a service contract with the Health Department of Western Australia.

As a service provider, St Johns are a fee for service, medical first responder.

St Johns under their contract have a responsibility to ensure that each sub centre has the equipment, trained staff and guidance to provide emergency care when needed by community members. Fire and Rescue and SES are provided free of charge to the community under the ESL funding agreement.

The WALGA Community Policy Team has written to FESA and St Johns Ambulance in March this year. Subsequently Association representatives met with FESA to discuss Ambulance funding. FESA acknowledged this is an issue and although outside the parameters of the ESL supports the principle of obtaining more efficient funding and resourcing for Ambulance Services.

WALGA has also recommended an alternative motion:-

*That the Association write to the State Minister of Health and State Minister for Police and Emergency Services; Community Safety requesting that the current legislation and funding mechanism for volunteer St Johns Ambulance Services be reviewed.*

**City of South Perth Administration Response**

Both Member and WALGA recommendations are similar in nature and both could potentially achieve the same outcome although the WALGA motion is probably the more technically correct motion in terms of process.

If it is accepted that the WA Ambulance Service (conducted by St Johns Ambulance Service) is part of the State's Emergency Services (which is presumably undeniable) then it should be funded through state revenue collected by the ESL levy. It is recommended that Council's delegates to the WALGA AGM support the motion.

**Motion 5 - State Water Reform Agenda – Concerns for Local Government**

*That the Western Australian Local Government Association seek a meeting with the Minister for Water Resources to consider the implications of the implementation of the blueprint for water reform on landowners and local government with particular reference to:*

- *The use of proposed water reform legislation to dictate land use over riding the powers and autonomy of local governments, in particular the quarantine of irrigation land from alternative land uses.*
- *The cost implications to farmers for administration of the new legislation and subsequent licensing requirements and provision of metering equipment.*

- *Clarification of how the control of the water use and trading on the land is to be administered if the water is owned under license by a different company/individual and how local government may be drawn in to issues relating to town planning and other issues in terms of activities on the land.*
- *The cost of developing water management plans and the implication to farmers that have funded the construction of on farm water supplies and will now be required to be answerable to a community management group.*

*That the people directly affected by the proposed reforms be directly consulted and their concerns heard and considered before any new legislation is adopted by government.*

#### **Summary of Issue**

- The proposed water reform legislation will impact on the planning powers of local government.
- Here are a number of equity issues including increased cost and local control of the resource
- Clarification is needed on how the system of water use and trading will operate
- Consultation with users has been insufficient.

#### **Summary of WALGA Secretariat Response**

A meeting is being scheduled with Minister Kobelke to discuss these and other issues associated with the State water reform agenda.

#### **City of South Perth Administration Response**

The motion seeks to arrange a meeting with the relevant Minister and WALGA has already initiated this action. Water management is becoming an increasingly important topic and the content of the motion is supported. It is recommended that Council's delegates to the WALGA AGM support the motion.

#### **Motion 6 - Raising and Collection of the Domestic Refuse Rate**

1. *That the Western Australian Local Government Association again lobbies the State Government to consider the further expansion of the Pensioner/Senior Concession arrangements to allow the concession to extend to the Domestic Refuse Charge consistent with its application to the Emergency Services Levy; and*
2. *Notes that the City of Wanneroo will be writing to the Deputy Premier, requesting that consideration be given to the further expansion of the Pensioner/Senior Concession arrangements to allow the concession to extend to the Domestic Refuse Charge consistent with its application to the recently introduced Emergency Services Levy.*

#### **Summary of Issue**

- To consider the impact of the Rates and Charges (Rebates and Deferrals) Act 1992 on separately raised Domestic Refuse Charges.
- To again lobby the State Government to consider further expansion of the Pensioner/Senior Concession arrangements to include the Domestic Refuse Charge – consistent with its application to the Emergency Services Levy

### **Summary of WALGA Secretariat Response**

Previously the Western Australian Local Government Association has actively lobbied on this matter. The Municipal Waste Advisory Council, on behalf of the Association, sought the support of the Environment Minister regarding the inclusion of charges for waste management in the discount scheme. The Minister agreed to write to the Treasurer supporting the inclusion of charges for waste management (refuse) as an eligible charge under the Rates and Charges (Rebate and Deferments) Act 1992. More generally the Association raised the concern with the Local Government Minister.

The Association recognises that amongst some Councils it is considered more practical to charge residents one set fee per service (charges) rather than a percentage of the value of their property (rates). If the council is being charged a set amount per bin service by the private waste management sector it may be considered preferable for the council to pass this set charge onto its residents.

It is also recognised that there is a growing need for Councils to be transparent in their financial management. Removing waste management fees from rates is a move towards this transparency. Separating waste management fees from rates is considered to be a move to best business practice. Local Government does not consider that residents should be penalised for Local government good business practices.

The Association is able to again raise the issue, regarding the expansion of the pensioner/senior concession, with the relevant Ministers.

### **City of South Perth Administration Response**

This has been a long outstanding issue. A number of Councils do not levy separate rates and refuse charges. As a consequence, those pensioner ratepayers receive a rates concession on the refuse component of the rates notice. Pensioners in those Councils that do separate rates and refuse charges do not receive concessions on refuse charges. For equity reasons, the motion is supported. It is recommended that Council's delegates to the WALGA AGM support the motion.

### **Motion 7 - Proposed Amendments to the Constitution of the Western Australian Local Government Association - Terms of Office for Zone Office Bearers**

*That the Association's Constitution be amended to provide for the term of Zone office bearers to expire in line with Local Government elections.*

### **Summary of Issue**

- Shire of Bridgetown-Greenbushes has proposed amending the Association's Constitution to align the term of Zone office bearers with the Local Government elections.
- Association's Constitution requires notice of proposed amendments to be preceded by 90 days notice to Ordinary Members.
- With the exception of Zone representatives and deputy representatives to State Council, the Association's Constitution does not incorporate terms for Zone office bearers.
- Amendments made to the Association's Constitution in 2004 realigned the terms for representatives and deputy representatives to State Council with the biennial election cycle.

### **Summary of WALGA Secretariat Response**

This motion was originally foreshadowed to be moved at the 2006 Annual General Meeting, however it did not comply with the notice requirements of the WALGA Constitution and accordingly, it was resolved that the motion be left on table until the next General Meeting of Ordinary Members.



With the exception of terms for Zone representatives and deputy representatives to the WALGA State Council, the Association's Constitution does not presently incorporate Zone office bearers (Zone Presidents/Chairs, Deputy Zone Presidents/Chairs, Zone Executive Members and Zone Secretaries) or their terms of office. Accordingly, individual Zones are entitled to determine their range of office holders and the respective terms for these positions (except for Zone representatives and deputy representatives to the WALGA State Council).

The majority of country Zones have sought to adopt their own constitutions to establish the range of office holders for the Zone and to prescribe their terms of office. It is at the discretion of individual Zones to determine whether the terms for office holders will correlate with the biennial Local Government elections. For operational convenience, it may be preferable for Zones to consider fixing the terms for their office bearers to conclude one (1) or two (2) months after the Local Government elections. This will provide Member Councils with sufficient time to review their membership to boards and committees after Council elections and to appoint delegates to Zones. Following the appointment of delegates from Councils, Zones can then conduct elections for office bearers at their next ordinary meeting.

Amendments made to the Association's Constitution in 2004 realigned the terms for representatives and deputy representatives to the State Council with the biennial Local Government election cycle. Zone representatives and deputy representatives are now elected for two (2) year terms in the months following the biennial Local Government elections in May. The terms for representatives and deputy representatives commence and terminate at the conclusion of the Annual General Meeting in August. This timing enables Councils to appoint their delegates to Zones after the Local Government elections. Zones can then conduct their elections for their representatives and deputy representatives to the State Council in June and July, with the elected body taking office as State Council in August.

With the change in date of biennial Local Government elections from May to October, it was necessary for the Association to realign the terms for State Council. Accordingly, constitutional amendments were endorsed at the 2006 Annual General Meeting to change the terms of representatives and deputy representatives to State Council from August to April, commencing in 2008. This change will mean that the biennial Local Government elections to occur in late October, followed by Local Governments electing their delegates to their respective Zones (November-December). Zones will then elect their representatives and deputy representatives to State Council (February-March), with the new State Council taking office in April.

#### **City of South Perth Administration Response**

Changes to the WALGA constitution are necessary as a result of the change in the election date from May to October and this change is to facilitate a change in the term of Zone Office bearers. It is recommended that Council's delegates to the WALGA AGM support the motion.

#### **Motion 8 - Proposed Amendments to the Constitution of the Western Australian Local Government Association - Associate Member of Zones**

That subclause 14(10) of the Association's Constitution be deleted and the following new subclause 14(10) be inserted:

(10) "A Zone may, from time to time, resolve to admit an Ordinary Member or Associate Member of the Association from outside their existing membership as an Associate Member of their Zone. In considering whether to admit an Ordinary Member or an Associate Member of the Association as an Associate Member of a Zone, the Zone shall give regard to the significance of communities of interest between the existing membership of the Zone and the Ordinary Member or Associate Member of the Association that is seeking to become an Associate Member of the Zone."

#### **Summary of Issue**

- Constitutional amendments seeks to permit Zones to admit Associate Members of WALGA as Associate Members of their Zone where the Zone is believes that there is sufficient commonality of interest between the Ordinary Members of the Zone and the proposed Associate Member.
- Subclause 5(7) precludes Associate Members from voting at any meeting of the Association (General Meetings and Special Meetings).
- Proposed constitutional amendments were endorsed by State Council at its meeting on 6 June 2007.

#### **Summary of WALGA Secretariat Response**

An increasing number of organisations have made enquiries about the availability of Associate Membership to WALGA as it relates to the capacity to access the wide range of services, products and programs that the Association provides to its membership. With most of these enquiring organisations, a clear strategic alignment with the Association and its Member Local Governments exists such that there would be benefits flowing to both under a closer alliance. It is recognised that the capacity for the Association to exert influence is directly impacted by its ability to build extensive and robust coalitions of interest and to foster effective networks.

State Council resolved in June 2007 to establish a framework around Associate Membership to WALGA to permit persons and organizations that are as admitted as Associate Members to access the range of WALGA products and services. It is relevant to note that Associate Members will not be entitled to the same preferential rates, discounts or financial savings that are available to Member Local Governments. This differential reinforces that the primary purpose underlying the Association's existence is for the benefit of Local Governments in Western Australia. Associate Members will be entitled to access Association services, products and programs at rates that are determined under a subscriptions formula to be developed by the Finance and Services Committee. It is intended that these rates will be more competitive than current market rates for similar services, products and programs.

In response to requests from several Zones in relation to the capacity for non-Association Members (namely Regional Local Governments, ROCS and VROCS) to participate in their Zones, State Council resolved to permit Zones to admit Associate Members of WALGA as Associate Members of their Zones.

Effecting this outcome will require amendments to the WALGA Constitution given that clause 14 currently only permits Zones to admit other Ordinary Members of the Association (ie Member Local Governments) as Associate Members of their Zones. The following amendments are proposed to subclause 14 (10) of the WALGA Constitution (the recommended changes have been marked up):

*Clause 14 - Zones*

- (1) Ordinary Members of the Association shall be grouped into Zones of the metropolitan and country constituencies.
- (2) The membership of Ordinary Members to Zones shall be determined from time to time by State Council.
- (3) The number of Zones shall be determined from time to time by the Ordinary Members of the Association at a Special or Annual General Meeting.
- (4) Each member of a Zone shall be entitled to be represented by a delegate or delegates elected or appointed by the member to represent its interests. Zones shall determine the number of delegates to which each member is entitled to be represented by on the Zone.
- (5) The management and affairs of the Zone shall be vested in the delegates that are elected or appointed to the Zone by each member of the Zone.
- (6) The functions of each Zone shall be:
  - (a) electing a representative or representatives and deputy representative or deputy representatives to the State Council;
  - (b) considering the State Council agenda;
  - (c) providing direction and/or feedback to their representative or representatives on the State Council; and
  - (d) any other functions deemed appropriate by the members of the Zone.
- (7) An application for change in membership between Zones may only be made by the member seeking to change its membership and with the approval of the receiving Zone.
- (8) Applications for changes in membership between Zones shall be determined by the State Council. In considering such applications, State Council shall give regard to the reasons provided in support of the application and any views expressed by the Zones directly affected by the application. State Council may approve or refuse any application, advising accordingly and including any reason therefore.
- (9) The Chief Executive Officer is to keep and maintain in an up-to-date condition a Register of Zone Membership, which may be varied from time to time by State Council. Upon request of an Ordinary Member, the Chief Executive Officer shall make the Register available for inspection by the representatives of an Ordinary Member during office hours and on reasonable notice.
- (10) A Zones may, from time to time, resolve to admit an Ordinary Members or Associate Member of the Association from outside their existing membership as an Associate Members of their Zone. In considering whether to admit an Ordinary Member or an Associate Member of the Association as an Associate Member of a Zone, the Zone shall give regard to the significance of communities of interest between the existing membership of the Zone and the Ordinary Member or Associate Member of the Association that is seeking to become an Associate Member of the Zone.

- (11) *Subject to subclause (12), Zones shall determine the participation of any Associate Member admitted to the Zone, including the extent to which the representatives of an Associate Member may speak to and vote on matters considered by the Zone.*
- (12) *An Associate Member of a Zone may not:*
- (a) *nominate a delegate for election to any office of the Zone;*
  - (b) *participate in an election held for any office bearer of the Zone; or*
  - (c) *vote on any matter considered by the Zone requiring a 75% majority.*

It is relevant to note that Associate Members will not be permitted to participate in the Association's representational framework, which includes the right to vote at all meetings of the Association (Special and General Meetings) and participate in the development of policy positions for the Local Government sector. This right is currently restricted to Ordinary Members, which includes the 144 Local Governments in Western Australia and the Indian Ocean region. Additionally, the Association will not undertake lobbying, advocacy, policy development or marketing/public relations activities for or on behalf of any Associate Member.

#### **City of South Perth Administration Response**

Changes to the WALGA constitution are necessary to allow the admittance of 'Associate Members' as a category of membership without the full benefit of ordinary members. It is recommended that Council's delegates to the WALGA AGM support the motion.

#### **Consultation**

The WALGA State Council will consider all member motions passed at the AGM. The State Council is not obliged to act on the motions passed.

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

Nil at this time.

#### **Financial Implications**

Nil at this time.

#### **Strategic Implications**

In line with Strategic Plan Goal 5: Organisational Effectiveness. *'To be a professional, effective and efficient organisation.'*

<b>OFFICER RECOMMENDATION ITEM 10.5.4</b>
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That Council's delegates be authorised to:

- (a) vote generally in accordance with the City of South Perth Administration response; and
- (b) exercise discretion if new information becomes available during the course of debate on these Motions.

#### **MOTION**

Cr Trent moved the officer recommendation, Sec Cr Ozsdolay

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

#### **AMENDMENT**

Moved Cr Jamieson, Sec Cr Best

That the officer recommendation be amended by the inclusion of the following additional part (c)

- (c) in relation to Motion 1 request that the LGMA be excluded from the 'Peak Audit Advisory Group' structure.

Cr Jamieson opening for the Amendment

- looking for a body giving direction
- LGMA perform functions - looking at an advisory group
- do not want LGMA as part of the 'Peak Audit Group'
- want our Delegates to put up an amendment to have LGMA taken off the group

Cr Best for the Amendment

- support Cr Jamieson's comments
- in this day and age do not need a staff union there to represent us
- support amendment

STATEMENT CHIEF EXECUTIVE OFFICER

The CEO stated that the LGMA is not a Union but a professional association of local government officers Australia wide with world wide affiliations. The organisation forms an integral part of local government in this State. The LGMA is part of high level meetings between WALGA and the Department of Local Government with the Minister for Planning and Infrastructure, Alannah MacTiernan the Treasurer and Premier where matters of local government are discussed. The industry relies on professional officers in local government to provide advice not only to WALGA but to the Department of Local Government. If the intention is to remove the LGMA then the professional input to the future direction of local government in this State would dry up. Members of the LGMA should be encouraged to participate in industry affairs to enable local problems to be addressed.

Cr Ozsdolay against the Amendment

- the LGMA has well and truly earned their stripes
- if they had not earned their stripes would not be an integral part of the group
- if this were a medical group / would I want the AMA - you bet
- who better to give practical advice on how local government operates than LGMA
- against the Amendment

Cr Wells for the Amendment

- support the amendment
- believe article in West Australian from LGMA President was derogatory to us
- need to make a stand - send a message to them

Mayor Collins against the Amendment

- to actually vote this body (LGMA) off the 'Peak Audit Advisory Group' because of an article in the West Australian newspaper is vindictive
- if that is the reasoning behind the Amendment we would be very wise to re-think the position of Council
- do not support this Amendment

Cr Jamieson closing for the Amendment

- not a union - thanks for the explanation
- no getting around it - there is certainly an issue with the LGMA and what occurred re the newspaper article - I have my theories on what occurred- whatever you want to call it
- want responsible leadership - do not want LGMA there / part of the group
- want our representatives at the AGM to vote accordingly.

The Mayor put the Amendment.

CARRIED (7/4)

Cr Hearne point of clarification - when that particular item, ie Motion 1 is put to the Delegates, will South Perth speak against it?

The Mayor responded that the Delegates will follow the Council resolution.

**COUNCIL DECISION ITEM 10.5.4**

That Council's delegates be authorised to:

- (a) vote generally in accordance with the City of South Perth Administration response;
- (b) exercise discretion if new information becomes available during the course of debate on these Motions; and
- (c) in relation to Motion 1 request that the LGMA be excluded from the 'Peak Audit Advisory Group' structure.

CARRIED (7/4)

**10.5.5 Amendment to Parking Local Law 2003**

Location:	City of South Perth
Applicant:	Council
Date:	12 July 2007
Author:	Sean McLaughlin, Legal & Governance Officer
Reporting Officer:	Cliff Frewing, Chief Executive Officer

**Summary**

In order to better regulate traffic movement and car parking during the staging of the 2007 Red Bull Air Race, an amendment to the Parking Local Law is proposed to provide for the establishment of a General No Parking Zone in accordance with Clause 7.4 of that law.

The procedural requirements for the making of a local law must be initiated by Council resolving to give state-wide public notice of the proposed law.

**Background**

At its June 2007 ordinary meeting Council endorsed the holding of the 2007 Red Bull Air Race on and around Sir James Mitchell Park including the imposition of road closures and parking restrictions.

**Comment**

In order to facilitate the proposed parking restrictions an amendment to the Parking Local Law is proposed to provide for the establishment of a General No Parking Zone during the staging of the 2007 Red Bull Air Race,

Clause 7.4 of the Parking Local Law enables the City to establish General No Parking Zones for specified areas at specified times. This is done by prescribing the desired time and area in Schedule 4 through an amendment to the local law.

*Procedural Requirements for the making of a local law*

Section 3.12 of the Act and regulation 3 of the *Local Government (Functions & General) Regulations 1996* set out the procedural requirements for the making of a local law.

*Purpose and effect*

At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law by ensuring that the purpose and effect of the proposed law is included in the agenda for that meeting and that the minutes of the meeting include the purpose and effect of the proposed local law.

The purpose of the proposed amendment local law is to provide for the scheduling of an additional General No Parking Zone in the City of South Perth and to amend clause 7.4 to clarify the operation of the clause.



The effect of the proposed amendment local law is to provide for the better regulation of car parking and traffic movements through the affected area.

*Public consultation*

Section 3.12(3) of the Act requires the local government to —

- (a) give State-wide public notice stating that:
    - (i) the local government proposes to make a local law the purpose and effect of which is summarized in the notice;
    - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
    - (iii) submissions about the proposed local law may be made to the local government for a period of not less than 6 weeks after the notice is given.
  - (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister; and
  - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.
- (3a) A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.
- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed.

The text of the proposed amendment local law is set out at **Attachment 10.5.5**.

**Policy and Legislative Implications**

None other than those described in this report.

**Financial Implications**

Nil.

**Strategic Implications**

The proposal is consistent with Strategic Goal 5: *“To be a professional, effective and efficient organisation.”*

<b>OFFICER RECOMMENDATION ITEM 10.5.5</b>
---

That....

- (a) Council resolves to adopt the proposed Amendment (Parking Local Law) Local Law 2007, **Attachment 10.5.5**, for the purposes of public advertising and consultation and other matters contained in the local law making procedure required by section 3.12 of the *Local Government Act*; and
- (b) a further report be presented to Council after the expiry of the submission period to enable the Amendment Local Law to be made.

PURPOSE / EFFECT OF PROPOSED LOCAL LAW

As required, the Mayor read aloud the ‘purpose and effect’ of the proposed local law as follows:

*The purpose of the proposed amendment local law is to provide for the scheduling of an additional General No Parking Zone in the City of South Perth and to amend clause 7.4 to clarify the operation of the clause.*

*The effect of the proposed amendment local law is to provide for the better regulation of car parking and traffic movements through the affected area.*

**OFFICER RECOMMENDATION AND  
COUNCIL DECISION ITEM 10.5.5**

Moved Cr Hearne, Sec Cr Ozsdolay

That....

- (a) Council resolves to adopt the proposed Amendment (Parking Local Law) Local Law 2007, **Attachment 10.5.5**, for the purposes of public advertising and consultation and other matters contained in the local law making procedure required by section 3.12 of the *Local Government Act*; and
- (b) a further report be presented to Council after the expiry of the submission period to enable the Amendment Local Law to be made.

CARRIED (11/0)

**10.6 GOAL 6: FINANCIAL VIABILITY**

**10.6.1 Monthly Financial Management Accounts - June 2007**

Location: City of South Perth  
Applicant: Council  
File Ref: FM/301  
Date: 9 July 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**

Whilst acknowledging the very important need for Council and the community to be provided with a 'final' year-end accounting of the City's operating performance and financial position; the year end financial accounts for the City are yet to be completed - in either a statutory or management account format. This is because the City is still awaiting supplier's invoices and other year end accounting adjustments before finalising its annual accounts ready for statutory audit. It is considered imprudent to provide a set of 30 June Management Accounts at this time when it is known that the financial position disclosed therein would not be final - and would be subject to significant change before the accounts are closed off for the year.

It is proposed that a complete set of Statutory Accounts and a set of Management Accounts as at year end would be presented to Council at the first available meeting of Council after their completion - ideally the 28 August 2007 meeting if possible. Such action is entirely consistent with Local Government Financial Management Regulation 34(2)(b), responsible financial management practice - and the practice of this City in previous years.

#### **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' financial resources'*.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.1</b>
--

That the monthly Statement of Financial Position, Financial Summaries, Schedule of Budget Movements and Schedule of Significant Variances for the month of June 2007 be presented to the 28 August 2007 meeting of Council in order to allow the final year end position to be accurately and completely disclosed.

CARRIED EN BLOC RESOLUTION

<b>10.6.2 Monthly Statement of Funds, Investments and Debtors at 30 June 2007</b>
---

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	8 July 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 year end of \$24.36M compare very favourably to \$22.61M at the equivalent stage of last year. This result is due to a number of factors including the very good cash collections from rates levied in July (0.62% ahead of last year's result at year end). Timely processing of 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 cash flow impact of the way that ESL collections are remitted has reached the 'neutral' year end position where both collections and remittances are almost equal. The City has, however, benefited from the additional investment revenue earned during the year whilst the ESL collections (above the pre-determined payment quotas) were invested by the City until they were required to be remitted to FESA.

The net cash position is improved by some 10% relative to June 2006 with monies brought into the year and our subsequent cash collections being invested in secure financial instruments to generate interest until those monies were required to fund operations or projects later in the year. Around  $\frac{2}{3}$  of this difference relates to increased cash backed Reserves - most noticeably the funds associated with the CPV Refundable Monies. The remainder relates to higher cash holdings due to delayed outflows on capital projects. 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 \$6.23M (compared to \$5.81M in 2005/2006). **Attachment 10.6.2(1).**

**(b) Investments**

Total investment in short term money market instruments at month end is \$23.99M compared to \$22.19M 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 10.6.2(2)**. Interest revenues (received and accrued) for the year to date total \$1.84M, which is significantly up from \$1.54M at the same time last year. This is attributable to higher cash holdings, higher interest rates accessed and timely, effective treasury management.

The average rate of return for the year to date is 6.38% with the anticipated yield on investments yet to mature currently at 6.52% - 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 disclosed in **Attachment 10.6.2(3)**. Rates collections to the end of June 2007 represent 97.4% of total rates levied compared to 96.8% at the end of the previous year. This has set a new benchmark as the City's best ever rates collection result to this stage of the year - with the 95% year end key performance indicator being achieved well ahead of the target date. This result not only supports the rating strategy and the communication strategy used for the 2006/2007 rates strike but also is testament to the timely, efficient and responsible debt collection actions initiated by the City's Rates Officers.

For the small number of ratepayers who have failed to meet their responsibilities to contribute financially to our community in a timely manner, Financial Services officers are continuing to take appropriate collection actions - including issuing reminder notices and (if necessary) taking other more serious and appropriate debt collection actions. These actions complement the City's proven rates strategy to ensure that we build upon our existing very solid treasury management foundations.

It is important to acknowledge that 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 our rates collections.

General debtors stand at \$0.78M at 30 June 2007 compared to \$1.27M at the same time last year. Almost all debtor categories are lower than at this time last year - most notably GST Refundable from the ATO and Sundry (Balance Date) Debtors which was inflated last year by outstanding proceeds for vehicle trade-in and several significant road grants). The outstanding amount for Pension Rebates is also much lower than last year. Outstanding parking infringements are slightly higher than at the same time last year.

#### **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's financial resources'*.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.2</b>
--

That the 30 June 2007 Statement of Funds, Investment and Debtors comprising:

- Summary of All Council Funds as per **Attachment 10.6.2(1)**
  - Summary of Cash Investments as per **Attachment 10.6.2(2)**
  - Statement of Major Debtor Categories as per **Attachment 10.6.2(3)**
- be received.

CARRIED EN BLOC RESOLUTION



### 10.6.3 Warrant of Payments Listing

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	8 July 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 June 2007 and 30 June 2007 is presented for information to the July 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 financial report is prepared to provide financial information to Council and the administration and to provide evidence of the soundness of financial management being employed. 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'*.

MOTION

Cr Trent moved the officer recommendation, Sec Cr Hearne

**Note:** Cr Jamieson requested that it be recorded in the Minutes that he had requested copies of ten (10) invoices relating to cheques in the Warrant of Payments listing and that the CEO had declined his request.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.3</b>
--

The Mayor put the Motion

That the Warrant of Payments for the month of June 2007 as detailed in the Report of the Director Financial and Information Services, **Attachment 10.6.3**, be received.

CARRIED (8/3)

**NOTE:** CRS JAMIESON AND BEST REQUESTED THAT THEY BE RECORDED AS HAVING VOTED AGAINST THE MOTION

MEETING ADJOURNED

Move Cr Trent, Sec Cr Wells

That the meeting be adjourned at 10.30pm to allow for a 10 minute break.

CARRIED (11/0)

MEETING RESUMED

Moved Cr Trent, Sec Cr Maddaford

That the meeting be resumed at 10.45pm.

CARRIED (11/0)

**Note:** All those present before the adjournment returned to the Council Chamber.

**11. APPLICATIONS FOR LEAVE OF ABSENCE**

Cr Trent reported to Members that he had previously applied and was granted leave of absence from all meetings between 18 August and 5 September 2007.

**12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

<b>12.1 Request for Review of Policy P104 “Neighbour Consultation” relating to Public Viewing of Development Plans - Cr Cala 9.7.2007</b>
---

I hereby give notice that I intend to move the following motion at the Council Meeting to be held on 24 July 2007.

MOTION

That further to recent legal advice regarding the extent of access permitted by neighbouring residents to building plans associated with development applications, the Chief Executive Officer undertake a review of Planning Policy P104, “Neighbour Consultation on Town Planning Processes”. The review will examine whether the present “copyright” obligations of the City can be relaxed to allow development plans associated with a Development Application to be copied by neighbouring residents.

COMMENT

For neighbouring residents of a proposed development, the present restrictions regarding access and copying drawings to allow them the opportunity to study them at their leisure can be extremely annoying and inconvenient. There maybe issues they wish to challenge and put a case together to present to the City. This requires time and sometimes professional expertise, however without plans that can be taken away from the City's offices, they are placed in a position of extreme disadvantage. In recent years this Council has been reviewing Policy P104 with the intention of extending the present boundaries required for resident consultation, and provide greater opportunities for viewing of documents, however the issue of availability of development plans remains unresolved.

All Local Authorities have the responsibility to have stringent assessing and monitoring procedures in place for development applications. However there should be no reason for any resident of the City should they wish to, not to have the same information that a planning officer has available, should they wish to put a case to object to the application.

If the legal obligations of preserving an applicant's copyright over the drawings can be met, the City is better positioned to have a fully accountable assessment process in place for planning applications.

COMMENT CEO

In accordance with Clause 5.3(4)(d) of Standing Orders Local Law 2007 the Chief Executive Officer comments as follows:

Policy P104 is currently under review. If the motion is adopted, the current review will be expanded to address the issue of copies of development application plans being made available to neighbouring residents. As part of this review, up-to-date legal advice will be obtained on the 'copyright' issue. The City's current neighbour consultation practices in relation to development applications, is based on legal advice obtained in early 2005.

**COUNCIL DECISION ITEM 12.1**

Moved Cr Cala, Sec Cr Wells

That further to recent legal advice regarding the extent of access permitted by neighbouring residents to building plans associated with development applications, the Chief Executive Officer undertake a review of Planning Policy P104, "Neighbour Consultation on Town Planning Processes". The review will examine whether the present "copyright" obligations of the City can be relaxed to allow development plans associated with a Development Application to be copied by neighbouring residents.

CARRIED (11/0)

**12.2 Mayoral Portrait - Suzanne Pierce - Cr Jamieson 9.7.2007**

I hereby give notice that I intend to move the following motion at the Council Meeting to be held on 24 July 2007.

MOTION

That....

- (a) the Mayoral Portrait painting of Suzanne Pierce be modified as follows:
  - (i) Fix the year on the *Local Government Act* reference to be 1995; and
  - (ii) Remove the words that follow the wavy curve above the head of Ms Pierce.
- (b) a suitable unveiling ceremony befitting the status of a former Mayor be organised in consultation with Ms Pierce using the following proposed evening structure as a basis for consultation:

- (i) On a Friday or Saturday evening within the next month
  - (ii) with a buffet style meal similar to meals provided at Council meetings
  - (iii) Local Members of Parliament, Council Members, Senior City of South Perth staff and other VIPs be invited to the evening
  - (iv) Ms Pierce be allowed to invite up to 10 guests of her choice
- (c) the painting to be hung on the wall directly opposite the door to enter the Councillors' Lounge.

#### MEMBER COMMENT

Ms Pierce as former Mayor for the City of South Perth has had her Mayoral Portrait painting in a nominally "finished" state for approximately a year now. She sat through the sessions to have the painting made a long time ago, and the time to hang the painting is overdue.

The CEO advised me on 11 May 2007 by email after two requests that as a result of informal discussion held on 13 February 2007 with Councillors he would *"review potential options (and) will report to Council to seek its guidance on how it wishes to deal with the matter"*.

I wish to progress the matter in a ceremony befitting the status of a former Mayor of the City of South Perth. I trust the artist will not have objections in making minor changes to the portrait on request.

#### COMMENT CEO

In accordance with Clause 5.3(4)(d) of Standing Orders Local Law 2007 the Chief Executive Officer comments as follows:

The suggestion that the painting be modified may raise issues of copyright and moral rights of the artist. The safer course, if modification was thought desirable would be to consult with the artist and subject.

#### MOTION

Cr Jamieson moved his Motion at Item 12.2, Sec Cr Best

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

##### Cr Jamieson opening for the Motion

- objective is simple - get the painting hung - parts (b) & (c) of the Motion not an issue
  - contacted CEO suggesting potential option on how to deal with this matter
  - proposed motion is dealing with the matter - need to progress
  - suggest some type of ceremony
  - we asked Suzanne Pierce to have the portrait done
  - portrait done - now just sitting in a cupboard
  - date of *Local Government Act* in painting needs to be changed
  - refer to paperwork 'tabled' during public question time \*\*
  - artist acknowledged he can make the changes quickly
  - see part (b) as being a precedent for future unveilings
  - part (c) suggest an amendment to a location more appropriate
  - main issue is to get this Mayoral portrait hung
- \*\* Note:** correspondence 'tabled' at public question time by Ms Cook confirmed approval of proposed changes to the portrait by the artist and Ms Peirce.

##### Cr Best for the Motion

- good thing the issue of copyright / moral rights addressed by the artist
- great initiative that someone has contacted the artist
- support the Motion

Mayor Collins for the Motion

- this Council approved a Mayoral portrait
- couple of issues that could perhaps have been done better
- never any opposition to recognising Suzanne Pierce as a former Mayor of this Council
- rather than setting a precedent for future unveilings more appropriate a policy be adopted in this regard
- with information now provided at public question time by Ms Cook we can move on
- support having the portrait modified and hung

Cr Maddaford against the Motion

- appreciate Cr Jamieson's comments
- Cr Jamieson has stated on numerous occasions in this Chamber *there is no paper trail*
- heard there is no paper trail

AMENDMENT

Moved Cr Ozsdolay, Sec Cr Smith

That part (b) of the Motion be deleted and part (c) be re-numbered and modified to read:

- (b) the painting to be hung alongside other Mayoral Portraits between the door to the Councillors' Lounge and the Mayor's Office.

Cr Ozsdolay opening for the Amendment

- Suzanne Pierce needs to be acknowledged as a former Mayor of this City
- part (b) of the Motion proposed concerns me - puts City in an embarrassing position
- acknowledge and respect Suzanne Pierce's election as Mayor
- part (c) should not be telling officers where to hang portrait
- support Amendment

Cr Smith for the Amendment

- should have a policy on Mayoral Portraits, determined by Mayor and CEO
- draft policy should be brought back to Council for consideration
- support Amendment

Cr Gleeson point of clarification - there was obviously a Motion from the Council of the day that the portrait not be hung, is that correct?

Mayor Collins responded no, that there was no such Motion.

The Mayor put the Amendment.

CARRIED (8/3)

Cr Jamieson closing for the Motion

- main objective is to get painting up
- where we hang the painting - happy to leave it to officers
- like the suggestion of a policy
- support the Motion

**COUNCIL DECISION ITEM 12.2**

The Mayor put the Amended Motion

That....

- (a) the Mayoral Portrait painting of Suzanne Pierce be modified as follows:
  - (i) Fix the year on the *Local Government Act* reference to be 1995; and
  - (ii) Remove the words that follow the wavy curve above the head of Ms Pierce; and
- (b) the painting to be hung alongside other Mayoral Portraits between the door to the Councillors' Lounge and the Mayor's Office.

CARRIED (9/2)

**12.3 Council Inspections of Multi-Level Buildings - Cr Smith 17.7.2007**

MOTION

That following recent legal advice, which was that the inspection of multi-level buildings should be undertaken as soon as it is practical, to ensure that the heights, setbacks and plot ratio, as constructed, complies with the approved plans, the Council directs Mr C Frewing, CEO to arrange for qualified officers to go onto the sites and measure the following three buildings:

- (a) "Silk Apartments" No. 23 South Perth Esplanade, South Perth;
- (b) "Excelsior" No. 152 Mill Point Road, South Perth; and
- (c) No. 180 Mill Point Road

initially in relation to height and setbacks to ensure that the external bulk of the buildings are in accordance with the approved plans; and if in any instance there are 'significant variations' a Stop Work Order is to be issued immediately.

COMMENT CEO

In accordance with Clause 5.3(4)(d) of Standing Orders Local Law 2007 the Chief Executive Officer comments as follows:

Construction is well advanced on the three approved buildings at the addresses referred to in the Motion. Legal advice recently received from McLeods and from Mr Ernie Samec of Kott Gunning confirms that, where construction is proceeding in a manner consistent with the approved building licence plans, the City has limited ability to require modifications. In relation to each of the buildings in question, no information has been received by the City to suggest that the construction is not proceeding in accordance with the building licence plans.

Notwithstanding the preceding advice, if the Motion is carried, it would be necessary for the City to engage external resources to carry out the measurement. A licensed land surveyor would need to be engaged for this purpose. If the surveyor's report identified any variations from the approved building licence plans, a decision would need to be made as to whether these were deemed to be 'significant variations' requiring the issuing of a Stop Work Order. This could require the submission of reports to Council meetings, depending upon the extent of any variation.

Item 10.0.3 on the July Council Agenda is a report on the prospective procedure relating to private certification of completed buildings on future occasions prior to the issuing of strata title certificates. If this procedure is implemented, developers would be required to arrange private certification at their cost. They would be notified of this requirement by way of a condition of planning approval.



**COUNCIL DECISION ITEM 12.3**

Moved Cr Smith, Sec Cr Best

That following recent legal advice, which was that the inspection of multi-level buildings should be undertaken as soon as it is practical, to ensure that the heights, setbacks and plot ratio, as constructed, complies with the approved plans, the Council directs Mr C Frewing, CEO to arrange for qualified officers to go onto the sites and measure the following three buildings:

- (a) "Silk Apartments" No. 23 South Perth Esplanade, South Perth;
- (b) "Excelsior" No. 152 Mill Point Road, South Perth; and
- (c) No. 180 Mill Point Road

initially in relation to height and setbacks to ensure that the external bulk of the buildings are in accordance with the approved plans; and if in any instance there are 'significant variations' a Stop Work Order is to be issued immediately.

CARRIED (6/5)

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

**13. QUESTIONS FROM MEMBERS WITHOUT NOTICE**

**13.1 RESPONSE TO PREVIOUS QUESTIONS FROM MEMBERS WITHOUT NOTICE**

The response, to a question raised at the June 2007 Council Meeting which was taken on notice, is included at Item 6.2.

**13.2. QUESTIONS FROM MEMBERS WITHOUT NOTICE 24.7.2007**

**13.2.1 Metropolitan Traffic Hot Spots : RAC Press Release : Cr Jamieson**

Summary of Question

Refer RAC Press Release of 13 June 2007.

1. Is the City aware that the RAC rates Centenary Avenue (between Leach Highway and Manning Road) Waterford, at number 13 in a list of its top 24 'hot spots' in the metropolitan area?
2. Will the City discuss Centenary Avenue in relation to the Proposed Subdivision: Clontarf Estate Cnr Manning Road and Centenary with the RAC?

Summary of Response

The Mayor stated the questions were taken on notice.

**13.2.2 Cleanaway Pick ups - Time/Noise Issue : Cr Jamieson**

Summary of Question

1. Is it acceptable for a Cleanaway truck to collect bins in Henley Street, 50m east of Canning Highway at 6.32am on a Wednesday?
2. Is it acceptable for a Cleanaway truck to collect bins adjacent to Meathcare on Henley Street at 6.24am in the morning?
3. Is it acceptable for Cleanaway to collect a mini-skip type container from the Shell Service Station in Manning Road, 100m from residential premises at 6.30am?
4. Where in the City are there commercial centres more than 100m from residential properties where they start collections prior to 7.00am?
5. Could a lawn mowing contractor operate at these times and in these location?

Summary of Response

The Mayor stated the questions were taken on notice.

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

15. MEETING CLOSED TO PUBLIC

15.1 Matters for which the Meeting May be Closed.

**COUNCIL DECISION : MEETING CLOSED TO THE PUBLIC**

Moved Cr Trent, Sec Cr Ozsdolay

That the meeting be closed to the public at 11.25pm in accordance with the *Local Government Act Section 5.23(2)(a)* while Items 15.1.1 and 15.1.2 are discussed as they relate to matters affecting employees.

CARRIED (11/0)

**Note:** The following staff and the remaining members of the public gallery left the Chamber at 11.25pm.

Mr S Cope	Director Strategic and Regulatory Services
Mr M Kent	Director Financial and Information Services
Mr L Croxford	Acting Director Infrastructure Services
Ms D Gray	Manager Financial Services
Mr R Kapur	Acting Manager Development Assessment
Mr S McLaughlin	Legal and Governance Officer
Ms R Mulcahy	City Communications Officer

**Note:** The Officer from the Department of Local Government remained in the Chamber. The Chamber doors were closed at 11.28pm

**15.1.1 Organisational Divisional Structure (Item 9.5.6 referred Council meeting 22.5.2007)**

Location:	City of South Perth
Applicant:	Council
Date:	10 July 2007
Author/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 matters affecting employees.

**Note:** *Confidential* Report circulated separately

**OFFICER RECOMMENDATION AND  
COUNCIL DECISION ITEM 15.1.1**

Moved Cr Trent, Sec Cr Gleeson

That Council...

- (a) endorse the proposed Organisational Structure as detailed in *Confidential* report Item 15.1.1 of the July 2007 Council Agenda; and
- (b) the CEO be authorised to put into effect the actions detailed under the heading “**Comment – Human resource implications**” contained in this report.

CARRIED (9/2)

**NOTE:** CRS JAMIESON AND BEST REQUESTED THAT THEYS BE RECORDED AS HAVING VOTED AGAINST THE MOTION

DECLARATION OF INTEREST : ITEM 15.1.2 : CHIEF EXECUTIVE OFFICER

*"I wish to declare an Interest in Item: 15.1.2 'Confidential Staff Matter' on the Agenda for the Ordinary Council Meeting to be held 24 July 2007. As I am the subject of the item in question I will leave the Council Chamber while this matter is being debated.*

**Note:** The Chief Executive Officer left the Chamber at 11.33pm

**15.1.2 Confidential Staff Matter (Item 13.1.1 referred from Council meeting 27.3.2007)**

**Note:** Confidential document circulated separately

**COUNCIL DECISION ITEM 15.1.2**

Moved Cr Ozsdolay, Sec Cr Trent

That the recommendations provided in Deacon's letter of 19 July 2007 be endorsed.

CARRIED (11/0)

**COUNCIL DECISION : MEETING OPEN TO THE PUBLIC**

Moved Cr Hearne, Sec Cr Trent

That the meeting be again open to the public at 11.46pm

CARRIED (11/0)

**15.2 Public Reading of Resolutions that may be made Public.**

For the benefit of the members of the public that returned to the Council Chamber the Council Resolutions for Items 15.1.1 and 15.1.2 were read aloud by the Mayor and Minute Secretary respectively.

**16. CLOSURE**

The Mayor closed the meeting at 11.48pm and thanked everyone for their attendance.

**DISCLAIMER**

The minutes of meetings of the Council of the City of South Perth include a dot point summary of comments made by and attributed to individuals during discussion or debate on some items considered by the Council.

The City advises that comments recorded represent the views of the person making them and should not in any way be interpreted as representing the views of Council. The minutes are a confirmation as to the nature of comments made and provide no endorsement of such comments. Most importantly, the comments included as dot points are not purported to be a complete record of all comments made during the course of debate.

Persons relying on the minutes are expressly advised that the summary of comments provided in those minutes do not reflect and should not be taken to reflect the view of the Council. The City makes no warranty as to the veracity or accuracy of the individual opinions expressed and recorded therein.

**These Minutes were confirmed at a meeting on 28 August 2007**

**Signed** \_\_\_\_\_

**Chairperson at the meeting at which the Minutes were confirmed.**