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**Minutes of the Special Meeting of the City of South Perth Council  
held for the Purpose of:**

- Adopting the 2007/2008 Budget;
- Discussing Proposed Major Additions/Alternations Waterford Plaza
- Progressing DoLG Inquiry Report Recommendations

**in the Council Chamber, Sandgate Street, South Perth  
Wednesday 10 July 2007 commencing at 7.00pm**

**1. DECLARATION OF OPENING**

The Mayor opened the meeting at 7.00pm and welcomed everyone in attendance. The Mayor then 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 Special Council Meeting on 10 July 2007.

**2. DISCLAIMER**

The Mayor read aloud the City's Disclaimer.

**3. RECORD OF ATTENDANCE / APOLOGIES / APPROVED LEAVE OF ABSENCE**

Present

Mayor J Collins, JP (Chairman)

Councillors:

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

Officers:

Mr C Frewing	Chief Executive Officer
Mr G Flood	Director Infrastructure Services
Mr M Kent	Director Financial and Information Services
Mr C Buttle	Manager Development Assessment
Ms D Gray	Manager Financial Services
Mr R Bercov	Strategic Urban Planning Adviser
Mr S McLaughlin	Legal and Governance Officer
Mrs K Russell	Minute Secretary

Gallery

Six members of the public and 1 member of the press present

Apologies

Mr R Burrows	Director Corporate and Community Services - ill
Mr S Cope	Director Strategic and Regulatory Services - leave

Leave of Absence

The Mayor reported having received written advice from Cr Best advising that he will be intrastate on business between 11 and 19 July inclusive and requesting that his apologies be recorded for any meetings held during his absence.

**4. DECLARATION OF INTEREST**

The Mayor reported that he had received a written declaration of interest from Cr Doherty in relation to Item 6.3.2. He then read aloud the Declaration as detailed in the Minutes before Item 6.3.2.

**5. PUBLIC QUESTION TIME (*in relation to Item 6*)**

**5.1. Public Question Time**

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 only to the items the subject of the Special Council Meeting. He advised that questions would be taken from the gallery on a rotational basis and requested that speakers state their name and residential address. He then opened public question time at 7.08pm.

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

Summary of Question

Re Budget - I note with interest that the Chief Executive's office is requesting a staffing increase in the human resources sector from 5 FTE to 6 FTE. This is a 20% increase. While the staff increase overall is only 1.4%? Has the workload of the HR increased by 20%?

Summary of Response

The Chief Executive Officer stated that the increase of 20% is equal to one person and that person is to take a role in training staff within the organisation which will result in fewer external courses being attended on general staff training matters. The total cost will be slightly less than a FTE.

Summary of Question

If it is going from 5 to 6 how is it not an increase of a full FTE?

Summary of Response

The Chief Executive Officer said that the increase was a full FTE which equals one person, however the costs overall would not be increased to one FTE as other costs would be avoided. % changes are always high where base figures are low.

Summary of Question

Does the proposed 213.4 FTE include temporary staff?

Summary of Response

The Chief Executive Officer said yes, it did include temporary staff.

Summary of Question

Will the employment of temporary staff supplied by employment agencies reduce or increase the workload of the HR section?

Summary of Response

The Chief Executive Officer said it does not increase but neither does it decrease as other issues are involved.

Summary of Question

Based on the figures supplied to me in response to my April questions, the expenditure on temporary staff amounted to \$892,000, the expenditure for 2007 will be close to the 2006 expenditure of over one million dollars. Does the Council expect this expenditure of about \$1M to continue?

Summary of Response

The Chief Executive Officer said this is a matter that has been discussed for approximately the last two years. He stated that the Council Budget is for a full compliment of staff positions. The City of South Perth has a staff turnover rate of approaching 25% which is not unusual in today's economic climate. He said that temporary staff were employed to meet our residents' expectations in the delivery of services, while we endeavour to obtain permanent staff but that does not mean that the Budget is exceeded. The salaries Budget including temporary staff was 2% less than the total Budget last year.

**Note:** Cr Gleeson left the Chamber at 7.14pm

Summary of Question

Note you said you use temporary staff until permanent position filled. I recall a position in January/February last year that was not advertised until September which seems to be a contradiction?

Summary of Response

The Chief Executive Officer said that there are always exceptions. One of these exceptions reported to Council was, for example, the review at the Collier Park Hostel when an instruction was issued last year that temporary staff were to be used until the review completed and the need for permanent positions resolved.

Summary of Question

Role of Council and CEO: Last month I asked a series of questions re the CEO and his role with the LGMA.

Summary of Response

The Mayor stated that the questions referred to did not link to the items the subject of the Special Council Meeting and would therefore not be accepted.

**Note:** Cr Gleeson returned to the Chamber at 7.16pm

Summary of Question

Does the CEO's employment contract state that the CEO requires the permission of the Council to be on the board of any organisation? The response received states: *the Chief Executive Officer stated that he believed the contract does require permission to attend on a board but that this relates to 'commercial type boards' rather than professional boards. He said that Council was aware of his membership on the LGMA board.*

Summary of Response

The Mayor stated that the Council had important business to determine to night. The questions raised did not refer to the Agenda topics and would therefore not be accepted. He further stated that any of the further questions, as tabled, that were relevant to the Special Council Meeting Agenda, would be taken on notice. The Mayor then requested Mr Defrenne to sit down.

Summary of Question

Is it the role of the CEO, Mayor or Council to ensure the answers to questions are correct?

Summary of Response

The Mayor stated the question was not relevant to the Agenda, would not be accepted and again asked Mr Defrenne to sit down.

Close of Public Question Time

As there were not other questions from the gallery, relevant to the business of the meeting, the Mayor closed public question time at 8.18pm.

**5.2. Deputations**

Close of Deputations

The Mayor opened Deputations at 7.18pm.

**5.2.1. Greg Rowe representing Midpoint Holdings P/L Agenda Item 6.2**

Mr Rowe spoke against the officer recommendation on the following topics:

- background on previous applications
- background on current application deferred at May Council meeting
- car parking as proposed is adequate
- landscaping as proposed is appropriate
- seek Council conditional approval of current application

Opening of Deputations

The Mayor closed Deputations at 7.31pm and thanked Mr Rowe for his comments.

**6. REPORTS**

**6.1 Adoption of the 2007/2008 Annual Budget**

Location:	City of South Perth
Applicant:	Council
File Ref:	FS/FI/1
Date:	6 July 2007
Author / Reporting Officer:	Michael J Kent, Director Financial and Information Services

**Summary**

To present the 2007/2008 Annual Budget, as circulated, for adoption by Council.

**Background**

The preparation of the Annual Budget is both a statutory requirement of the Local Government Act and a responsible financial management practice. The development of the budget has been persuasively influenced by the City's Strategic Plan and the financial parameters of its Strategic Financial Plan 2007/2008 to 2011/2012. The Budget document includes the Statutory Budget format with all relevant disclosures to discharge financial accountability to the community. In addition, it contains the 2007/2008 Schedule of Fees and Charges and the Summary Revenue and Expenditure Schedules relating to the Management Budget (which is the strategic overview of the City's finances).

A separate, more detailed Management Budget incorporating all line items (grouped to reflect the reporting mechanisms inherent within the organisational structure) has been prepared and will be used by the administration to manage departmental finances on an operational level throughout the next year.

### **Comment**

From the generation of the initial strategic financial projections in December 2006 to the date of this meeting, the budget process has evolved through a number of structured stages that have provided opportunities for Council Members, the community and City staff to have involvement in the process.

The major phases of the budget development process have been:

- Development of strategic forward financial projections.
- Verifying alignment with the 'themes' that underpin the development of the Strategic Financial Plan (SFP) and Budget.
- Determining the overall financial parameters for the 2007/2008 budget.
- Conducting a critical review of major capital projects on the SFP.
- Submitting and considering capital project proposals for 2007/2008 budget.
- Incorporating the outputs of community forums and Council Member workshops during the year (along with contemporary practices) into our forward financial planning.
- Developing a draft Strategic Financial Plan and putting that document out for public comment.
- Reviewing the Fees and Charges Schedule for the upcoming year.
- Preparing a Suggested Budget for consideration by officers and validating its alignment with overall financial parameters.
- Determining the final capital projects list for inclusion in the 2007/2008 budget.
- Identifying the incomplete capital works to be carried forward to 2007/2008.
- Establishing the likely Budget Opening Position.
- Preparing and reviewing the Draft Budget and Proposed Budget.
- Preparing the 2007/2008 Budget as presented for adoption.

Throughout the budget process, a series of structured briefings have been held with Council Members and relevant City officers to ensure that information on the budget process and the budget itself is available to participants. Importantly, this has resulted in a shared understanding of the Budget and its relationship to both the Strategic Plan and the Strategic Financial Plan.

By ensuring alignment with the City's strategic direction and its agreed strategic financial themes, competing organisational priorities can be assessed and prioritised in a manner which maximises community benefit whilst ensuring the City's financial, social and environmental sustainability.

Discussion on some of the key elements of the 2007/2008 Annual Budget is provided below:

### **Budget Overview**

The 2007/2008 Budget provides for Total Earned Revenue of \$39.64M supplemented by new City borrowings of \$3.0M. Total Expenditure is \$47.35M less non-cash items (depreciation etc) of \$6.38M plus a further \$0.4M for debt capital repayments. This comprises \$31.38M of Operating Expenditure (Management Account format) plus \$15.975M Capital Expenditure (including the \$4.80M Underground Power Project). The planned net Transfers to Reserves for the year are \$0.11M. Along with the estimated Opening Position and the estimated increase in Accrual Items of \$2.32M (primarily due to the anticipated deferred instalment payment plan for UGP Service Charges), this results in a balanced budget.

### **Rates**

The proposed rates yield for 2007/2008 is \$19.23M - based on a GRV for rateable properties in the City of \$255.47M. The City is obliged to use the GRVs supplied from the Valuer General's Office in determining its annual rates - which are calculated by multiplying those GRVs by a 'Rate in the Dollar' determined by Council.

The proposed rates yield is achieved by applying a 'Rate in the Dollar' of 7.400 cents to the property GRV for 2007/2008 - up from 7.065 cents in 2006/2007. This is a 4.75% increase in the rate in the dollar. This increase compares favourably to the WA Local Government Cost Index of 5.38%. The WALGA Cost Index is based on the CPI movement (all groups) for Perth in the last 12 months - adjusted to include a heavier weighting on wages and construction costs as these represent the major part of local government expenditure.

The Minimum Rate (determined to be the minimum equitable cost of servicing lots within the district) increases from \$565.00 last year to \$590.00 in 2007/2008 - an increase of 4.42%. Approximately 3,874 properties (20.1%) are expected to be minimum rated in 2007/2008. This is the same proportion as last year - and well below the threshold of 50% of all properties allowable under the Local Government Act.

All current Pensioner and Senior concessions will continue to apply. Eligible Pensioners will benefit from a rebate of up to 50% on their rates. Seniors entitlements are capped at \$227.00 which is a bigger concession than last year's \$216.00. Instalment payment options will attract a \$5.00 administration fee (per instalment) and pre-interest charges of 5.5%. Penalty interest of 11% will be applied to amounts outstanding beyond the due date. Benchmarking the rates increases of our metropolitan local government peers provides conclusive evidence that the City's rating strategy is achieving its objective of being rate competitive relative to its local government peers. The metropolitan average rates increase is 4.76%.

#### **Rubbish Charges**

The cost of a standard domestic rubbish service will be increased from \$155.00 to \$180.00 from 2007/2008. The City's rubbish service charge has been maintained at an artificially low level for some time with only two metropolitan local governments having a levy equal to or lower than the City's \$180.00 charge. The majority of metropolitan local governments charge a rubbish service levy of between \$190.00 and \$229.00. Non rateable properties will incur a standard rubbish charge of \$265.00 and commercial services (1100 ltr) will incur a \$900.00 charge.

The increased charges recognise the escalating cost of waste management and the rapidly increasing cost of landfill as climate change and concerns about global warming assume greater prominence. The rubbish service charge reflects the principles of full cost recovery - contractor charges have increased significantly for 2007/2008 and so must the associated rubbish levy.

The charge also acknowledges the need to provide future funding to secure access to one the emerging regional facilities developing alternative waste management technologies when landfill ceases to be a viable option. The City recognises that landfill is not an environmentally or financially sustainable approach and that it will soon become necessary to pay a premium to participate in a more environmentally friendly and socially responsible waste management solution. Resident ratepayers will continue to receive two green-waste and one general waste pass to the Transfer Station. Two bulk kerbside rubbish collections funded by the City will be provided again this year.

Overall, the combined increase in Rates and the Rubbish Charge for a typical (average) property in the city will be 5.38% which is in line with the WALGA Local Government Cost Index movement for the year.

**Emergency Services Levy (ESL)**

The State Government ESL charge will again appear on all local government rate notices in 2007/2008. This charge will be based on the GRVs supplied to the City using a rate nominated by the Fire and Emergency Services Authority. The 2007/2008 rate has been determined to be 1.52 cents in the dollar (1.46 cents in 2006/2007). FESA have indicated that the levy will be capped at \$205.00 in 2007/2008. This charge is outside the control of local governments, is set by the State Government and is not retained as revenue by the City.

All monies collected from residents of the City which relate to the ESL must be remitted to the Fire and Emergency Services Authority (FESA). This has cash flow implications for the City in respect to people paying by instalments as the ESL must be treated as a 'priority creditor'. However, the effects of this have been mitigated as the City has signed an agreement to pay FESA in pre-determined quarterly amounts rather than paying monthly based on actual collections. This payment model has a less dramatic impact on the City's cash flow in the earlier part of the year.

**Employee Costs**

Employee salary and wage costs are \$12.80M for the year including the expected impact of the City's EBA, award increases and statutory superannuation contributions. This represents an increase of 5.50% over the previous year's level. As part of a prudent management strategy, accrued employee entitlements under relevant awards (annual leave and long service leave) for all employees are fully funded and supported by cash-backed investments.

The budget provides for a total of 213.4 FTE (full time equivalent) positions made up of 182 full time employees and an additional 64 part time employees. This compared to 210.3 FTE approved positions in 2006/2007.

The staffing levels in the 2007/2008 budget reflect a more appropriate mix of resources - with the major changes in the administration being the inclusion of a new Training Officer position in the Human Resources area, a 0.5 FTE assistant in the Council Agendas and Minutes area and the inclusion of a (partly grant funded) 0.8 FTE Recreation Development Officer position. An additional 0.4 FTE position has been included in the CPH roster to implement the findings of the recent review into the operations of the hostel.

The mix between full and part time staff in Customer Focus Team and Libraries has been adjusted - with the inclusion of a 0.3 FTE Customer Focus Projects Officer and a 0.2FTE increase in the Library roster. A 0.3 FTE position to assist with Heritage and Exhibitions has been added but these increases are offset by a 0.4 FTE reduction in the Finance team and a 0.1FTE reduction in the Records Management team. The FTE staff headcount in the Ranger team has been reduced in relation to special events but this should not compromise customer service in this area.

Infrastructure Services has provided for a 1.0 FTE new position in the structure for a Parks Operations Coordinator who will oversee all parks maintenance matters as part of a restructure within the directorate. Staff numbers have been redistributed as a consequence of this restructure but staff numbers overall have not changed other than the new position noted above.

Approved staff numbers in Full Time Equivalents (FTE) for each directorate are shown below.



<b>Directorate</b>	<b>2006/07 No of FTE</b>	<b>2007/08 No of FTE</b>
<b>Chief Executive's Office</b>		
Directorate Administration	4.0	4.0
Human Resources	5.0	6.0
<b>Total FTE for Directorate</b>	<b>9.0</b>	<b>10.0</b>
<b>Corporate &amp; Community Services</b>		
Directorate Administration	4.0	4.5
Community Culture & Recreation	13.9	14.8
Retirement Complex	20.1	20.5
Golf Course	9.5	9.5
<b>Total FTE for Directorate</b>	<b>47.5</b>	<b>49.3</b>
<b>Financial &amp; Information Services</b>		
Directorate Administration	1.0	1.0
Financial Services	9.8	9.4
Information Services	8.0	7.9
Customer Focus Team	5.1	5.4
Library Services	15.2	15.7
<b>Total FTE for Directorate</b>	<b>39.1</b>	<b>39.4</b>
<b>Strategic &amp; Regulatory Services</b>		
Directorate Administration	1.5	1.5
Development Services	17.2	17.0
Health & Regulatory Services	13.0	12.2
<b>Total FTE for Directorate</b>	<b>31.7</b>	<b>30.7</b>
<b>Infrastructure Services</b>		
Directorate Administration	3.5	3.5
City Environment	46.5	47.5
Engineering Infrastructure	33.0	33.0
<b>Total FTE for Directorate</b>	<b>83.0</b>	<b>84.0</b>
<b>Total FTE for Organisation</b>	<b>210.3</b>	<b>213.4</b>

#### **Council Member Entitlements**

Entitlements for Council Members for 2007/2008 will remain at the statutory level for Meeting Fees of \$7,000 per Council Member and \$14,000 for the Mayor - as provided for under the Local Government Administration Regulations. Council Member Entitlements will also include (for all members), the permitted Communications and Technology allowances of \$2,400 and \$1,000 per annum respectively to assist members in effectively communicating with their electorate.

The Mayoral and Deputy Mayoral Local Government Allowances (as determined at the June 2007 Council meeting) are established at \$45,000 and \$11,250 respectively. All amounts proposed above are within the limits permitted by relevant legislation.

### **Other Expenditure attributed to Council Members**

In addition to funding allocations for Council Members for the relevant professional insurances, professional subscriptions, election expenses and training and conferences, there is an allocation made (by applying activity based costing principles) of some \$395,346 for corporate overheads to the Council Members area.

This covers the costs associated with:

- Officer time in researching, preparing and presenting reports and briefings to Council.
- Attending and recording minutes at Council meetings and briefings.
- An allocation of operating costs for the Council building.
- Technology support services.
- Administrative support services.

Funding is also provided in the 2007/2008 budget for the half council election in October 2007 to be run by the WA Electoral Commission.

### **CPV Maintenance Fees**

The impact of the concerted efforts of the City's executive and the positive and responsible support of the Collier Park Residents Committee have been reflected in the reductions of the anticipated operating loss for Collier Park Village over the last few years. However, the 2007/2008 Budget anticipates that the operating loss may extend slightly in 2007/2008 to an estimated operating loss of \$101,209 compared to a budgeted operating loss of \$61,147 in 2006/2007. This is because operating costs are expected to grow by more than the increase in the maintenance fee for 2007/2008.

Following the presentation of the draft budget to the Collier Park Residents Committee in June - and subsequently to the general meeting of all village residents, it is recommended that the Monthly Maintenance Fee for the Collier Park Village remain at \$260 per month for the July to September 2007 period (inclusive) - before increasing to the figure of \$270 per month thereafter for the remainder of the financial year.

The three month moratorium on the fee increase is consistent with the process adopted last year to allow time implement the alternative payment method that allows the residents to pay a lesser amount in cash each month - and have the remaining \$50 per month deducted from the refundable monies held on their behalf by the City in the Collier Park Village Residents Loan Offset Reserve. Financial modelling indicates that this approach continues to be financially sustainable and will not compromise the Collier Park Village reserves in the long term.

The budget also includes an operating subsidy of approximately \$90,000 to the Collier Park Hostel in 2007/2008 (versus approximately \$97,000 budgeted operating loss in 2006/2007). This would be met from the accumulated balance of the Collier Park Hostel Capital Reserve.

The budget has been developed on the assumption of the status quo prevailing - although it is possible that the consequential impacts of the Review into the Collier Park Hostel may alter that. In such an event, a separate budget review would be prepared to reflect any changed circumstances.

### **Reserve Funds**

The City anticipates that the balance of its cash backed Reserves will decrease by \$113,415 in net terms over the year after reinvesting some \$984,757 worth of interest revenue back to the reserves. The expected balance of cash backed Reserves at 30 June 2007 including those quarantined for the purposes of the Collier Park Retirement Complex, Golf Course and Waste Management is approximately \$16.98M. The quarantined Reserves make up \$13.0M worth of this amount and the remainder (\$3.9M) is general City Reserve Funds.

### **Capital Program**

A Capital Expenditure program of some \$11.17M (excluding the Underground Power Project) is planned for the 2007/2008 Budget. This does not include projects carried forward from 2006/2007.

Infrastructure projects make up \$6.73M of this total and the remainder of \$4.44M relates to non infrastructure projects. Details of the included projects are contained in **Attachment 6.1** (circulated separately).

### **Underground Power Project (UGP)**

In addition to the Capital Expenditure Program noted above, a further nominal amount of \$4.80M is provided as a prudent allocation towards the City's contribution to the previously approved Como East UGP project. When this project proceeds later in the year it would be funded by a separate UGP Service Charge raised directly against only those properties in the project area.

At this time, the City has received final quotations for the work from Western Power and it has undertaken community consultation to determine support for the project. Council has yet to determine the final amount of the UGP Service Charge in this area or to consider payment options and any relevant concessions.

No expenditure will be incurred until these matters are finalised, however, it is both necessary and prudent to make an allocation for likely cost, revenue and cash flow implications of the project in the Budget.

The City will communicate directly with all affected residents in the project area during the year as more information about the UGP project comes to hand.

### **Statutory Budget**

The Statutory Budget is prepared in accordance with all relevant professional accounting pronouncements. It follows a similar format to the 2006/2007 budget and contains a number of specified schedules including :

- Operating Statement:
- Rate Setting Statement
- Statement of Cash-Flows
- Notes to and forming part of the Budget
- Schedule of Fees and Charges
- Schedule of Capital Projects
- Schedule of Carry Forward Projects

The key features of each of these elements of the budget are :

1. An Operating Statement prepared in accordance with Australian Accounting Standard AAS27.

This statement summarises revenues and recurrent expenditures - classified according to specified local government programs.

2. A Rate Setting Statement which consolidates all elements of the budget into the following categories:

- Funding
  - All Sources except Rates \$ 20.41M
  - Loan Borrowings \$ 3.00M
  - Transfers from cash backed Reserves \$ 5.32M
  - Opening Funds \$ 0.53M
  - Accrual Funding Movements (\$ 2.32M)
  - Closing Funds \$ 0.60M

- Expenditures
  - Operating Expenditures (excluding non cash items) \$ 31.47M
  - Capital Expenditure (according to AAS27 principles) \$ 9.50M
  - Transfers to cash backed Reserves \$ 4.74M
  - Loan Capital Payments \$ 0.40M

The difference between the total expenditures and funding from all sources other than rates is the amount that the City is required to raise from rates to produce a balanced budget in the 2007/2008 year (\$19.23M). The Rate Setting Statement demonstrates to the community the full impact of the Budget.

3. A Statement of Cash-Flows which recognises the cash inflows from operating, investment and government sources as well as the outflow of cash on operating and investment items. It also indicates the impact which the timing of these items might have on the organisation's financial liquidity.
4. A Schedule of Fees and Charges which details the fees in force for City services and use of City facilities. Fees are based on either full cost recovery, partial cost recovery, statutory fees or reference (benchmark) pricing.

#### **Consultation**

In developing the budget, the City has given due consideration to submissions made in relation previous Strategic Financial Plans as well as considering Council Member and community feedback received by the City through various community forums and consultation exercises throughout the year.

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

The development of the Annual Budget has been conducted in accordance with the City's *Policy P601 – Strategic Financial Plan and Annual Budget Preparation* and *Policy P604 – Use of Debt as a Funding Option*. All relevant legislative provisions of Part 6 of the Local Government Act have been met - and the budget document itself is consistent with the requirements of the Local Government Financial Management Regulations.

#### **Financial Implications**

The financial implications of adopting the 2007/2008 Budget are as disclosed in **Attachment 6.1** of this report.

#### **Strategic Implications**

This report deals with matters of financial management which relate directly to the City's strategic goal of Financial Viability - *To provide responsible and sustainable management of the City's financial resources*.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 6.1</b>
---

Moved Cr Gleeson, Sec Cr Ozsdolay

That...

- (a) a General Rate in the Dollar of 7.400 cents be applied to the GRV of all rateable property within the City for the year ending 30 June 2008;
- (b) a Minimum Rate of \$590.00 be set for the year ending 30 June 2008 notwithstanding the General Rate set out in part (a) above;
- (c) that the following rubbish service charges be applied for the year ending 30 June 2008
  - (i) a standard Rubbish Service Charge of \$180.00 be levied;
  - (ii) a non rateable property Rubbish Service Charge of \$265.00 be levied;
  - (iii) a commercial (1100 ltr Bin) Rubbish Service Charge of \$900.00 be levied;

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- (d) a Swimming Pool Inspection Fee of \$13.75 be levied for the year ending 30 June 2008;
- (e) the following dates be set for payment of rates by instalments:
  - First instalment 27 August 2007
  - Second instalment 08 November 2007
  - Third instalment 10 January 2008
  - Fourth instalment 13 March 2008
- (f) an administration charge of \$5.00 per instalment for payment of rates by instalments be applied to the second, third and fourth instalment in accordance with Section 6.45(3) and (4) of the Local Government Act 1995 and Regulation 67 of the Local Government (Financial Management) Regulations;
- (g) an interest rate of 5.5% be imposed on payment by instalments, to apply to the second, third and fourth instalment in accordance with Section 6.45(3) of the Local Government Act 1995 and Regulation 68 of the Local Government (Financial Management) Regulations;
- (h) an interest rate of 11% be imposed on overdue rates in accordance with Section 6.51(1) of the Local Government Act 1995 and Regulation 70 of the Local Government (Financial Management) Regulations;
- (i) a Monthly Maintenance Fee of \$260.00 (treated as 'Input Taxed' for the purposes of the GST) be applied to all units in the Collier Park Village for the period July 2007 to September 2007 inclusive;
- (j) a Monthly Maintenance Fee of \$270.00 (treated as 'Input Taxed' for the purposes of the GST) be applied to all units in the Collier Park Village for the period from October 2007 to June 2008 inclusive;
- (k) the Statutory Annual Budget for the year ending 30 June 2008 comprising Sections 1 and 2 of the 2007/2008 Annual Budget as distributed with this Agenda and tabled at this meeting, be adopted;
- (l) the Management Account Summary Budget Schedules for the financial year ending 30 June 2008 as set out in Section 3 of the Annual Budget be endorsed;
- (m) the Capital Expenditure Budget for the financial year ending 30 June 2008 as set out in Section 4 of the Annual Budget be adopted;
- (n) the budgeted Carried Forward Capital Expenditure to 2007/2008 - as set out in Section 5 of the Annual Budget be approved (subject to final confirmation of unexpended balances after the City's final 2006/2007 financial accounts are completed);
- (o) the Reserve Fund transfers for the financial Year ending 30 June 2008 as set out in Section 6 of the Annual Budget be approved;
- (p) the Schedule of Fees and Charges as set out in Section 7 of the Annual Budget for the year ending 30 June 2008 be adopted;
- (q) an Incentive Scheme to encourage early payments of rates shall be operated under the following conditions:
  - (i) This competition is open to all ratepayers of the City of South Perth
    - (A) who pay in full all outstanding rate amounts by 27 August 2007,
    - (B) if the ratepayer is a registered entitled pensioner claiming the government subsidy, pay any arrears and 50% of the current year's rates by 27 August 2007 (previously deferred amounts excluded);
  - (ii) ratepayers who comply with part (q)(i) will be automatically entered in the prize draw.

CARRIED (12/1)

And By Required Absolute Majority

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

**6.2 Proposed Major Additions / Alterations to Village Green Shopping Centre (Waterford Plaza). Lots 102, 104, 105, and 180 (Nos. 33 - 39) Walanna Drive and Lot 802 (No. 230) Manning Road, Karawara**

Location: Lots 102, 104, 105 and 180 (Nos. 33 - 39) Walanna Drive and Lot 802 (No. 230) Manning Road, Karawara

Applicant: Greg Rowe & Associates on behalf of Midpoint Holdings P/L

Lodgement Date: 19 December 2006

File Ref: WA1/37 & 11/1286 & 11.2006.613

Date: 5 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 major additions and alterations to the Village Green Shopping Centre (which has recently been re-named the Waterford Plaza) in Karawara. The report recommends that the application **be refused** for various reasons, most notably linked to deficient car parking and landscaping provision.

**Background**

An interim report was considered at the May 2007 Council meeting, at which time Council resolved in part that:

*“a decision with respect to the application for planning approval for major additions and alterations to the Village Green Shopping Centre (Waterford Plaza) on Lots 102, 104, 105, and 180 (Nos. 33 - 39) Walanna Drive and Lot 802 (No. 230) Manning Road, Karawara be deferred to allow City Officers to liaise further with the proponents in an attempt to satisfactorily address identified areas of concern.”*

The City subsequently received amended plans which now form the basis of Council’s current consideration. The amended drawings incorporate the deletion of the 161 bay basement car park beneath the proposed second supermarket and replacement with a larger roof deck car park containing 229 car bays.

The development site details are as follows:

Zoning	District Centre Commercial
Density coding	R30
Lot area	36,937 sq. metres in total (Lot 102 = 600 sq.metres; Lot 104 = 1,537 sq.metres; Lot 105 = 3,437 sq.metres; Lot 180 = 24, 387 sq.metres and Lot 802 = 6967 sq.metres)
Building height limit	7 metres
Maximum Permissible Plot ratio	1.50

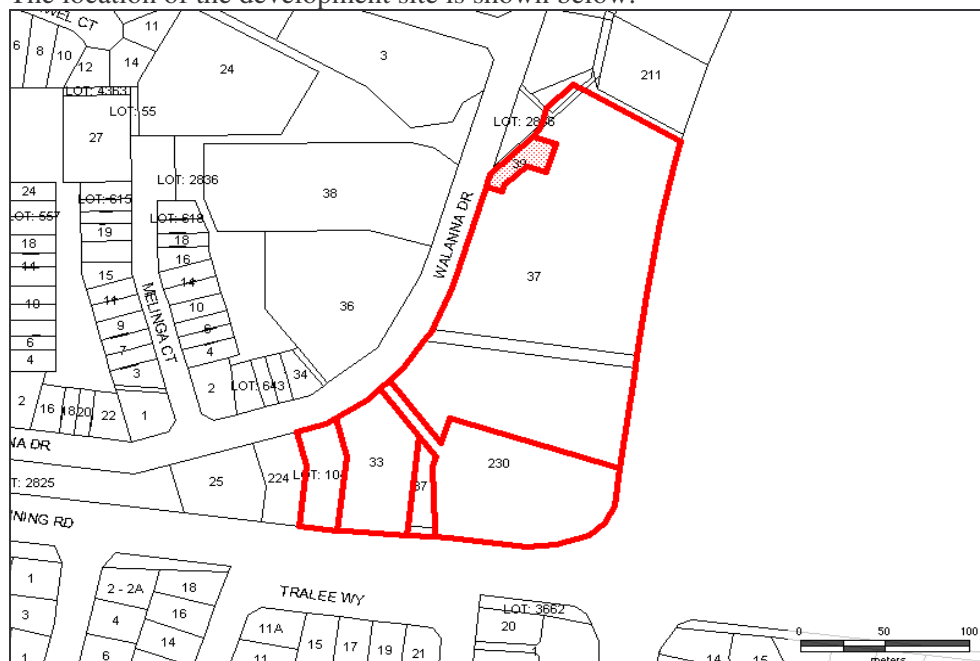
This report includes the following attachments:

**Confidential Attachment 6.2(a)** Plans of the proposal

Attachment 6.2(b) Letters from Greg Rowe & Associates dated 1 and 22 June 2007

Additionally, a report titled “Retail Needs Assessment” and submitted in support of the application for planning approval has been presented in support of the application for planning approval. This report will be available for viewing in the Councillors Lounge prior to the Council meeting.

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. Large scale development proposals**

*Proposals involving non-residential development which, in the opinion of the delegated officer, are likely to have a significant effect on the City.*

**2. Matters previously considered by the Council**

*Matters previously considered by Council, where drawings supporting a current application have been significantly modified from those previously considered by the Council at an earlier stage of the development process, including at an earlier rezoning stage, or as a previous application for planning approval.*

Separate to the Council's consideration of this development application, the matter is also being considered by the State Administrative Tribunal (SAT), after the proponent lodged an application for review against a 'deemed' refusal of the development application (the application was 'deemed' to have been refused for the purposes of generating a right of review with SAT 90 days after the date of initial lodgement). City Officers attended a mediation session on 21 June 2007, at which time the SAT ordered that the application be considered further by Council at its meeting on 10 July 2007. Further mediation has also been scheduled for 13 July 2007. If Council resolves to refuse the application for planning approval in accordance with the Officer recommendation, the matter will be listed for a full hearing with the Tribunal. The SAT will then have responsibility for making the final determination with respect to the application.

**Comment**

Detailed comments with respect to the nature of the proposed development and compliance with the provisions of Town Planning Scheme No. 6 (TPS6) were included in the report which was presented to the May meeting. Detailed further comment has not been made in this report with respect to the components of the development proposal which are accepted (i.e. in relation to matters such as plot ratio floor area, overall amount of retail floor area etc). With respect to other components of the proposed development, the following further comments are made:

(a) **Car Parking**

Using the information submitted with the application, and undertaking a calculation undertaken strictly in accordance with the provisions of Table 6 “Car and Bicycle Parking” of TPS6, the development requires 1,232 car parking bays compared to the 732 car parking bays (500 car bay deficiency) plus 32 motor cycle bays which have been provided.

(Note: The City’s calculation of 732 car bays provided for the development differs slightly from the 745 car bays referred to on the applicants drawings for the following reasons:

- The applicant appears to have counted bays on the site of the adjoining Chinese restaurant which does not form part of the development site;
- The applicant has counted 7 “stacked” bays (presumably within the drive-thru areas of Chicken Treat and KFC); and
- The applicant’s drawings incorrectly state that there are 153 car bays within the northern deck when there are actually 149 car bays;)

The applicant has made comment with respect to car parking in their correspondence dated 1 and 22 June 2007. The City has formed the view that the applicant has failed to present a satisfactory argument in support of Council approving the development application with the deficiency in the number of car parking bays which have been proposed for the development.

The letter dated 1 June 2007 provides details of 5 other local authorities which calculate parking requirements for shopping centres based upon the overall floor area of the centre, irrespective of the land use mix within the centre. With the exception of the City of Fremantle, which does not have a comparative ‘suburban’ setting to Karawara, the comparative figures do not support the applicant’s proposition that 732 car bays (plus 32 motor cycle bays) would adequately cater for the proposed development. Using the floor area of the proposed development and the parking ratios prescribed by the other local authorities which have been presented by the applicant, the following parking requirements result:

Local Authority	Prescribed Parking Ratio for Centre (Net Lettable Area or Gross Leasable Area)	Resultant Parking Requirement
Canning	6 bays / 100 sq.m NLA	879 bays
Swan	6 bays / 100 sq.m GLA	891 bays
Joondalup	700 bays for first 10,000 NLA plus 6.25 bays per 100 sq.metres NLA thereafter	990 bays
Melville	7 bays / 100 sq.m NLA	1,025 bays
This proposal		732 bays (plus 32 motor cycle bays)

The City has previously indicated that it would support the application if 850 car parking bays were provided.

The applicants have also provided reference to recent shopping centre approvals which they have had involvement with, and for which ratios less than those within the abovementioned table have been approved. However, the City is not aware of the specific particulars associated with these approvals, and as the developments



have not yet been undertaken, they do not form a reliable basis upon which to grant similar concessions. The applicants have not provided comparative examples of shopping centres which are already trading (without parking difficulties) and which have a comparable ratio of parking numbers to which they propose.

In considering whether or not to support the variation to the minimum number of car parking bays which is proposed by the applicant, it is relevant for Council to note that:

- Differing uses on the site will have a different peak demands with respect to car parking generation. For example, there has traditionally been a relatively large proportion of cafe / restaurants at the centre, which would typically generate peak parking demand in the evening;
- With the exception of the Thursday evening peak, the Tavern is likely to generate its greatest demand for parking at times differing from those generated by the shops (i.e. evening and weekend);
- There is a relatively large resident catchment (including student housing) within close proximity of the development site;

Clause 7.8 of TPS6 does offer Council the ability to grant approval for a lesser number of bays than prescribed by the Scheme. Council can only exercise such discretion where:

- “(i) approval of the proposed development would be consistent with the orderly and proper planning of the precinct and the preservation of the amenity of the locality;
- (ii) the non-compliance will not have any adverse effect on upon the occupiers or users of the development or the inhabitants of the precinct or upon the likely future development of the precinct; and
- (iii) the proposed development meets the objectives for the city and for the precinct in which the land is situated as specified in the precinct plan for that precinct.”

The following comments are also made with respect to car parking:

- The drawings show that shade sail structures are provided over all of the car parking bays on each of the roof decks. No provision has been made for increased bay widths adjacent to the car bays where they are situated adjacent to the support columns of these shade structures.
- The drawings which have been provided do not scale, so it has not been possible to verify whether all other bays are compliant with the minimum dimensions prescribed by TPS6. The need for to scale drawings is clearly identified in clause 7.1 of TPS6.

Although the City accepts that it would be reasonable to accept some degree of variation from the 1,232 car bays prescribed by TPS6, the extent of variation which is proposed by the applicant can not be supported by the City.

**(b) Landscaping**

Table 3 of TPS6 specifies a requirement for 10% of the site to be developed as landscaped area. Based upon a lot area of 36,937 sq.metres, at least 3,694 sq.metres of the site is required to be developed as landscaped area.

As TPS6 does not define landscaping, it is necessary, pursuant to the provisions of clause 1.10(2) of TPS6 to use the definition contained within the Residential Design Codes. The R-Codes define Landscape, Landscaping or Landscaped as:

*“Land developed with garden beds, shrubs and trees, or by the planting of lawns, and includes such features as rockeries, ornamental ponds, swimming pools, barbecue areas or children’s playgrounds and any other such area approved of by the Council as landscaped area.”*

In their landscaping calculations, the applicants have included both ‘soft’ landscaped areas and all of the paving surrounding the centre (with the exception of vehicle accessways and parking areas), resulting in a claimed landscaped area of 4,845.2 sq.metres. The 4,845.2 sq.metre figure is comprised of 1,621.4 sq.metres of ‘soft’ landscaping (planted areas) and 3,223.8 sq.metres of paving.

The applicant has also made reference to the fact that the property owner will be landscaping the verge area adjacent to the development site. Although this is a normal expectation of any property owner, it is acknowledged that there is a large amount of verge area adjacent to this development site.

Having regard to the definition of landscaping within the R-Codes, the City’s Officers would recommend that a larger portion of the site be developed as ‘soft’ landscaping, and that only very limited paved areas (such as the ‘piazza’ between the two malls) be accepted within the landscaping calculations.

The following additional comments are made with respect to landscaping of the site:

- Clause 6.3(12) of TPS6 requires that any continuous line of unroofed car parking be provided with reticulated planting areas, including shade trees approved by the Council, at the rate of 1 per 8 car parking bays. A number of locations within the site have not been designed to satisfy this scheme requirement.
- The northern car parking deck is situated with a zero setback to the northern property boundary. Officers are of the opinion that this deck should be set back from the northern property boundary by a landscaping strip (including trees) of at least 2 metres in width, to soften the impact of the parking deck.
- No landscaping areas have been provided in conjunction with either of the roof deck parking areas. City Officers are of the opinion that landscaping, possibly in the form of planter boxes) should be provided. The provision of planters around the perimeter of the roof deck parking areas would allow vegetation to spill over the edges of the parking decks, softening their visual impact.

In accordance with the landscaping definition, it is ultimately at Council’s discretion as to which areas are / are not be included within the landscaping calculation.

As with the matter of car parking provision, clause 7.8 of TPS6 does offer Council the ability to grant approval for a lesser percentage of landscaped area than prescribed by the Scheme if it is considered appropriate to do so. Once again, Council can only exercise such discretion where:

- “(i) approval of the proposed development would be consistent with the orderly and proper planning of the precinct and the preservation of the amenity of the locality;*
- (ii) the non-compliance will not have any adverse effect on upon the occupiers or users of the development or the inhabitants of the precinct or upon the likely future development of the precinct; and*
- (iii) the proposed development meets the objectives for the city and for the precinct in which the land is situated as specified in the precinct plan for that precinct.”*

(c) **Trolley Bays**

Areas set aside for the collection of shopping trolleys have been provided at regular intervals around the perimeter of the site as well as within each of the roof deck parking areas. The City does not have any specific concerns with respect to the location and number of trolley collection points, although it is not apparent that the parking bays immediately adjacent to the trolley bays have been increased in width as required by TPS6.

(d) **Building Height**

As the drawings which have been provided are not to scale, it has not been possible to determine compliance with the maximum permitted building height.

(e) **Correspondence from Greg Rowe & Associates**

Correspondence dated 1 and 22 June 2007 from Greg Rowe & Associates has been provided as an attachment to this report. The following comments are made with respect to that correspondence:

(i) **Car Parking Numbers**

A number of comments contained within the correspondence in relation to the provision of car parking bays and compliance with Scheme requirements are factually incorrect. For example, in the letter dated 1 June 2007, it is contended that the provision of 745 bays would be a surplus provision of 3 bays and in the letter dated 22 June 2007 there is reference to an 8% shortfall in the number of parking bays. The proposed variation is actually much greater than this, having regard to the prescribed parking ratios of TPS6.

(ii) **Bays within Walanna Drive road reserve**

The owners of the shopping centre have made an offer of \$40,000 for the provision of embayed parking within the Walanna Drive Road reserve adjacent to the development site. It is anticipated that around 20 bays could be accommodated within the road reserve if Council were receptive to this proposition. City Officers have considered this proposal and recommend that it not be supported for the following reasons:

- The verge area forms an important landscape buffer between the development site and the adjoining residential locality;
- Walanna Drive is designated as a Local Distributor road within the City's functional road hierarchy and is also a bus route;
- Car Parking for the centre should be contained within the development site.

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

In considering the application for planning approval, it is necessary for the Council to have regard to the general objectives of the Scheme, listed within clause 1.6 of TPS6. Council should pay particular regard to the following matters listed within clause 1.6:

- (a) *Maintain the City's predominantly residential character and amenity;*
- (e) *Ensure community aspirations and concerns are addressed through Scheme controls;*
- (f) *Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development;*

- (h) *Utilise and build on existing community facilities and services and make more efficient and effective use of new services and facilities;*
- (i) *Create a hierarchy of commercial centres according to their respective designated functions, so as to meet the various shopping and other commercial needs of the community; and*
- (j) *In all commercial centres, promote an appropriate range of land uses consistent with:*
  - (i) *the designated function of each centre as set out in the Local Commercial Strategy; and*
  - (ii) *the preservation of the amenity of the locality;*

**(g) 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;*
- (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;*
- (s) *whether the proposed access and egress to and from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvre and parking of vehicles on the site; and*
- (v) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*

**Consultation**

As identified in the report presented to the May 2007 Council meeting, the following consultation has been undertaken with respect to the proposed development:

- (a) **Referral to the City's Design Advisory Consultants (DAC)**  
No significant concerns were raised by DAC.
- (b) **Neighbour Consultation**  
Extensive neighbour consultation resulted in two submissions, neither of which objected to the proposed development, but which made comment in relation to traffic management.

- (c) **Other City Departments (Engineering Infrastructure, City Environment, Environmental Health and Regulatory Services);**
- Engineering Infrastructure: No specific concerns identified.
  - City Environment: Concern with respect to lack of planting within roof deck parking areas; Additional shade trees required; and Revised treatment to Kent Street and Manning Road verges.
  - Environmental Health: No specific concerns identified.
- (d) **Western Australian Planning Commission**  
No specific concerns expressed. Suggest review of signal timing for lights at intersection of Manning Road / Kent Street / Waterford Avenue.
- (e) **Independent Retail Consultant**  
Consultant determined that amount of proposed floor area (although greater than that advocated within the City's draft Local Commercial Strategy) could be sustained.
- (f) **Property owners consultant team (via Councillors briefings on 3 April 2007 and 4 July 2007).**

#### **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.*

Although the City is generally supportive of the property owners desire to expand the only designated 'District' level shopping centre within the City of South Perth, approval should not be granted in this instance having regard to the deficient car parking and landscaping provision. To do so would be contrary to the provisions of TPS6 and the Strategic Plan.

<b>OFFICER RECOMMENDATION ITEM 6.2</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 major additions and alterations to the Waterford Plaza Shopping Centre on Lots 102, 104, 105 and 180 (Nos. 33 - 39) Walanna Drive and Lot 802 (No. 230) Manning Road, Karawara **be refused**, for the following reasons.

- (a) approval of the development would be contrary to the orderly and proper planning of the locality and would generate conflict with a number of matters identified in clause 1.6 (Scheme Objectives) and clause 7.5 (Matters to be Considered by Council) of Town Planning Scheme No. 6.

- (b) information prescribed within clause 7.1 of the City of South Perth TPS6 which is required in order to undertake an accurate assessment of the proposed development has not been provided.
- (c) having regard to the information accompanying the application and the provisions of the City of South Perth Town Planning Scheme No. 6 (TPS6), the development has been provided with an insufficient number of car parking bays. TPS6 prescribes a requirement for the provision of 1,232 car parking bays whereas the proposed development has been provided with only 732 car parking bays.
- (d) a significant number of parking bays on each of the roof decks do not comply with the minimum parking dimensions prescribed by the City of South Perth TPS6. Additionally, it is likely that a number of other bays throughout the development do not comply with the dimensions prescribed by TPS6, however, this can not be determined with certainty as the plans which have been submitted for assessment do not scale.
- (e) table 3 of the City of South Perth Town Planning Scheme No. 6 prescribes a requirement for 10% of the site to be developed as landscaped area. Council is of the opinion that:
  - (i) an insufficient level of 'soft' landscaping has been provided;
  - (ii) it is not appropriate to include the majority of hard paving on the site within the landscaping calculation;
  - (iii) insufficient shade tree planting has been provided within various portions of the car parking areas throughout the site;
  - (iv) landscaping should be provided in conjunction with each of the roof deck parking areas; and
  - (v) a landscaping buffer of at least two metres in width, including trees, should be provided to the northern and eastern boundaries of the site and the northern roof deck.
- (f) it is not possible to determine compliance with the building height limits contained within TPS6 as the drawings which have been submitted for assessment do not scale.

#### **Important Note**

In relation to Item (c) above, the Council would be willing to accept a revised proposal which incorporated at least 850 car parking bays.

#### **COMMENT ON DEPUTATION**

The Mayor requested an officer comment on the Deputation.

The Manager Development Assessment, in response to the Deputation and in particular landscaping stated that under TPS6 Clause 5.1 there is a requirement for 10% of the site to be developed as landscaped area. Clause 6.14 of the Scheme does give Council discretion to give a lesser amount of landscaped area. In their landscaping calculations, the applicants have included both 'soft' landscaped areas and all of the paving surrounding the centre (with the exception of vehicle accessways and parking areas), resulting in a claimed landscaped area of 4,845.2 sq.metres. The 4,845.2 sq.metre figure is comprised of 1,621.4 sq.metres of 'soft' landscaping (planted areas) and 3,223.8 sq.metres of paving. The applicant has also made reference to the fact that the property owner will be landscaping the verge area adjacent to the development site. Although this is a normal expectation of any property owner, it is acknowledged that there is a large amount of verge area adjacent to this development site. Having regard to the definition of landscaping within the R-Codes, the City's Officers would recommend that a larger portion of the site be developed as 'soft' landscaping, and that only very limited paved areas (such as the 'piazza' between the two malls) be accepted within the landscaping calculations. In accordance with the landscaping definition, it is ultimately at Council's discretion as to which areas are / are not included within the landscaping calculation.

The Manager Development Assessment said that in respect to car parking there has been many comments as to whether the City should calculate car parking based on gross floor area or gross leaseable area. Using the information submitted with the application, and undertaking a calculation undertaken strictly in accordance with the provisions of TPS6, the development requires 1,232 car parking bays compared to the 732 car parking bays plus 32 motor cycle bays which have been provided. The City's calculation of 732 car bays provided for the development differs slightly from the 745 car bays referred to on the applicants drawings

Mr Rowe made reference that prior to TPS6, TPS5 did operate on gross leaseable floor area which is correct. The number of bays proposed is not consistent with earlier approvals from Council. In relation to the request for an additional approval requiring 850 car parking bays there are a number of concerns in going down this path. The stated shortfall of 69 bays is incorrect. It is unclear how the drawings would be modified to accommodate additional bays. In terms of legal requirements and appropriateness of planning conditions it is necessary for conditions to be reasonably able to be satisfied. Conditions that require such a significant change could be considered unreasonable by the SAT. To issue an approval of the kind sought would be contrary to planning department guidelines which came out following the review by the City of Belmont that it is not appropriate to impose conditions that require considerable design change. Although the City accepts that it would be reasonable to accept some degree of variation from the 1,232 car bays prescribed by TPS6, the extent of variation which is proposed by the applicant can not be supported by the City.

#### MOTION

Cr Gleeson moved the officer recommendation, Sec Cr Ozsdolay

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

##### Cr Gleeson opening for the Motion

- Council during past 12 months has requested planning department to be consistent
- be consistent in calculating plot ratio, parking and landscaping
- had issue with Stone Street development

Cr Doherty point of order - We are discussing an application for Waterford Plaza which has nothing to do with Stone Street

Mayor Collins stated that the point of order was correct and suggested that Cr Gleeson was making an analogy between two developments.

- Council has been trying to get planning department to tighten up processes
- calculation in report states application is 500 car bays short
- Council can use discretion - difficult as this equals 500 bays
- support shopping centre but as a Councillor find it difficult not to be consistent based on instructions to planning officers not to deviate with discretion
- 500 is a lot of car bays short
- believe officers should continue dialogue with developers
- confident we will come up with right deal eventually
- support Motion

Cr Ozsdolay for the Motion

- would love to see development go ahead
- frustrated the applicants continue to challenge Council with car parking ratio
- can live with landscaping proposed
- issue is parking - heard difference between gross floor area and gross leaseable area
- have problem with 5 cars per 100 sq.m gross leaseable area
- City officers have gone back and said we will accept 850 bays
- would support accepting 850 bays - not happy to accept less

Cr Doherty point of clarification - understand the matter is being consider at SAT?. Is this correct - if so, what application is being considered by SAT?

Manager Development Assessment confirmed this was correct. He said the application referred to plans originally submitted which incorporated basement car parking. Amended drawings that have been lodged with the City have also been lodged with SAT. The drawings being considered by SAT are the same as those being considered by Council at this time.

Cr Jamieson point of clarification - on page 17 of the Agenda under part (e) there appears to be a plan to obtain some concession on verge parking but there is no response as part of the recommendation in relation to this?

Manager Development Assessment - an offer of \$40,000 to accommodate parking bays within the Walanna Drive road reserve is a recent suggestion put forward. He said there was a comment in the body of the report stating that officers do not support this suggestion for various reasons. The drawings the subject of consideration do not show those bays so there is no need for them to form part of the recommendation.

Cr Jamieson point of clarification - would the CEO suggest that as this is going to SAT that we include reference to the proposed additional parking in the Walanna Drive road reserve in the Motion in order to make it clear it is not part of the plans under consideration.

Chief Executive Officer - in a general sense Mr Buttle responded to the question which was also covered in general terms under part (c) of the recommendation. He further stated that SAT will not be dealing with the application as such as it will be more of a 'where to from here' exercise.

Cr Jamieson point of clarification - refer to the '**Important Note**' at the end of the officer recommendation. It concerns me that we are putting some type of proposal forward but have no idea what will come back?

Manager Development Assessment the reference to accepting 850 bays is included in the recommendation as a 'Footnote' only in an attempt to give guidance to the applicant as to how they may revise their drawings towards getting an approval.

AMENDMENT

Moved Cr Jamieson, Sec Cr Cala

That the officer recommendation be amended by:

- the inclusion of the following additional part (g);  

(g) Council opposes any street parking in Walanna Drive; and
- the deletion of the **Important Note**



Cr Jamieson opening for the Amendment

- dangerous to include street parking in Walanna Drive
- at peak times Walanna Drive dangerous - proposal not an acceptable way forward
- Important Note includes too many words - needs to be tighter
- do not believe we need to include Important Note adds ambiguity
- support Amendment

Cr Cala for the Amendment

- concur with Cr Jamieson's comments
- bend in Walanna Drive dangerous
- proposed street parking would be dangerous
- support Amendment.

Cr Trent for the Amendment

- application for shopping centre in Karawara
- road reserve in Walanna Drive not included - entitled to place parking restrictions
- issue on car parking bays - when TPS6 was brought in climate change was not an issue on the horizon whereas it is an issue on the horizon now
- believe we are doing community a service by limiting parking bays
- do not want to restrict development - but to reduce number of cars going to centre would eliminate carbons

Mayor Collins for the Amendment/Motion

- over last 5 years have dealt with Village Green Shopping Centre
- in earlier days developers were critical of Council as to why they could not proceed any further
- over last 4.1/2 years we have received applications requesting extension of development approvals - we now have one section completed
- Council has made very good concessions to developers in the past in its eagerness to see the only designated 'district' shopping centre within the City approved
- Council is now being challenged again and being asked to give concessions to allow operator to get a lease which is the operator's issue
- it is this Council's role to be consistent in its application of car parking requirements etc
- Council needs to look at advice of its experienced officers

Cr Jamieson closing for the Amendment

- Walanna Drive not conducive to street parking
- Important Note - needs tightening up - leaves areas open to ambiguity
- support Amendment

The Mayor put the Amendment.

CARRIED (11/2)

Cr Gleeson closing for the Amended Motion

- for last 12 months pressure on officers to ensure planning applications do not exceed requirements in relation to parking, plot ratio, height etc
- opportunity tonight for this Council to be consistent
- support shopping centre - believe with more dialogue issue can be resolved
- support Motion

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 6.2</b>
---

The Mayor put the Amended Motion

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for major additions and alterations to the Waterford Plaza Shopping Centre on Lots 102, 104, 105 and 180 (Nos. 33 - 39) Walanna Drive and Lot 802 (No. 230) Manning Road, Karawara **be refused**, for the following reasons.

- (a) approval of the development would be contrary to the orderly and proper planning of the locality and would generate conflict with a number of matters identified in clause 1.6 (Scheme Objectives) and clause 7.5 (Matters to be Considered by Council) of Town Planning Scheme No. 6.
- (b) information prescribed within clause 7.1 of the City of South Perth TPS6 which is required in order to undertake an accurate assessment of the proposed development has not been provided.
- (c) having regard to the information accompanying the application and the provisions of the City of South Perth Town Planning Scheme No. 6 (TPS6), the development has been provided with an insufficient number of car parking bays. TPS6 prescribes a requirement for the provision of 1,232 car parking bays whereas the proposed development has been provided with only 732 car parking bays.
- (d) a significant number of parking bays on each of the roof decks do not comply with the minimum parking dimensions prescribed by the City of South Perth TPS6. Additionally, it is likely that a number of other bays throughout the development do not comply with the dimensions prescribed by TPS6, however, this can not be determined with certainty as the plans which have been submitted for assessment do not scale.
- (e) table 3 of the City of South Perth Town Planning Scheme No. 6 prescribes a requirement for 10% of the site to be developed as landscaped area. Council is of the opinion that:
  - (i) an insufficient level of 'soft' landscaping has been provided;
  - (ii) it is not appropriate to include the majority of hard paving on the site within the landscaping calculation;
  - (iii) insufficient shade tree planting has been provided within various portions of the car parking areas throughout the site;
  - (iv) landscaping should be provided in conjunction with each of the roof deck parking areas; and
  - (v) a landscaping buffer of at least two metres in width, including trees, should be provided to the northern and eastern boundaries of the site and the northern roof deck.
- (f) it is not possible to determine compliance with the building height limits contained within TPS6 as the drawings which have been submitted for assessment do not scale.
- (g) Council opposes any street parking in Walanna Drive.

CARRIED (11/2)

Reason for Change

Additional part (g) added as Council is opposed to any street parking in Walanna Drive and the **Important Note** was deleted as Council believed it leaves areas open to ambiguity.

## **6.3 REPORT OF INQUIRY INTO THE CITY OF SOUTH PERTH MAY 2007**

### **6.3.1 Report of the Inquiry into the City of South Perth May 2007**

Location:	City of South Perth
Applicant:	Council
File Ref:	A/LM/2
Date:	30 June 2007
Author:	Cliff Frewing, Chief Executive Officer

#### **Summary**

The purpose of the series of reports (6.3.1 - 6.3.4) presented to this Special Council meeting is to allow further consideration to be given to the Inquiry Report Recommendations that have not been considered in detail by Council. Council has until 16 July 2007 to finalise its submission to the Minister in response to each of the individual recommendations.

Upon receipt of the **Report of the Inquiry into the City of South Perth - May 2007** (the Inquiry Report), the City is required to provide the Minister for Local Government with its written advice setting out the things that it has done or proposes to do to give effect to the recommendations of the Inquiry Report.

#### **Background**

On 20 June 2006, the Director-General of the Department of Local Government and Regional Development authorised an Inquiry into the City of South Perth pursuant to section 8.3(2) of the *Local Government Act* (the Act) to inquire into and report on matters concerning the City.

The Terms of Reference for the inquiry were as follows:

- *The process by which the City dealt with the issue of the demolition application and associated matters relating to the property at 27 The Esplanade, South Perth;*
- *The conduct of Councillors and Officers of the City in the application and processing of the demolition licence relating to the property at 27 The Esplanade;*
- *Subsequent Council deliberations on the matter, and*
- *Any other issue that is determined to be of relevance to the above.*

Following completion of the inquiry, the Authorised Person prepared a report on the outcome of the inquiry which upon being tabled in State Parliament was forwarded to the City and subsequently made publicly available. A copy of the Inquiry Report can be found on the Department's website and on the City's website.

On Thursday 10 May 2007, a copy of the Report of the Inquiry into the City of South Perth was delivered to the City.

At its meeting on 6 June 2007, Council considered an interim approach to the 7 Recommendations contained in the Inquiry Report. This report to Council deals with the proposed final response to the Minister to the 7 Recommendations.

#### *Powers and procedure*

The Inquiry Report made 15 Findings and 7 Recommendations. After receiving the Report, section 8.14(3) of the Act requires the local government to give the Minister written advice, within such time as the Minister allows, setting out the things that it has done or proposes to do to give effect to the recommendations of the Authorised Person.

S.8.14(3) of the Act specifies that :

*Within 35 days after receiving the report or such longer period as the Minister allows, the local government is to give the Minister written advice setting out the things that it has done or proposes to do to give effect to the recommendations of the authorized person.*

In accordance with this provision, the Minister by letter dated 17 May 2007 exercised her discretion and has allowed the City sixty (60) days (to 16 July 2007) in which to respond to the Report Recommendations.

Pursuant to section 8.15(1) of the Act, after receiving the local government's advice, the Minister may order the local government or any of its Elected Members or employees to give effect to the recommendations in the report in a manner and within a time ordered by the Minister.

If the Minister's order is not complied with, the Minister may suspend the Council of the local government - see section 8.15(2) of the Act.

#### **Comment**

The report of the Inquiry into the City of South Perth 2006 contains 15 Findings and 7 Recommendations. It is proposed that Council respond to the Minister in a positive way to each of the recommendations to avoid the consequences detailed in section 8.15 of the Act detailed above.

#### **REPORT RECOMMENDATIONS**

Comment is now made with respect to "*the things that it has done or proposes to do to give effect to the recommendations*" contained in the Inquiry Report:-

##### **1. INQUIRY REPORT RECOMMENDATION 1**

*Council appoint a professional mediator to moderate the relationship conflicts between Elected Members and the Administration, and that:*

- (a) The mediator be appointed from a list of suitable persons approved of by the Department of Local Government and Regional Development;*
- (b) The mediator report monthly to the Department of Local Government and Regional Development on an agreed basis; and*
- (c) The cost of the mediation be borne by the City of South Perth.*

In relation to Recommendation 1(a) above, Council resolved at its Ordinary Meeting held on 22 May 2007 to compile a list of mediators drawn from LEADR, Institute of Arbitrators and Mediators Australia, WA Chapter (IAMA), and WALGA for inclusion in a list to be presented to the Department for its approval.

The specific Council resolution is as follows:

*That.....*

- (a) Council notes the limited time period of 60 days from 10 May 2007 which is available to the Council to satisfy the Department for Local Government and Regional Development that it is addressing the recommendations of the South Perth Inquiry Report; and*
- (b) in order to facilitate the mediation process contemplated in the Inquiry Report:*

- (i) *the Council compiles a list of two (2) mediators/facilitators from each of the following (to total 6 in all) by inviting :*
  - *LEADR*
  - *Institute of Arbitrators and Mediators Australia WA Chapter; and*
  - *WALGA**to nominate individuals and to include appropriate information as to fees;*
- (ii) *the list to be presented to the Department for Local Government and Regional Development for its endorsement and adoption; and*
- (iii) *final selection of the agreed mediator/facilitator from the list of nominees to be carried out by the Council as soon as practicable.*

The Department of Local Government and Regional Development has advised that the monitoring and need for mediation will continue past the October 2007 elections. On this basis, it is assumed that the mediator's services will be required for a period to say April 2008 (6 months after the October elections).

Possible monthly involvement by the mediator could include attendance at Briefing/Concept Forums, Agenda Briefings and Council meetings. Monthly reporting is mandatory. A provisional sum of \$40,000 has been allowed in the 2007/08 Budget for this purpose.

Recommendation 1(b) of the Inquiry Report does not require any action to be taken by Council. In relation to recommendation (c) of the Inquiry Report, Council has already made provision in the 2007/08 budget for the cost of mediation.

In relation to Inquiry Report Recommendation 1 above, Council considered its further response at the Special Meeting held on 10 June 2007.

*Councils previous Resolution on Recommendation 1  
Council agrees to adopt Recommendation R1 and resolves to appoint a professional mediator to moderate the relationship conflicts between Elected Members and each other and between elected members and the Administration, in accordance with the terms of Recommendation R1.*

**Proposed action:**

A separate report (item 6.3.2) is contained on this agenda which deals specifically with Inquiry Report recommendation 1 in relation to the appointment of a suitable mediator. It is recommended that Councils decision on this topic be conveyed to the Minister in accordance with the terms of the resolution adopted in that report.

**2. *INQUIRY REPORT RECOMMENDATION 2***

*Council ensures that Elected Members undertake Elected Member training, provided by a training provider approved by the Department of Local Government and Regional Development, particularly in matters relating to:*

- (a) *The role and powers of the Chief Executive Officer and Administration; and*
- (b) *The role of Council and Councillors.*

In relation to Inquiry Report Recommendation 2 above, Council considered its initial response at the Special Meeting held on 10 June 2007.

*Councils previous Resolution on Recommendation 2  
Council agrees to adopt Recommendation R2 and resolves to appoint training providers approved by the Department. The training providers will be required to report to Council monthly on the outcomes of the program of Elected Member training.*

**Proposed action:**

A separate report (Item 6.3.3) is contained on this Agenda that deals specifically with Inquiry Report Recommendation 2 in relation to the appointment of a suitable training plan. It is recommended that Councils decision on this topic be conveyed to the Minister in accordance with the terms of the resolution adopted in that report.

**3. INQUIRY REPORT RECOMMENDATION 3**  
*Elected Members observe and comply with the City of South Perth Code of Conduct and the future new rules of conduct for Elected Members under the Local Government (Official Conduct) Amendment Act 2007.*

In relation to Inquiry Report Recommendation 3 above, Council considered its initial response at the Special Meeting held on 10 June 2007.

*Councils previous Resolution on Recommendation 3  
Council agrees to adopt Recommendation R3 and resolves to engage a training provider to hold workshops for Elected Members on the City's current Code of Conduct and on the new rules of conduct which will apply to Elected Members after the October election.*

**Proposed action:**

There are two components to this resolution. The first deals with the engagement of a suitable training provider in relation to the current Code of Conduct and the second deals with compliance with the new regulations that will apply from October 2007.

**(a) Training provider for Current Code of Conduct**

There are two obvious alternative courses of action available to Council to satisfy the requirements of this part of the Inquiry Report recommendation. These are to engage either WALGA or the City lawyers to conduct the necessary training. Whilst City lawyers are considered to be appropriate for the training because of their knowledge of the legal interpretation and application of the Code, it is suggested that a WALGA training provider be engaged on this occasion as it is likely that they would have more experience in a training environment and the practical application of the Code which is the focus of this Inquiry Report recommendation. WALGA also conducts a similar training course in relation to "Ethics and Conduct for Elected Members" which could be adapted to suit the City of South Perth's Code of Conduct.

**It is therefore recommended** that WALGA be engaged to provide a suitable training provider to conduct Elected Member training in relation to the City's current Code of Conduct.

**(b) Training provider for New Code Regulations**

At its meeting on 26<sup>th</sup> June 2007, Council considered a report (item 10.5.8) in relation to the proposed new Draft Local Government (Rules of Conduct) Regulations 2007 and resolved as follows:-

*That Council receives the Officer Report and requests the CEO to write to the Minister to communicate its endorsement of the draft Local Government (Rules of Conduct) Regulations 2007.*

The Minister for Local Government has been advised of Councils decision.

At some stage in the near future, but prior to the October election date, the Department of Local Government will publish in Regulation form the new Rules that will apply to all Elected Members from the date of the October elections. As far as is known, the City, along with all other local governments will be required to incorporate the new rules into their own Code of Conduct.

It is inevitable that either WALGA or the Department of Local Government will be conducting training sessions on the new rules and it is proposed that Council connect into the training program that will be conducted at that time. It is also proposed that training on the new rules commence as soon as is practicable after the October elections and form part of the new Council induction training program.

**It is therefore recommended** that either WALGA or the Department of Local Government be engaged to provide a suitable training provider to conduct Elected Member training in relation to the new rules that will apply to the Rules of Conduct Regulations.

**4. *INQUIRY REPORT RECOMMENDATION 4***

*The City of South Perth commence audio recording of all Council and Committee meetings as recommended in the Report of the Inquiry into the City of South Perth (October 2002) as a backup to written minutes of meetings.*

In relation to Inquiry Report Recommendation 4 above, Council considered its initial response at the Special Meeting held on 10 June 2007.

*Councils previous Resolution on Recommendation 4*

*Council agrees to adopt Recommendation R4 with the qualification that as its committees do not exercise delegated power, audio recording will be implemented for Council meetings only.*

A policy on the audio recording of Council Meetings was adopted by Council at its ordinary June meeting (Item 10.7.1). It is proposed to forward a copy of Council's policy to the Minister for information as evidence of Council's commitment to this Inquiry Report recommendation. It is also relevant to provide information to the Minister on the progress in commencing the practical application of the policy. In this respect, it is proposed to provide a copy of the whole commentary in relation to Council resolution 12.1 also adopted at the June Council meeting regarding electronic voting.

**It is therefore recommended** that the Minister be advised that Council has adopted a policy on audio recording of Council meetings and the policy will be implemented as soon as is technically possible and after training has been conducted on its use and application.

**5. *INQUIRY REPORT RECOMMENDATION 5***

*The Department of Local Government and Regional Development, at its discretion, will monitor Council meetings through attendance at those meetings.*

In relation to Inquiry Report Recommendation 5 above, Council considered its initial response at the Special Meeting held on 10 June 2007.

*Councils previous Resolution on Recommendation 5*

*Council agrees with Recommendation R5 and resolves to invite Departmental officers to attend all council and committee meetings including those which are not open to members of the public.*

The Department of Local Government and Regional Development officers will be attending all Council meetings to monitor progress in rectifying deficiencies identified in the Report. The officers will be attending council meetings whether or not they are open to the public. The Director General of the Department of Local Government has been advised of Councils decision.

There is no further action required on this recommendation.

**6. *INQUIRY REPORT RECOMMENDATION 6***

*Where Code of Conduct complaints are about the Mayor, an Elected Member or the CEO, those complaints should be referred to an independent person for assessment, appointed with the approval of the Department of Local Government and Regional Development. Subsequent to the Local Government (Official Conduct) Amendment Act 2007 being gazetted, the assessment and determination of Code of Conduct matters concerning Elected Members be in accordance with the process and procedures of that legislation.*

In relation to Inquiry Report Recommendation 6 above, Council considered its initial response at the Special Meeting held on 10 June 2007.

***Councils previous Resolution on Recommendation 6***

*Council agrees to adopt Recommendation R6 and resolves to ensure that an independent person, approved by the Department, will be appointed for the assessment of any Code of Conduct complaints that have been made by or against the Mayor, Councillors and the CEO.*

In addition to the appointment of an independent person, the person appointed will be also be required to provide a written report to the Department of Local Government and Regional Development detailing the number of complaints assessed, the nature of those complaints and whether those complaints have been resolved to the satisfaction of the parties.

The costs incurred by the training providers appointed will be borne by the City. A sum of \$40,000 has been provided for in the 2007/08 Budget for this purpose

**Proposed action:**

A separate report (item 6.3.4) is contained on this agenda that deals specifically with Inquiry Report recommendation 1 in relation to the appointment of a suitable person to investigate Code of Conduct complaints. It is recommended that Councils decision on this topic be conveyed to the Minister in accordance with the terms of the resolution adopted in that report.

**7. *INQUIRY REPORT RECOMMENDATION 7***

*The Department of Local Government and Regional Development advise the Minister for Local Government, within a time to be determined, on Council's progress in addressing the breakdown in working relationships and other issues that this report has identified. The Department's advice will encompass:*

- (a) Whether the mediation process has been successful and resulted in improved relationships between Elected Members and the Administration;*
- (b) Advice from the independent assessor detailing the numbers of complaints that have been assessed, the nature of those complaints and whether those complaints have been resolved to the satisfaction of the parties concerned, as well as determinations made by the Standards Panel and/or the State Administrative Tribunal under the Local Government (Official Conduct) Amendment Act 2007;*



- (c) *Any other matter relevant to the provision of good government at the City; and*
- (d) *Whether, based on the advice provided in (a), (b) and (c) above, the Council should be suspended and a Panel Inquiry authorised pursuant to Part 8 Division 2 of the Local Government Act 1995.*

It has previously been advised that this recommendation does not directly relate to any actions the City of South Perth needs to take. It does however illustrate the extent of the reporting relationship by the independent persons to Council and the Department through to the Minister. Clearly the Minister needs to be satisfied that good governance is being practiced at the City and that Council is complying with the Report Recommendations.

***Councils previous Resolution on Recommendation 7  
Council agrees with Recommendation R7 and resolves to cooperate fully with the Department in the implementation of all recommendations and to do so expeditiously and comprehensively.***

No further action is considered necessary with respect to this Inquiry Report recommendation.

#### **Consultation**

The Director-General of the Department of Local Government and Regional Development was consulted on matters relating to the implementation of recommendations in the Report. Other organisations as mentioned have been contacted regarding provision of services.

#### **Policy Implications**

A new policy P517 "Audio Recording of Council Meetings" relevant to Inquiry Report recommendation 4 was recently adopted by Council and Council has also recently agreed to support the new Regulations relating to draft Local Government (Rules of Conduct).

#### **Financial Implications**

A total budget provision of \$100,000 has been allowed in the 2007/08 budget as follows:

Mediator -	\$40,000
Training providers -	\$40,000
Code of Conduct Complaints	<u>\$20,000</u>
Total	\$100,000

#### **Strategic Implications**

Consistent with the Strategic Plan: Goal 5 "Organisational Effectiveness" *To be a professional, effective and efficient organisation.*

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 6.3.1</b>
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Moved Cr Trent, Sec Cr Maddaford

That in accordance with section 8.14(3) of the *Local Government Act*, the Minister for Local Government be advised by 16 July 2007 of Council's resolutions made on 10 June 2007, the proposed actions and responses contained in this report and reports 6.3.2, 6.3.3 and 6.3.4 included on this Agenda, which set out the things that the City has done or proposes do, to give effect to the seven (7) Recommendations of the Inquiry Report.

CARRIED (13/0)

DECLARATION OF INTEREST : ITEM 6.3.2 : CR DOHERTY

*"I disclose I have an indirect association with the Institute of Arbitrators and Mediators Australia (IAMA) in that my husband Kim Doherty is the Chairman of the WA Chapter of this organization. This is a voluntary position, for which he receives no remuneration. My husband has no financial interest in IAMA. My husband had no involvement in either nominating mediators or putting forward names for mediator lists. I understand that he has not been identified by IAMA as a potential appointee. I do not accept that this association amounts to an "interest" within the definition. However, to minimise the risk of mischievous or ill informed comment, I have set out the nature of the association and declare that I will consider the matter on its merits and vote accordingly."*

**Note:** Cr Doherty remained in the Chamber.

**COUNCIL DECISION : MEETING CLOSED TO THE PUBLIC**

Moved Cr Maddaford, Sec Cr Trent

That the meeting be closed to the public at 8.40pm in accordance with the *Local Government Act Section 5.23(2)(h)* while items 6.3.2 - 6.3.4 are discussed as they relate to the selection / appointment of various consultants.

CARRIED (12/1)

**Note:** The following staff and the remaining members of the public gallery left the Chamber at 8.40pm

Mr G Flood	Director Infrastructure Services
Mr M Kent	Director Financial and Information Services
Mr C Buttle	Manager Development Assessment
Ms D Gray	Manager Financial Services
Mr R Bercov	Strategic Urban Planning Adviser

**Note:** The Mayor invited the officer from the Department of Local Government to remain in the Chamber. The officer declined.

MOTION

Moved Cr Smith, Sec Cr Jamieson

That the Legal and Governance Officer, remain outside the Chamber while the *Confidential* discussion takes place on Items 6.3.2 - 6.3.4, and to be called if required.

STATEMENT BY CHIEF EXECUTIVE OFFICER

The Chief Executive Officer strongly suggested that the Legal and Governance Officer to be not only allowed to remain in the Chamber but to be asked to contribute in a positive way to these report items. He stated that Mr McLaughlin has vast experience in this area, is the author of the reports and has assessed the CV's received. The CEO said he believed the Legal and Governance Officer's information and knowledge to be invaluable should any issues be raised.

**COUNCIL DECISION - LEGAL AND GOVERNANCE OFFICER**

The Mayor put the Motion

That the Legal and Governance Officer, remain outside the Chamber while the *Confidential* discussion takes place on Items 6.3.2 - 6.3.4, to be called if required.

CARRIED (9/4)

**Note:** Legal and Governance Officer left the Chamber at 8.46pm

DECLARATION OF INTEREST (verbal) : CR DOHERTY : ITEM 6.3.2

*"I declare an interest in Item 6.3.2. While employed by the IAMA 5 years ago one of the applicants the subject of report Item 6.3.2 was a Member of the IAMA."*

**Note:** Cr Doherty remained in the Chamber.

<b>6.3.2 Report of the Inquiry into the City of South Perth May 2007 - Implementation of Recommendation 1: Mediation</b>
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Location:	City of South Perth
Applicant:	Council
File Ref:	A/LM/2
Date:	4 July 2007
Author:	Sean McLaughlin, Legal and Governance Officer
Reporting Officer:	Cliff Frewing, Chief Executive Officer

**Summary**

Upon receipt of the **Report of the Inquiry into the City of South Perth - May 2007** (the Report), the City is required under the *Local Government Act* to provide the Minister for Local Government with its written advice setting out the things that it has done or proposes to do to give effect to the recommendations of the Report.

The purpose of this report is to enable the City to provide further advice to the Minister in relation to its implementation of Recommendation 1, that:

*Council appoint a professional mediator to moderate the relationship conflicts between Elected Members and the Administration.*

The commentary in the Report suggests that mediation is necessary to moderate the relationship conflicts between Elected Members and between Elected Members and the Administration.

**Background**

An extensive summary of the background to this report has been contained at report item 6.3.1 contained on this agenda.

This report outlines the City's progress in relation to its implementation of Recommendation 1, that:

- R1. Council appoint a professional mediator to moderate the relationship conflicts between Elected Members and the Administration, and that:**
- (a) The mediator be appointed from a list of suitable persons approved of by the Department of Local Government and Regional Development;**
  - (b) The mediator report monthly to the Department of Local Government and Regional Development on an agreed basis; and**
  - (c) The cost of the mediation be borne by the City of South Perth.**

At its ordinary meeting on 22 May 2007, Council resolved to have a list of mediators compiled, which would be drawn from LEADR (Lawyers Engaged in Alternative Dispute Resolution), IAMA (the Institute of Arbitrators and Mediators) and WALGA, to be presented to Council for its consideration and subsequently to the Department for its approval. Consistently with its resolution of 22 May, Council at its Special Meeting on 6 June 2007 resolved to adopt Recommendation 1.

Council's 22 May resolution is as follows:

*That.....*

- (a) *Council notes the limited time period of 60 days from 10 May 2007 which is available to the Council to satisfy the Department for Local Government and Regional Development that it is addressing the recommendations of the South Perth Inquiry Report; and*
- (b) *in order to facilitate the mediation process contemplated in the Inquiry Report:*
  - (i) *the Council compiles a list of two (2) mediators/facilitators from each of the following (to total 6 in all) by inviting :*
    - *LEADR*
    - *Institute of Arbitrators and Mediators Australia WA Chapter; and*
    - *WALGA**to nominate individuals and to include appropriate information as to fees;*
  - (ii) *the list to be presented to the Department for Local Government and Regional Development for its endorsement and adoption; and*
  - (iii) *final selection of the agreed mediator/facilitator from the list of nominees to be carried out by the Council as soon as practicable.*

In relation to Inquiry Report Recommendation 1 above, Council considered its further response at the Special Meeting held on 10 June 2007.

***Councils previous Resolution on Recommendation 1***

***Council agrees to adopt Recommendation R1 and resolves to appoint a professional mediator to moderate the relationship conflicts between Elected Members and each other and between elected members and the Administration, in accordance with the terms of Recommendation R1.***

Each of the three nominated organisations was subsequently invited to recommend the names of mediators each considered to be suitable for the assignment described in Recommendation 1.

LEADR provided seven names, IAMA provided four names and WALGA provided three names.

**Comment**

Each person recommended was then contacted and invited to respond with a profile of their qualifications and experience (including with local government) and an estimate of their fees.

Responses were received from all but one of the prospective mediators and these have been collected in a folder which has been made available for perusal in the Councillors Lounge. The information contained in the folder should be treated as *commercial-in-confidence*.

A table has been prepared which sets out the responses in summary form, noting the qualifications, experience and fees of each mediator, together with comments on the suitability of the mediator for the assignment and an indication of their availability. This Table is set out at ***Confidential Attachment 6.3.2***

A number of prospective mediators were unavailable (and one declined due to a possible conflict of interest). From amongst the remaining eight, the Administration has short-listed three mediators which it recommends for Council's consideration. The names of the three preferred mediators are in bold and indicated with an asterisk on the table at ***Confidential Attachment 6.3.2***

This short-list was compiled on the basis of an assessment of the following criteria:

- Suitability of qualifications and professional experience;
- Level of mediation accreditation (advanced or standard);
- Length of experience as a mediator;
- Knowledge of and experience in dealing with local government;
- Cost.

Due to the sensitive, challenging and unusual nature of the assignment, the Administration considers that there is considerable merit in inviting each of the three short-listed mediators to meet with Council and the Administration and be given an opportunity to make a presentation on how each would go about the assignment, before a final decision is made.

### **Consultation**

The Department of Local Government and Regional Development was consulted on the process which has been followed of short-listing potential mediators and has given its in-principle approval to Council's selection of any one of those persons who have been short-listed.

### **Policy Implications**

Nil.

### **Financial Implications**

There will be significant financial implications for the City in implementing Recommendation 1. The recommendation does not have a 'sunset' date and will therefore apply until the Minister is satisfied that deficiencies described in the Report are rectified. Mediation may be required after the October 2007 elections. Provision of \$40,000 has been made available in the 2007/08 budget for this purpose.

### **Strategic Implications**

Consistent with the Strategic Plan: **Goal 5 - Organisational Effectiveness: *To be a professional, effective and efficient organisation.***

<b>OFFICER RECOMMENDATION ITEM 6.3.2</b>
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That Council:

- (a) select a person from the short-list provided at ***Confidential Attachment 6.3.2*** as the professional mediator to moderate the relationship conflicts between Elected Members and between Elected Members and the Administration in accordance with Recommendation 1 of the Department of Local Government Inquiry Report into the City of South Perth; and
- (b) request the Chief Executive Officer to invite (and arrange for) each person short-listed to give a presentation to Council on how that person would conduct the mediation.

### MOTION

Moved Cr Cala, Sec Cr Hearne

That Council request the Chief Executive Officer to invite (and arrange for) each person short-listed, as per ***Confidential Attachment 6.3.2***, to give a presentation to Council on how that person would conduct the mediation.

### FORESHADOWED MOTION

Cr Jamieson foreshadowed he would be moving to amend the short-list of names by the substitution of an alternative name if the current Motion is Lost.

**COUNCIL DECISION ITEM 6.3.2**

The Mayor put the Motion

That Council request the Chief Executive Officer to invite (and arrange for) each person short-listed, as per *Confidential Attachment 6.3.2*, to give a presentation to Council on how that person would conduct the mediation.

CARRIED (9/4)

**6.3.3 Report of the Inquiry into the City of South Perth May 2007 - Implementation of Recommendation 2: Elected Member Training**

Location: City of South Perth  
Applicant: Council  
File Ref: A/LM/2  
Date: 4 July 2007  
Author: Sean McLaughlin, Legal & Governance Officer  
Reporting Officer: Cliff Frewing, Chief Executive Officer

**Summary**

Upon receipt of the **Report of the Inquiry into the City of South Perth - May 2007** (the Report), the City is required under the *Local Government Act* to provide the Minister for Local Government with its written advice setting out the things that it has done or proposes to do to give effect to the recommendations of the Report.

The purpose of this report is to enable the City to provide further advice to the Minister in relation to its implementation of Recommendation 2, that:

*Council ensures that Elected Members undertake Elected Member training, provided by a training provider approved by the Department of Local Government, particularly in matters relating to:*

- (a) the role and powers of the Chief Executive Officer and Administration; and*
- (b) the role of Council and Councillors.*

**Background**

An extensive summary of the background to this report has been contained at report item 6.3.1 contained on this agenda.

The Inquiry considered that education is necessary to ensure that Elected Members are aware of their roles and responsibilities, not only to the ratepayers and electors of the City, but to the local government and to the law.

This report outlines the City's progress in relation to its implementation of Recommendation 2, that:

**R2.** *Council ensures that Elected Members undertake Elected Member training, provided by a training provider approved by the Department of Local Government, particularly in matters relating to:*

- (a) the role and powers of the Chief Executive Officer and Administration;*  
*and*
- (b) the role of Council and Councillors.*

In relation to Inquiry Report Recommendation 2 above, Council considered its initial response at the Special Meeting held on 10 June 2007.

*Councils previous Resolution on Recommendation 2*

*Council agrees to adopt Recommendation R2 and resolves to appoint training providers approved by the Department. The training providers will be required to report to Council monthly on the outcomes of the program of Elected Member training.*

**Comment**

Due to the timing of the October 2007 local government elections, some consideration needs to be given as to the kind of Elected Member training which is appropriate in the circumstances and which may be sensibly conducted within the relevant time-frames.

Seven out of the 13 Elected Member positions (six Councillors and the Mayor) will become vacant and contestable for the upcoming elections. Nominations open on 6 September and close on 13 September. It may well be that not all current Elected Members decide to re-contest their positions and not all who re-contest will necessarily be re-elected.

Subsequent to Council making a decision on Recommendation 2 for Elected Member Training and obtaining Departmental approval, there is unlikely to be a lot of time available from the end of July to 6 September when councillors' attention may be focused on other things.

In these circumstances it is proposed to plan for Elected Member training in two stages.

It is therefore suggested that Stage One of the training program could consist of training in the lead up to the October 2007 elections. The training could be constituted by a number of evening workshops, one or more of which would be facilitated by well-regarded current or former Elected Members or CEO's. A list of well-regarded former Mayors and CEO's, which is a compilation of recommendations from the Department and WALGA, is at **Confidential Attachment 6.3.3(a)**. A recommendation is made on the confidential attachment.

This training could be complemented by a condensed training program incorporating a refresher course which would focus on the respective roles of the Chief Executive Officer /Administration and the Council and individual councillors. The condensed training program could take the form of an amended induction/introduction course of the kind which is offered by WALGA for newly Elected Members.

An additional component of Stage One could comprise an evening workshop on Ethics, Misconduct Reporting and Public Sector Standards which a representative from each of the Corruption and Crime Commission and the Office of Public Sector Standards would be invited to facilitate.

A further workshop could incorporate a refresher course on the City's Code of Conduct (in recognition of Council's endorsement of Recommendation 3 and its resolution of 6 June 2007).

Stage Two, of the training program would be implemented after the October elections in the period up to the first council meeting to be held in late November, and would include a repeat of some elements of Stage One. This could be supplemented by expanded one-day courses incorporating induction/introduction material and participation in a one day a special Directors Course which is offered by WALGA and which has been especially formulated for Elected Members **Attachment 6.3.3(b)** refer.

Participation at a workshop on the new Official Conduct regulations which will come into force after the October elections is also recommended.

Details of two other courses offered by WALGA that are considered to be appropriate to the Inquiry Report recommendation are set out on **Attachment 6.3.3(b)** and are on the following subjects:-

- Legal responsibilities of an Elected Member
- Teamwork, Communication and Conflict in Local Government

Training on these topics could be considered as part on the induction training for any newly elected councillors following the October 2007 elections. As considerable work and cost will be involved in planning for and setting up the components of each stage of the Elected Member training, Council will need to give serious consideration as to how best to ensure Elected Members participate in and get the most out of all aspects of the training program as required by the Minister.

As the Department is required to report monthly to the Minister in regards to the progress Council is making in rectifying the deficiencies outlined in the Report, the program for Elected Member training will be closely monitored by the Department and the program is likely to be extended beyond Stage Two, subject to Departmental advice.

#### **Consultation**

The Department of Local Government and Regional Development was consulted on matters relating to the implementation of the recommendation.

#### **Policy Implications**

Nil.

#### **Financial Implications**

There will be significant financial implications for the City in implementing Recommendation 2. The recommendation does not have a 'sunset' date and will therefore continue to apply until the Minister is satisfied that deficiencies described in the Report are rectified. Elected Member training will be required to be conducted before and after the October 2007 elections. Provision of \$40,000 has been made available in the 2007/08 budget for this purpose.

#### **Strategic Implications**

Consistent with the Strategic Plan: Goal 5 - Organisational Effectiveness: *To be a professional, effective and efficient organisation.*

<b>OFFICER RECOMMENDATION ITEM 6.3.3</b>
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That Council...

- (a) requests the Chief Executive Officer to prepare a two-stage program for Elected Member training as outlined in report Item 6.3.3 of the Special Council Meeting of 10 July 2007 consisting of the following:-

##### **Stage One**

- Evening workshop conducted by a (or both) current Elected Members identified on the confidential attachment;
- Condensed training program incorporating a refresher course on the respective roles of the Chief Executive Officer /Administration and the Council and individual councillors conducted by a WALGA service provider;
- Workshop on Ethics, Misconduct Reporting and Public Sector Standards which representatives from each of the Corruption and Crime Commission and the Office of Public Sector Standards would be invited to facilitate; and



- Refresher course on the City's Code of Conduct conducted by a WALGA service provider

**Stage Two**

- Repeat of the above for newly elected Councillors;
  - Participation at a one day a special Directors Course offered by WALGA which has been especially formulated for Elected Members;
  - Participation at a workshop on the new Official Conduct Regulations; and
  - Any additional WALGA sponsored training courses deemed relevant by Council that are contained at **Attachment 6.3.3 (b)**.
- (b) seeks the approval of the Department of Local Government for this program of Elected Member training.

MOTION

Moved Cr Maddaford, Sec Cr Doherty

That part (a) of the officer recommendation be amended as follows:

That Council...

- (a) requests the Chief Executive Officer to prepare a two-stage program for Elected Member training as outlined in report Item 6.3.3 *and using the names listed against numbers 7 and 11 of the Confidential Attachment 6.3.3* of the Special Council Meeting of 10 July 2007 consisting of the following:

<b>COUNCIL DECISION ITEM 6.3.3</b>
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The Mayor put the Motion

That Council...

- (a) requests the Chief Executive Officer to prepare a two-stage program for Elected Member training as outlined in report Item 6.3.3 and using the names listed against numbers 7 and 11 of the *Confidential Attachment 6.3.3* of the Special Council Meeting of 10 July 2007 consisting of the following:

**Stage One**

- Evening workshop conducted by a (or both) current Elected Members identified on the confidential attachment;
- Condensed training program incorporating a refresher course on the respective roles of the Chief Executive Officer /Administration and the Council and individual councillors conducted by a WALGA service provider;
- Workshop on Ethics, Misconduct Reporting and Public Sector Standards which representatives from each of the Corruption and Crime Commission and the Office of Public Sector Standards would be invited to facilitate; and
- Refresher course on the City's Code of Conduct conducted by a WALGA service provider

**Stage Two**

- Repeat of the above for newly elected Councillors;
  - Participation at a one day a special Directors Course offered by WALGA which has been especially formulated for Elected Members;
  - Participation at a workshop on the new Official Conduct Regulations; and
  - Any additional WALGA sponsored training courses deemed relevant by Council that are contained at **Attachment 6.3.3 (b)**.
- (b) seeks the approval of the Department of Local Government for this program of Elected Member training.

CARRIED (11/2)

**6.3.4 Report of the Inquiry into the City of South Perth May 2007 - Implementation of Recommendation 6: Assessment of Code of Conduct Complaints**

Location: City of South Perth  
Applicant: Council  
File Ref: A/LM/2  
Date: 4 July 2007  
Author: Sean McLaughlin, Legal & Governance Officer  
Reporting Officer: Cliff Frewing, Chief Executive Officer

**Summary**

Upon receipt of the **Report of the Inquiry into the City of South Perth - May 2007** (the Report), the City is required under the *Local Government Act* to provide the Minister for Local Government with its written advice setting out the things that it has done or proposes to do to give effect to the recommendations of the Report.

The purpose of this report is to enable the City to provide further advice to the Minister in relation to its implementation of Recommendation 6, that:

*Where Code of Conduct complaints are about the Mayor, an Elected Member or the CEO, those complaints should be referred to an independent person for assessment, appointed with the approval of the Department of Local Government.*

**Background**

The Inquiry Report noted that Code of Conduct complaints that have been made concerning the actions of Elected Members or staff should be referred to an independent assessor, who is external to the City. This is to remove any apprehension of bias toward one party over another.

This report outlines the City's progress in relation to its implementation of Recommendation 6, that:

*Where Code of Conduct complaints are about the Mayor, an Elected Member or the CEO, those complaints should be referred to an independent person for assessment, appointed with the approval of the Department of Local Government.*

In relation to Inquiry Report Recommendation 6 above, Council considered its initial response at the Special Meeting held on 10 June 2007.

*Councils previous Resolution on Recommendation 6  
Council agrees to adopt Recommendation R6 and resolves to ensure that an independent person, approved by the Department, will be appointed for the assessment of any Code of Conduct complaints that have been made by or against the Mayor, Councillors and the CEO.*

**Comment**

The Director General of the Department wrote to the City on 31 May 2007 enclosing the names of three agencies which were considered to possess appropriate professional investigative experience suitable for the task of assessing code complaints.

The Administration contacted each agency inviting it to submit a profile of the organisation including a description of its experience in providing the services required and its cost structure for such assignment.

Responses were received from each of the three nominated agencies and copies of their submissions have been made available in the Councillors Lounge. The submissions are to be treated as *commercial-in-confidence* documents.

The submissions have been assessed and on the basis of a consideration of each organisation's profile, experience and expertise, experience with the public sector (including local government) and its cost structure, a ranking has been prepared with an indication of the preferred agency. This assessment is set out in **Confidential Attachment 6.3.4** and a recommendation is made on the attachment.

It is noted in Recommendation 6 that subsequent to the gazettal of the *Local Government (Official Conduct) Amendment Act 2007*, the assessment and determination of code of conduct complaints concerning Elected Members will be in accordance with the procedures of that legislation, including regulations (yet to be made) describing Rules of Conduct for Elected Members.

#### **Consultation**

The Department of Local Government and Regional Development was consulted on matters relating to the implementation of the recommendation.

#### **Policy Implications**

Nil.

#### **Financial Implications**

There will be significant financial implications for the City in implementing Recommendation 6. Provision of \$20,000 has been made available in the 2007/08 budget for this purpose however this figure will depend on the number and nature of complaints lodged.

#### **Strategic Implications**

Consistent with the Strategic Plan: Goal 5 - Organisational Effectiveness: *To be a professional, effective and efficient organisation.*

#### **OFFICER RECOMMENDATION ITEM 6.3.4**

That Council

- (a) select the preferred agency as listed on **Confidential Attachment 6.3.4** to conduct assessments of Code of Conduct complaints; and
- (b) requests the Chief Executive Officer to initiate the necessary administrative processes to engage the preferred agency to conduct assessment of Code of Conduct Complaints (should this action be necessary) in accordance with Recommendation 6 of the Inquiry Report.

#### **COUNCIL DECISION ITEM 6.3.4**

Moved Cr Ozsdolay, Sec Cr Trent

That Council

- (a) accepts the agency as recommended on **Confidential Attachment 6.3.4** to conduct assessments of Code of Conduct complaints; and
- (b) requests the Chief Executive Officer to initiate the necessary administrative processes to engage the preferred agency to conduct assessment of Code of Conduct Complaints (should this action be necessary) in accordance with Recommendation 6 of the Inquiry Report.

CARRIED (8/5)

**7. CLOSURE**

The Mayor closed the meeting at 9.20pm 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 24 July 2007**

Signed \_\_\_\_\_  
**Chairperson at the meeting at which the Minutes were confirmed.**