

MINUTES

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**Minutes of the Ordinary Meeting of the City of South Perth Council
held in the Council Chamber, Sandgate Street, South Perth
Tuesday 26 June 2007 commencing at 7.00pm**

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

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

2. DISCLAIMER

The Mayor read aloud the City's Disclaimer.

3. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

The Mayor read aloud a letter received from the Department of Local Government advising that as part of the Department's ongoing monitoring program that a Departmental Officer will visit the Ordinary Council Meeting on 26 June 2007.

4. ATTENDANCE

Present

Mayor J Collins, JP (Chairman)

Councillors:

J Best	Civic Ward
G W Gleeson	Civic 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 R Burrows	Director Corporate and Community Services
Mr S Cope	Director Strategic and Regulatory Services
Mr G Flood	Director Infrastructure Services (until 10.25pm)
Mr M Kent	Director Financial and Information Services
Mr C Buttle	Manager Development Assessment
Mr S Camillo	Manager Environmental Health & Regulatory Services(until 8.12pm)
Ms D Gray	Manager Financial Services
Mr M Taylor	Manager City Environment (until 8.45pm)
Ms R Mulcahy	City Communications Officer
Mrs K Russell	Minute Secretary

Gallery

Approximately 25 members of the public and 1 member of the press

4.1 APOLOGIES

Cr B W Hearne Como Beach Ward

4.2 APPROVED LEAVE OF ABSENCE

Nil

5. DECLARATION OF INTEREST

The Mayor reported that he had declared an 'Impartiality Interest' in relation to Item 10.3.2 and a Financial Interest in Item 10.6.6. He then read aloud the Declarations as detailed in the Minutes before Items 10.3.2 and 10.6.6 respectively.

6. PUBLIC QUESTION TIME

6.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the Council meeting held 22 May 2007 the following questions were taken on notice:

6.1.1. Mr Geoff Defrenne, 24 Kennard Street, Kensington

Summary of Question

Re "Excelsior" 152 Mill Point Road - It is interesting to note the response to my March questions on this site.... *that utilising the method of calculation that was operative at the time when planning was originally granted.* Will the City clarify with examples or a table, of how the method of calculation that was operative at the time differs to the current method of calculation?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 14 June 2007, a summary of which is as follows:

The main differences between the City's current assessment of plot ratio floor area, compared to that which was operative at the time when the building at No. 152 Mill Point Road received planning approval are summarised below:

- (a) **Private Stores**
Private stores were previously excluded from plot ratio calculations. Private stores (except where located wholly below natural ground level) are now included in plot ratio calculations.
- (b) **Lobbies**
Lobbies which are not common to two or more dwellings, but which are situated outside of individual dwellings were previously excluded from plot ratio calculations. Lobbies of this kind are now included in plot ratio calculations.
- (c) **Ducts**
Area consumed by ducts was previously excluded from plot ratio calculations. The area consumed by ducts is now included in plot ratio calculations.
- (d) **Division between areas included and excluded from plot ratio calculations**
Where an area which was included in plot ratio calculations (such as a Living Area) adjoined an area which was excluded from plot ratio calculations (such as a lift shaft), it was the City's practice to measure plot ratio floor area to the centre line of the wall dividing such spaces. The City now measures plot ratio floor area wholly over the wall dividing such spaces.

6.1.2 Ms Dianne Courtney, 5 Max Forman Court, Como

Summary of Question

In relation to Ryrie Reserve, refer to two incidences where cars have come through fences and to correspondence from the City in this regard which stated...*it is unreasonable for the City to counter the impact of irresponsible motorists.....* Is there a policy in relation to unsafe verges, will Council take some action?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 30 May 2007, a summary of which is as follows:

An investigation will be carried out and a report provided to the earliest available Council meeting.

6.1.3 Mr Geoff Defrenne, 24 Kennard Street, Kensington

Summary of Question

In relation to Temporary Staff. Last year I asked a series of questions on temporary staffing which resulted in making public that the amount spent by the City on temporary staff exceeded over one million dollars. What has the City spent on temporary staff for the year-to-date? The year-to-date figure can be in a convenient period ie March, April or May. I request the information similar to that presented last year. This should include the areas of temporary staff employment and the three largest recipients of the payments of temporary staff for each area.

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 15 June 2007, a summary of which is as follows:

Suppliers	2006/2007
Flexi Staff	\$392,998
Drake	\$ 94,717
Hays Personnel	\$ 92,752
Flexi Health	\$117,680
Sure Personnel	\$146,164
Gel Group	\$ 45,845

Summary of Question

In relation to 'Millstream' 12 Stone Street, South Perth. Last month I asked a series of questions on car parking in respect to 12 Stone Street, South Perth but they generally applied to all developments. The responses to my questions in respect to car parking at this address said all the resident car bays did not comply with the Scheme. In response to my question: *Under delegated authority in respect to the car bay dimensions, has the Council given the staff authority to approve any car bays that are not in accordance with the Scheme?* The response was no. Who is responsible for the granting of planning and building approval for car bays that do not comply with the Scheme?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 14 June 2007, a summary of which is as follows:

You have misunderstood the response that was provided to questions asked at the April Council meeting. You state that the response to your question of whether "*under delegated authority in respect to the car bay dimensions, has the Council given the staff authority to approve any car bays that are not in accordance with the Scheme*" was "no". The response stated that staff had delegated authority to deal with any matter under the Scheme other than delegation, subject to the limitations specified in Schedule 1. Schedule 1 makes no reference to car bays, i.e. it is not one of the matters for which the Council has not delegated

the exercise of discretion. Responsibility for approving the car parking dimensions shown on the approved building licence drawings for this project rested with the City's Planning and Building Officers who were involved in the assessment and issue of this particular building licence.

Note: At the Special Council meeting held 6 June 2007 the following question was taken on notice:

6.1.4. Mr Geoff Defrenne, 24 Kennard Street, Kensington

Summary of Question

In relation to Item 6.2 there is reference to a budget amount of \$40,000 for training. Since 2002 how much has Council spent on training Councillors in their role and the role of CEO?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 14 June 2007, a summary of which is as follows:

Training of newly elected Councillors commenced immediately on election in 2002 and has continued on a regular basis since that date. Training takes many forms and includes in-house briefings conducted by staff or external specialists, ie lawyers, attendance at courses, conferences and seminars, reference to a wide range of documentation and on-line material.

It is not possible to ascertain total costs attributed to all of these activities over this period of time although the amount would be considerable.

6.2 PUBLIC QUESTION TIME : 26.6.2006

Opening of Public Question Time

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

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

Summary of Question

When will Agenda Item 9.0.2 of the December 2006 Ordinary Council meeting, which refers to 11 Heppingstone Street, be back on the Agenda for final determination?

Summary of Response

The Mayor stated that as previously advised this matter is still awaiting the Minister's decision. Once a decision has been made by the Minister the matter will come back before Council.

Summary of Question

I understand that Council is awaiting a report from Ernie Samec on this matter?

Summary of Response

The Mayor advised that when advice is received from Ernie Samec it will be conveyed to Council, similarly with the Minister's decision.

Summary of Question

Does the City have one set of rules for some property owners and another set of rules for others?

Summary of Response

The Mayor responded no. The Chief Executive Officer confirmed this was correct and that the same rules applied to all property owners.

Summary of Question

At last month's meeting there was an item that referred to a building in Manning Road. The officer recommendation was that part be demolished because it did not comply. Part of No. 11 Heppingstone Street did not comply, why was that not demolished.

Summary of Response

The Chief Executive Officer stated that the building referred to in Manning Road was the subject of a report where Council had discretion whereas the issue at 11 Heppingstone Street is awaiting the Minister's decision. He said Council will consider the matter again when advice is received from either Kott Gunning or the Minister whichever comes first.

6.2.2 Mr Geoff Defrenne, 24 Kennard Street, Kensington

Summary of Question

In response to previous questions relating to calculation of plot ratio it is interesting to note the answer quotes *....that utilising the method of calculation that was operative at the time when planning was originally granted* as compared with the current method. When did the City become aware that the method it was using was not the correct method?

Summary of Response

The Chief Executive Officer responded October 2005 as a result of a SAT decision.

Summary of Question

How certain is the City that its current method is the correct method?

Summary of Response

The Chief Executive Officer said that every effort before SAT or after SAT is made that all calculations are accurate and in accordance with the rules of the day.

Summary of Question

Since becoming aware that the method of calculation at the time was incorrect, what training measures have been put in place to ensure the lawful method is used?

Summary of Response

The Chief Executive Officer stated that a significant amount of training and education has been allocated to officers since 2005 including legal advice, training conducted through and with the City of Belmont and education within our own planning department.

Summary of Question

At the 6 June Council meeting an estimated \$40,000 will be spent on training Councillors on their role, I would deem this to be a relatively simple task. How much does the Council allocate to train each of its planning staff, on what is a more complicated, but not over difficult area, to ensure the planning department complies with legislation?

Summary of Response

The Chief Executive Officer said all the training that is necessary and requested by the Director of that Department.

Summary of Question

Last month I asked a series of questions on the CEO attendance at the Local Government Managers' Association (LGMA) board meeting and conference. One of the replies was that attendance at the LGMA board meeting would be 'professional development'. How could such attendance be deemed professional development?

Summary of Response

The Chief Executive Officer stated that the LGMA is the leading local government organisation for professional local government officers within the country. As a member of the State Board I was also fortunate enough to represent WA on the Federal Board. These experiences enabled me to become a lot more familiar with State and Federal matters involving legislation, education and training issues. The ability to be with my peers adds to this exposure.

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?

Summary of Response

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 Question

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

Summary of Response

The Mayor responded yes.

****Amended Council Meeting 24.7.2007 by the inclusion of the following text in italics
Cr Jamieson - Please ensure that response is recorded in the minutes.*

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

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

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

.....***

Summary of Question

If the Council did approve the CEO to be on the board of the LGMA when was this approval given?

Summary of Response

The Mayor said that he had just responded to that question.

Summary of Question

You indicated that Cliff Frewing was President of the LGMA at the time of his appointment. When his term expired, did he continue to attend board meetings?

Summary of Response

The Chief Executive Officer stated that appointments on the board as President were generally for 2 years. He said that in March 2005 that he was in his term as President which expired in 2006. He was not President at the time of his appointment as CEO but was 'immediate past President'.

Summary of Question

When did the CEO inform Council of his attendance on the board?

Mayor Collins asked what is the point of these questions? He confirmed that Council was aware when Cliff Frewing was appointed as CEO of his membership on the board.

Mr Defrenne said that Mr Frewing has previously stated that there has been insufficient time to answer public questions. If he was not on the board he would have more time to attend to Council business.

Mayor Collins said he would take one more question and then the balance of the questions as 'tabled' by Mr Defrenne would be dealt with administratively.

Summary of Question

Last month I 'tabled' questions (not asked at the Council meeting) in relation to No. 180 Mill Point Road that were not answered - why not?

Summary of Response

The Mayor responded that this would be investigated and a response provided.

Summary of Question

Last month I asked a series of questions on car parking in respect to 12 Stone Street, South Perth but they generally applied to all developments. In respect to car parking at this address all the resident car bays did not comply with the Scheme. The response to the question ...*Who is responsible for the granting of planning and building approval for car bays that do not comply with the Scheme?* was that the responsible person was the planning staff. Does the CEO accept any personal responsibility, of what is an unlawful approval?

Summary of Response

The Chief Executive Officer stated that he did not regard the issue as unlawful.

Close of Public Question Time

The Mayor closed Public Question time at 7.20pm

7. CONFIRMATION OF MINUTES / BRIEFINGS

7.1 MINUTES

7.1.1 Ordinary Council Meeting Held: 22.5.2007

COUNCIL DECISION ITEM 7.1.1

Moved Cr Trent, Sec Cr Ozsdolay

That the Minutes of the Ordinary Council Meeting held 22 May 2007 be taken as read and confirmed as a true and correct record.

CARRIED (12/0)

7.1.2 Special Council Meeting Held: 6.6.2007

COUNCIL DECISION - CHANGE TO ORDER OF BUSINESS

Moved Cr Ozsdolay, Sec Cr Maddaford

That the Order of Business in the Agenda be changed to allow Item 7.1.2 to be dealt with at the end of the meeting under Item 12.

CARRIED (12/0)

7.1.2 Audit & Governance Committee Meeting Held: 6.6.2007

COUNCIL DECISION ITEMS 7.1.2

Moved Cr Wells, Sec Cr Maddaford

That the Minutes of the Audit and Governance Committee Meeting Held 6 June 2007 be received.

CARRIED (12/0)

7.2 BRIEFINGS

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

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

7.2.1 Agenda Briefing - May Ordinary Council Meeting Held: 15.5.2007

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

7.2.2 Concept Forum City of Canning Fireworks, 2007 Fiesta and Bentley Technology Park Update Meeting Held: 23.5.2007

Officers of the City presented information in relation to the City of Canning Fireworks Event and the 2007 Fiesta. Questions were raised and responded to by officers. Representatives from Bentley Technology Park presented an update on the Plan and answered questions from Members. Notes from the Concept Forum are included as **Attachment 7.2.2.**

7.2.3 Concept Forum draft Budget Meeting Held: 5.6.2007

Officers of the City presented an update on the draft Budget and answered questions from Members. Notes from the Concept Forum are included as **Attachment 7.2.3.**

7.2.4 Concept Forum Como Beach Public Art, Red Bull Air Show and Debriefing Australia Day 2007

Officers of the City presented an update on the Como Beach Public Art proposal, the Red Bull Air Show event and outcomes of the 2007 Skyshow. Questions were raised by Members and responded to by officers. Notes from the Concept Forum are included as **Attachment 7.2.4.**

COUNCIL DECISION ITEMS 7.2.1 TO 7.2.4 INCLUSIVE

Moved Cr Macpherson, Sec Cr Doherty

That the comments and attached Notes under Items 7.2.1 to 7.2.4 inclusive on Council Agenda Briefings held since the last Ordinary Meeting of Council on 22 May 2007 be noted.

CARRIED (12/0)

8. PRESENTATIONS

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

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

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

The Mayor opened Deputations at 7.25pm and advised that speakers would be permitted 10 minutes each to address the Members.

8.3.1. Greg Benjamin, representing majority of Carr Street Residents.... Agenda Item 10.4.1
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Mr Benjamin spoke against the officer recommendations on the following points:

- meeting March 2005 discussed Cape Lilac Replacement Program / Outcome
- detailed report from qualified Arboriculturist
- pruning issues / previous bad pollarding practices to detriment of trees
- responsible pruning
- overwhelming vote by 19 to 3 for Cape Lilacs to be replacements species in Carr Street
- caterpillar / berry issues and controls
- reject recommendation for Jacarandah trees to be species for Carr Street
- asked Councillors to endorse residents' support for Cape Lilacs in Carr Street

Note: A copy of the presentation was 'tabled'.

8.3.2. Jeremy Birman, of Birman & Ride, lawyers representing Eden Apartments (owners/developers) 73 Mill Point Road Agenda Item 12.2

Mr Birman spoke against the proposed Motion on the following topics:

- Council received application for Form 7 certificate in respect of 73 Mill Point Road, on 20 April 2006.
- Council has an obligation to deal with applications within a reasonable time
- Council inspection of development at 73 Mill Point Road on 26 April 2007 was satisfied that it complied with the building application and was prepared to issue the Form 7.
- Council planning officers conducted further inspections on 16 and 25 May 2007.
- having neither issued the certificate nor rejected it Council is now in clear contravention of its obligations under the Act
- owners of 73 Mill Point Road are suffering losses in the order of \$10,000 per day because of the Council's breach of the Act
- if motion proposed is passed, it is inevitable that substantial further losses will be suffered by the developer pending the Council's determination of the application
- up to 32 prospective residential ratepayers are being frustrated by the developer's inability to complete the sale of their units pending the Council's determination of the Form 7 application and may bring proceedings against the Council in this regard

- the builder of the development at 73 Mill Point Road, is suffering loss by reason of the delay and may also bring proceedings against the Council
- if the proposed Motion is passed it may amount to an invalid exercise of Council's power, or to reckless or malicious conduct, in which case the individuals involved may be personally liable for the resulting losses
- Council has approved building plans in relation to plot ratio - matter that will not be cured by withholding Form 7.

Close of Deputations

The Mayor closed Deputations at 7.48pm and thanked everyone for their comments.

8.4 DELEGATES' REPORTS

Delegate's written reports to be submitted to the Minute Secretary prior to **8 June 2007** for inclusion in the Council Agenda.

Nil

9. METHOD OF DEALING WITH AGENDA BUSINESS

The Mayor advised the meeting of the en bloc method of dealing with the items on the Agenda. He then sought confirmation from the Chief Executive Officer that all the en bloc items had been discussed at the Agenda Briefing held on 19 June 2007.

The Chief Executive Officer confirmed that this was correct.

COUNCIL DECISION ITEM 9.0 - EN BLOC RESOLUTION

Moved Cr Trent, Sec Cr Macpherson

That the officer recommendations in relation to Agenda Items 10.0.1, 10.3.1, 10.3.2, 10.3.4, 10.3.6, 10.3.8, 10.4.2, 10.5.1, 10.5.2, 10.5.3, 10.5.4, 10.5.5, 10.5.8, 10.6.1, 10.6.2 and 10.6.4 carried en bloc.

CARRIED (12/0)

10. REPORTS

10.0 MATTERS REFERRED FROM PREVIOUS COUNCIL MEETINGS

10.0.1 Certificate of Occupancy (Item 11.3 referred March 2007 Council Meeting.)

Location: City of South Perth
Applicant: Council
File Ref: PH/203
Date: 15 June 2007
Author/Reporting Officer: Steve Cope, Director Strategic and Regulatory Services

Summary

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

Background

At its March 2007 meeting Council resolved that:

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

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

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

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

Comment

Legal advice has been sought from McLeods, the City’s solicitors on this matter, however at the time of writing no response has been received.

Consultation

Matter referred to McLeods for advice.

Policy and Legislative Implications

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

Financial Implications

The issue has no particular impact on this particular area.

Strategic Implications

The report is aligned to Goal 3 “Environmental Management” and Goal 5 “Organisational Effectiveness” within the City’s Strategic Plan. Goal 3 is expressed in the following terms:

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

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

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.0.1
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That....

- (a) consideration of this matter, ‘Certificate of Occupancy Certificate’ be deferred until the receipt of legal advice; and
(b) a further report on this matter be presented to the July meeting of Council.

CARRIED EN BLOC RESOLUTION

10.1 GOAL 1 : CUSTOMER FOCUS

Nil

10.2 GOAL 2: COMMUNITY ENRICHMENT

10.2.1 Red Bull Air Race 2007

Location:	City of South Perth
Applicant:	Council
File Ref:	RC/112
Date:	8 June 2007
Author	Sebastian Camillo Manager Environmental Health and Regulatory Services
Reporting Officer:	Steve Cope, Director, Strategic and Regulatory Services

Summary

To consider an application made by Red Bull Air Race GmbH for the use of Sir James Mitchell Park to hold a Red Bull Air Race over Perth Waters on the Swan River in November 2007, and to approve the road closures for the event .

Background

Last year the City approved the use of Sir James Mitchell Park to EventsCorp for the inaugural staging of the final leg of the Red Bull Air Race in November 2006. EventsCorp and the Western Australian Government were extremely satisfied with the success of that event which generated an unprecedented public support and interest attracting an estimated 350,000 visitors to the South Perth foreshore. The event attracted an estimated 9,000 extra visitors to Western Australia generating more that \$14 million dollars into the State economy. EventsCorp and the Western Australian Government will continue to support the event for the next 2 years to 2008.

In May 2007, the City received an application from Red Bull Air Race GmbH, seeking approval to use the South Perth Foreshore, Sir James Mitchell Park from the Mends Street Jetty to Ellam Street, to host the final leg of the 2007 World Series on 3 and 4 November 2007.

Red Bull Air Race is owned by Red Bull Air Race GmbH, a global company based in Austria. The 2007 event approval agreement, if supported by Council will be between the City of South Perth and Red Bull Air Race GmbH. Shani Wood from Shani Wood Events has been appointed by Red Bull Air Race GmbH as the Event Project Manager, heading the National Event Production Group (NEPG) for the Perth event. EventsCorp will work closely with Shani Wood and the NEPG.

Comment

Last year EventsCorp secured a three year contract for Perth to host the Red Bull Air Race which was one 9 events to be held on the international calendar during 2006 and the only one to be held in Australia. This year there will be up to 10 events internationally with the final leg being held in Perth.

On-site preparation and bump in of various structures for the event will commence from 20 October 2007 with the completion being 17 November 2007.

The event is projected to attract the same number of visitors as last year being some 350 thousand visitors to the City's foreshore on the final two days of the competition and will be televised to over 60 countries throughout the world.

The event activities will impact on the City and its community for its duration, particularly on the final two days of the competition. Shani Wood and EventsCorp propose to manage the event along similar management plans as last year and to that of other large events ie LotteryWest Skyworks and Million Paws Walk, which are held within the City, without any financial impost being incurred by the City.

The Red Bull Air Race management plan will focus on the following areas:

- Essential structures
- Crowd control measures
- Traffic Management / Road Closures
- Waste Management
- Significant media and communications campaign.

1. Public Infrastructure and Amenities

There are various temporary structures proposed to be erected and securely fenced with 1.8 metre fencing in three (3) areas of Sir James Mitchell Park, from Mends Street Jetty to Ellam Street Reserve which are essential to the event. They consist of the following areas:

- (a) International Area - Sir James Mitchell Park
 - Race Club
 - Media Centre
 - High Flyers Club
 - Broadcast Station (new structure)
 - Prize Podium
 - Merchandise containers
 - International Infrastructure Compound (Coode Street car park area)
 - Temporary Office Containers
 - Storage Containers
 - Toilets (for staff)
 - Catering (for staff)
 - Generators
 - Static Aircraft Displays, Public Air Gate Zone (PAZ)
 - Other Infrastructure
 - Police Compound
 - Emergency Control Compound (ECC)
 - First Aid, Event Information, Lost Children etc.
 - Helipad
 - 9 x large video screens (Vidi Walls), scaffold mounted
 - 7 x Public Service Areas
 - Shade shelters
 - Catering vendors
- (b) Aqua Compound (fenced, including Ellam Street car park)
 - 6 x 40ft Storage Containers
 - 220 volt Generator
 - 2 x 10 cube compressors
- (c) Scented Gardens Foreshore Grandstand (East of Carpark # 11 and in front of Scented Gardens)
 - Grandstand Viewing (6,000 seating capacity)

The main focal operations area is centred around Sir James Mitchell Park, from Mends Street Jetty eastward to Ellam Street. The Coode Street boat ramp is to be temporarily closed to the public from 30 October to 6 November 2007 (inclusive) and an application for temporary closure will be sent to the Department of Planning and Infrastructure (Marine Branch) by the applicant, seeking approval.

An application for an extended liquor licence will be submitted to the Department of Racing Gaming and Liquor by the applicant for alcohol at the following locations:

- Race Club (Capacity - 2000 people)
- High Flyers Club (Capacity - 300 people)
- Scented Gardens Foreshore Grandstand (Capacity 6,000 people)

The spectator viewing locations are proposed to be along the South Perth foreshore. All Public Service Areas (PSA's) including first aid, toilets, lost children post, food outlets etc, will be provided by Red Bull Air Race GmbH.

Red Bull Air Race GmbH will be required to comply with the City's conditions which will be subject to further negotiation and applicable for the use of the foreshore area for the Red Bull Air Race. The conditions are proposed for the following reasons:

- (1) A hire charge of \$35,000 plus \$20,000 for post event restoration for the use of the Sir James Mitchell Park is to be lodged with the City and payment must be made prior to the event;

The hire charge and restoration fees are indicative costs of an event of this size and nature. It is calculated on the overall footprint required to stage the event and the impact the structures and the length of time they are required to be in place.

- (2) Public Liability Cover to the amount of \$100,000,000 is to be arranged by the Red Bull Air Race GmbH and jointly made out to the Events Corp and City of South Perth to indemnify the City against any damage, injury or death to persons or property;

Due to the nature of the event and the impact on the residents and public a Public Liability Cover of this nature is a responsible requirement to indemnify the City, residents and visitors. Red Bull Air Race GmbH did provide the Public Liability Cover last year and will be providing the same cover again this year.

- (3) The event is to be held between the hours of 8.30 am to 5.00 pm on air race days; This condition is a requirement to minimise the impact of noise, parking/traffic and any other issues on the residents of the City and subject to effective management plans that will be developed and approved by the City in conjunction with other relevant agencies (I.E. Police, FESA MRD etc).
- (4) The area is to be left in a clean and tidy condition with no damage caused, with Red Bull Air Race GmbH being responsible for all the cleanup costs;

Red Bull Air Race GmbH have developed a waste management plan which they implemented during last years event. The foreshore was left in a clean and very acceptable state. This year they are implementing a public place recycling program called "Do the Right Thing" campaign which has been trialled successfully in Canberra. The final plan will be approved by the City to ensure that there is no litter left on the foreshore after the event.

- (6) Due to limited power and water on site, any requirements outside of these services, is the responsibility of Red Bull Air Race GmbH;

Red Bull Air Race GmbH will be providing their own water and power supply to the foreshore. This may be by way of direct supply being made by the respective agencies ie. Water Corporation and Western Power, or alternatively via water to storage tanks and power being provided by generators.

- (7) Red Bull Air Race GmbH will undertake any set up from 7.00 am to 5.00 pm, if the equipment to be erected cannot be installed in the hours approved on the days of the event. The equipment and structures to be removed within 7 days following after the event;

This condition is required to prevent the erection of any structure within unreasonable hours prior to the event which may cause a nuisance to local residents. It also provides a reasonable time in which all structures are to be removed so that the foreshore could be returned to its former state.

- (8) Red Bull Air Race GmbH will be permitted to carry out / construct the following activities;

(a) International Area - Sir James Mitchell Park

- Race Club
- Media Centre
- High Flyers Club
- Broadcast Station (new structure)
- Prize Podium
- Merchandise containers
- International Infrastructure Compound (Coode Street car park area)
 - Temporary Office Containers
 - Storage Containers
 - Toilets (for staff)
 - Catering (for staff)
 - Generators
- Static Aircraft Displays, Public Air Gate Zone (PAZ)
- Other Infrastructure
 - Police Compound
 - Emergency Control Compound (ECC)
 - First Aid, Event Information, Lost Children etc.
 - Helipad
 - 9 x large video screens (Vidi Walls), scaffold mounted
 - 7 x Public Service Areas
 - Shade shelters
 - Catering vendors

(b) Aqua Compound (fenced, including Ellam Street car park)

- 6 x 40ft Storage Containers
- 220 volt Generator
- 2 x 10 cube compressors

(c) Scented Gardens Foreshore Grandstand (East of Carpark # 11 and in front of Scented Gardens)

- Grandstand Viewing (6,000 seating capacity)

The above areas and infrastructures are considered to be a necessary requirement to conduct the event in the standards already set last year by the event organiser and to compare with the international standards desired by the owners of the event, Red Bull Air Race GmbH. Additional public facilities are proposed to be provided this year to provide increased comfort and options for members of the public and event guests.

- (9) Red Bull Air Race GmbH will be required to construct an alternative shared use path around any area assigned to the Race Organiser, where the assigned area obstructs or partially obstructs the existing path, with such path being constructed to the AustRoads Guidelines 14 Bicycles;

Last year there were issues in relation to the type of alternative surfacing provided by the applicants to re-direct the existing cycle path. This year through discussions already taken place and involving the State Government through the Department of Planning and Infrastructure (BikeWest Section) there has been some major advancement in the type to alternative surfacing which will meet the requirements of BikeWest and the typical cycle path users. The type of material being considered is Terra-plas.

- (10) Red Bull Air Race GmbH will be required to construct pavements or otherwise increase the load bearing capacity of those areas requiring heavy vehicle access, so as to minimise the impact on the park or any public infrastructure located either above, on or below ground;

This year the applicants will be required to pay for a water tanker equipped with a watering sprinkler to water the reserve between the various structures and heavy traffic areas to minimise the wear and tear on the reserve.

- (11) Red Bull Air Race GmbH is to liaise with the City regarding:
- The layout of the event which is to be submitted at least 2 (two) weeks prior commencement;
 - The layout of the reticulation system, positioning of marquees and vehicles for parking and fencing surrounding the proposed venue;
 - Provision of adequate fencing surrounding the proposed venue;

Last year the applicants contractors liaised with the City staff to locate the underground services which resulted in minimal damage to the existing services and landscaping. This year, Red Bull Air Race GmbH and their contractors will be required to again liaise with the City Parks and Gardens field staff to ensure that the reserves services are not damaged in any way. Any damage to the reserve or services will be recovered by the City.

- (12) Red Bull Air Race GmbH is to liaise with the City's, Environmental Health and Regulatory Services to ensure:
- Provision of a direct connection for portable toilets to the existing Minister's Sewerage Scheme. Should this not prove to be feasible within the relevant regulatory framework adequate portable toilet facilities with approved disposal systems to be provided at Events Corp expense;
 - Requirements for food handling and noise levels are met;
 - Adequate rubbish bins are provided at Events Corp's expense;
 - All rubbish bins to be serviced and litter removed from the reserve daily;

The City's Environmental Health Services Manager is already involved in the Red Bull Air Race GmbH development working group meetings to ensure that the issues relating to Environmental Health are effectively addressed and implemented.

- (13) Red Bull Air Race GmbH is to apply to the City's Building Services to obtain:
- A building licence for the erection of any temporary structure/marquee on Sir James Mitchell Park;
 - Approval for signage and sponsorship requirements

Red Bull Air Race GmbH will be providing the appropriate plans and specifications for each of the structures proposed being erected for the event. This will be done in adequate timing to ensure that the appropriate approvals are issued in a timely manner.

- (14) Red Bull Air Race GmbH to provide an effective media and communications campaign to ensure that all residents and visitors to the event understand the restrictions that will apply throughout the City; and

Last year the applicant provided a casual staff member and all media print/information which was distributed by them through their Publicity and Media Company. This year Red Bull Air Race GmbH will be liaising with the City's officers and developing an effective Communication Plan at their cost which will inform the local residents of the various issues that may effect them, for example parking/traffic management issues, access permits/applications, information pamphlets and all other relevant matters.

- (15) Red Bull Air Race GmbH to be responsible for all costs associated with the planning and implementation of parking measures including preparation of parking plans, residents information brochures, advertising and communication plan to effected residents and general public, sign installation and removal, labour costs and other costs associated with road barriers and access control points.

Last year the City recovered costs of approximately \$21,000 associated with the reserve restoration and other associated costs from the applicant. This year the fees and hire charges will again be applied to Red Bull Air Race GmbH for the hire of the reserve and to recover all the reserve restoration/maintenance and any other costs which the City may incur.

2. Crowd Control Measures

The Western Australian Police Service (WAPS) will have three Emergency Control Compounds (ECC) and Operational Compounds on Sir James Mitchell Park and will commence patrolling from approximately 8.00am on the mornings of the respective race days.

The purpose of the compounds on the foreshore is to allow the WAPS to be strategically and operationally located on the front line and to provide access for the officers and various Hazard Management Agencies (HMA's) a rapid response to any incident.

This measure worked particularly well during the 2006 event and will again be implemented in 2007.

3. Road Closures (Access Restricted Area)

Based on the experience gained from the event last years event there will be some significant changes to the proposed road closures. Last year it was anticipated that the influx of people and traffic would occur on the final day of the competition, however there was a substantial number of viewers and traffic concerns in the days leading up to the finale.

This year there will be some air race trials and practice flights for three days prior to the final competition race days which are to be held over two days on Saturday 3 and Sunday 4 November. Therefore, requiring imposing road closures to the immediate area to mitigate any risk to residents and visitors to the event.

It is proposed that the roads bounded by Labouchere Road to Angelo Street to Douglas Avenue to Mill Point Road to Ellam Street, will be managed by Traffic Controllers from 5.00 am to 6.00 pm on both Saturday 3 and Sunday 4 November, in accordance with clause 7.4 and schedule 4 of the City's *Parking Local Law 2003*. Details of the management of the road closures is still being negotiated between the City and the applicant.

This area will be known as the "Access Restricted Area" and will be restricted with no parking on the road or verge and have controlled or staffed road closures at each of the 23 intersections. Eight intersections will be available into the access restricted area to residents, visitors and businesses. A permit system to enter into the Access Restricted Area for residents, their visitors (those who can be parked on site only) and businesses will again be implemented and managed by the City and the applicant.

The early closure is required to prevent people parking their vehicles in the access restricted areas and/or in car parks on the foreshore, congesting traffic and conflicting with pedestrian movement during the event and particularly at the closure of each days competing. The road closures will be advertised in accordance with the requirements of the *Local Government Act 1995*.

To provide vehicle and pedestrian safety, Police Traffic Branch and Emergency Services supports the exclusion of vehicles parking on the road verge within the access restricted area. The exclusion of parked cars enables clear vision for pedestrians and access throughout the restricted area by authorised emergency vehicles.

The applicant will be employing the services of a traffic management company to secure the road closures as mentioned in this report.

4. Traffic Management (Parking Restricted Area)

The parking restricted area would extend from the access restricted area (as per item 3) to South Terrace, up to Canning Highway and back to Ellam Street and be effective from 7.00 am to 6.00 pm, Saturday 3 and Sunday 4 November, respectively.

This area will be restricted with no parking on the road or verge **on one side of the road only** and normal parking on the other side. Street signage, community advertising and pamphlet drop will publicise these restrictions.

The Police Traffic Branch and Emergency Services support the exclusion of vehicles parking on the road verge on one side of the road within the parking restricted area which enables clear vision for pedestrians and access throughout the restricted area by authorised emergency vehicles. These restrictions in the previous Safer Australia Day Strategies implemented by the City were successful in clearing the traffic and pedestrian congestion at the end of the event.

5. Waste Management

The applicant will be responsible for supplying rubbish bins and arrangements for the removal of waste associated with the event. Approximately 200 x 240L rubbish bins will be located along on the South Perth foreshore and serviced throughout the event to ensure that litter is not left on the ground.

Currently, the applicant is in discussions with the public place recycling program “Do the Right Thing” campaign in Canberra to develop a suitable program for this event. Details of this campaign will be provided to the City’s Environmental Health Services prior to the event.

7. Media and Communications

The applicant will provide an effective media and communications campaign to ensure that all residents and visitors for the air race fully understand the restrictions that will apply on the final day of the event. The City will need to undertake some of this campaign directly and work closely with the event organisers and their radio and TV media partners to ensure the various elements of the City’s restrictions are effectively communicated.

Consultation

Consultation has occurred with officers of Red Bull Air Race GmbH, EventsCorp and also the following external organisations:

- City of Perth
- Civil Aviation Safety Authority (CASA)
- Town of Victoria Park
- Main Roads
- WA Police Service
- SWAN Transit
- State Emergency Service

Policy and Legislative Implications

Nil

Financial Implications

Nil. The applicant will provide unconditional guarantee that all funding for the event will be undertaken by them.

Strategic Implications

EventsCorp propose to manage the event in accordance with Goal 2 of the City’s Strategic Plan, Community Enrichment. In particular, reference is made to Strategic 2.7 which involves the development of strategic directions for events, arts, leisure and heritage that encourages a vibrant and participative community.

OFFICER RECOMMENDATION ITEM 10.2.1

That...

- (a) Events Corp be advised that Council endorses the conduct of the proposed Red Bull Air Race including the use of Sir James Mitchell Park subject to the satisfactory negotiation of the following conditions and requirements, to be incorporated within a binding document setting out the terms under which Events Corp would cover all costs and event management obligations incurred for the proposed Red Bull Air Race:
- (i) A hire charge of \$35,000 plus \$20,000 for post event restoration for the use of the Sir James Mitchell Park is to be lodged with the City and payment must be made prior to the event;
 - (ii) Public Liability Cover to the amount of \$100,000,000 is to be arranged by the Red Bull Air Race GmbH and jointly made out to the Events Corp and City of South Perth to indemnify the City against any damage, injury or death to persons or property;
 - (iii) The event is to be held between the hours of 8.30 am to 5.00 pm on air race days;
 - (iv) The area is to be left in a clean and tidy condition with no damage caused, with Events Corp being responsible for all the cleanup costs;
 - (v) Due to limited power and water on site, any requirements outside of these services, is the responsibility of Events Corp;
 - (vi) Red Bull Air Race GmbH will undertake any set up from 7.00 am to 5.00 pm, if the equipment to be erected cannot be installed in the hours approved on the days of the event. The equipment and structures to be removed within 7 days following after the event; and
 - (vii) Red Bull Air Race GmbH will be permitted to carry out/construct the following activities:
 - (A) International Area - Sir James Mitchell Park
 - Race Club
 - Media Centre
 - High Flyers Club
 - Broadcast Station (new structure)
 - Prize Podium
 - Merchandise containers
 - International Infrastructure Compound (Coode Street car park area)
 - Temporary Office Containers
 - Storage Containers
 - Toilets (for staff)
 - Catering (for staff)
 - Generators
 - Static Aircraft Displays, Public Air Gate Zone (PAZ)
 - Other Infrastructure
 - Police Compound
 - Emergency Control Compound (ECC)
 - First Aid, Event Information, Lost Children etc.
 - Helipad
 - 9 x large video screens (Vidi Walls), scaffold mounted
 - 7 x Public Service Areas
 - Shade shelters
 - Catering vendors

- (B) Aqua Compound (fenced, including Ellam Street car park)
 - 6 x 40ft Storage Containers
 - 220 volt Generator
 - 2 x 10 cube compressors
- (C) Mends Street Foreshore (East of Jetty) and Carpark
 - Grandstand Viewing (7,500 seating capacity)
- (viii) Red Bull Air Race GmbH will be required to construct an alternative shared use path around any area assigned to the Race Organiser, where the assigned area obstructs or partially obstructs the existing path, with such path being constructed to the AustRoads Guidelines 14 Bicycles;
- (ix) Red Bull Air Race GmbH will be required to construct pavements or otherwise increase the load bearing capacity of those areas requiring heavy vehicle access, so as to minimise the impact on the park or any public infrastructure located either above, on or below ground;
- (x) Red Bull Air Race GmbH is to liaise with the City regarding:
 - The layout of the event which is to be submitted at least 2 (two) weeks prior commencement;
 - The layout of the reticulation system, positioning of marquees and vehicles for parking and fencing surrounding the proposed venue;
 - Provision of adequate fencing surrounding the proposed venue;
- (xi) Red Bull Air Race GmbH is to liaise with the City's, Environmental Health and Regulatory Services to ensure:
 - Provision of a direct connection for portable toilets to the existing Minister's Sewerage Scheme. Should this not prove to be feasible within the relevant regulatory framework, or for other reasons, adequate portable toilet facilities with approved disposal systems to be provided at Events Corp expense;
 - Requirements for food handling and noise levels are met;
 - Adequate rubbish bins are provided at Events Corp's expense;
 - All rubbish bins to be serviced and litter removed from the reserve daily;
- (xii) Red Bull Air Race GmbH is to apply to the City's Building Services to obtain:
 - A building licence for the erection of any temporary structure/marquee on Sir James Mitchell Park;
 - Approval for signage and sponsorship requirements
- (xiii) Red Bull Air Race GmbH to provide an effective media and communications campaign to ensure that all residents and visitors to the event understand the restrictions that will apply throughout the City; and
- (xiv) Red Bull Air Race GmbH to be responsible for all costs associated with the planning and implementation of parking measures including preparation of parking plans, residents information brochures, advertising and communication plan to effected residents and general public, sign installation and removal, labour costs and other costs associated with road barriers and access control points.

- (b) Council authorise the following arrangements relating to road closures and parking restrictions:
- (i) the Temporary Road Closures bounded by Labouchere Road to Angelo Street to Douglas Avenue to Mill Point Road to Ellam Street, be managed by Traffic Controllers from 5.00 am to 6 pm Saturday 3 and Sunday 4 November, respectively; and
 - (ii) implementation of Parking Restrictions bounded by Labouchere Road to South Terrace to Canning Highway to Ellam Street from 7.00 am to 6.00 pm, Saturday 3 and Sunday 4 November as described in report Item 10.2.1 of the June 2007 Council Agenda.

MOTION

Cr Trent, Moved the officer recommendation. Sec Cr Gleeson

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Trent opening for the Motion

- already experienced one Red Bull Air Race
- believe conditions put on event will improve outcome of event also period before and after
- support the Motion
- acknowledge / support proposed Amendment

Cr Wells for the Motion

- watched part of air race last year, then left - can be somewhat repetitious
- believe the way it was put on / dealt with can be improved / streamlined
- support any business in vicinity running their business on the day their way
- last year noted crowd around kiosk facility enjoying themselves
- support the Motion

AMENDMENT

Moved Cr Wells, Sec Cr Cala

That the officer recommendation be amended by the inclusion of the following additional Part (c):

- (c) the lessee of the Boatshed cafe be advised that Council requires the kiosk to remain open and accessible to members of the public during the whole period that Red Bull requires access to Sir James Mitchell Park.

Cr Wells opening for the Amendment

- Boatshed Café needs to comply with current lease
- lease calls for Boatshed Café kiosk facility to be accessible to members of the public at all times
- proposed Amendment is to ensure Boatshed complies with lease

Cr Ozsdolay against the Amendment

- aware of lease condition referred to
- aware Council has authority to waive that condition
- reality is that the condition is there for a reason so public can access kiosk
- Red Bull is an extravagant event - understand Boatshed will let out facility to the organizers of event - would like them to go about their business in a fair and reasonable way
- plenty of opportunities for public to obtain a coffee elsewhere during this particular event
- against the Amendment.

DECLARATION OF INTEREST : MAYOR COLLINS : ITEM 10.2.1

The Mayor stated that as the debate is now about the Boatshed Café and not the Red Bull Air Race that he wished to declare an interest. *“I declare a conflict of interest in Agenda Item 10.2.1 on the Council Agenda for the meeting 26 June 2007. As Graeme Millar, Principal of Millar Holdings (lessee of the Boatshed Café) contributed to my 2002 election campaign I will leave the Council Chamber and not seek to discuss or vote on this matter.”*

Note: The Mayor left the Chamber at 7.58pm and Deputy Mayor Maddaford took the position as Chair.

Cr Smith for the Amendment

- because of ramifications of original lease - some areas of lease have been deferred
- kiosk should be open whatever arrangements Boatshed Café has with Red Bull organizers as long as it does not affect public access to kiosk
- Boatshed Café arrangements with Red Bull organizers should not exclude areas under their lease
- City of Perth come across and use Boatshed to view event - fine as long as it does not jeopardise our ratepayers
- support Amendment

Cr Gleeson against the Amendment

- block booking a venue is not new
- people totally book venues for all types of events, weddings etc which deny people use of that venue on the day of the block booking
- obviously Boatshed Café has booked out venue for a certain customer for the day
- good thing about Boatshed Café - it will not deny public use of the toilets
- all Boatshed is doing is ‘block booking’ for a particular customer - no different from Council hiring a cruise ship for our use
- Boatshed is not built on City of South Perth land - it is an A class reserve - falls to State
- against the Amendment

Cr Macpherson - if this Amendment is supported does the lessee have the right of appeal?

Chief Executive Officer replied that he did not know about the ‘legal’ right of appeal but said that the Boatshed Café lessee certainly has the ability to appeal to the Council. He further stated that another report later in the Agenda referred to the Boatshed Café lease which may be amended.

Cr Wells closing for the Motion

- on town planning committee when kiosk approved
- kiosk approved for benefit of people using Sir James Mitchell Park
- acknowledge many places have ‘block bookings’ because it is in their lease - this is not in the Boatshed Café lease
- this year’s event proposes to go for several days before and after air race
- do not want to stop café dealing with Red Bull people
- lease says they cannot do what they did last year without Council permission
- support Red Bull Event but lease requires public access to kiosk

The Deputy Mayor put the Amendment.

CARRIED (6/5)

NOTE: CR GLEESON REQUESTED THAT HE BE RECORDED AS HAVING VOTED AGAINST THE AMENDMENT

COUNCIL DECISION ITEM 10.2.1

The Deputy Mayor put the Amended Motion

That...

- (a) Events Corp be advised that Council endorses the conduct of the proposed Red Bull Air Race including the use of Sir James Mitchell Park subject to the satisfactory negotiation of the following conditions and requirements, to be incorporated within a binding document setting out the terms under which Events Corp would cover all costs and event management obligations incurred for the proposed Red Bull Air Race:
- (i) A hire charge of \$35,000 plus \$20,000 for post event restoration for the use of the Sir James Mitchell Park is to be lodged with the City and payment must be made prior to the event;
 - (ii) Public Liability Cover to the amount of \$100,000,000 is to be arranged by the Red Bull Air Race GmbH and jointly made out to the Events Corp and City of South Perth to indemnify the City against any damage, injury or death to persons or property;
 - (iii) The event is to be held between the hours of 8.30 am to 5.00 pm on air race days;
 - (iv) The area is to be left in a clean and tidy condition with no damage caused, with Events Corp being responsible for all the cleanup costs;
 - (v) Due to limited power and water on site, any requirements outside of these services, is the responsibility of Events Corp;
 - (vi) Red Bull Air Race GmbH will undertake any set up from 7.00 am to 5.00 pm, if the equipment to be erected cannot be installed in the hours approved on the days of the event. The equipment and structures to be removed within 7 days following after the event; and
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- Other Infrastructure
 - Police Compound
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 - Helipad
 - 9 x large video screens (Vidi Walls), scaffold mounted
 - 7 x Public Service Areas
 - Shade shelters
 - Catering vendors
- (B) Aqua Compound (fenced, including Ellam Street car park)
 - 6 x 40ft Storage Containers
 - 220 volt Generator
 - 2 x 10 cube compressors
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 - The layout of the event which is to be submitted at least 2 (two) weeks prior commencement;
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- (xi) Red Bull Air Race GmbH is to liaise with the City's, Environmental Health and Regulatory Services to ensure:
 - Provision of a direct connection for portable toilets to the existing Minister's Sewerage Scheme. Should this not prove to be feasible within the relevant regulatory framework, or for other reasons, adequate portable toilet facilities with approved disposal systems to be provided at Events Corp expense;
 - Requirements for food handling and noise levels are met;
 - Adequate rubbish bins are provided at Events Corp's expense;
 - All rubbish bins to be serviced and litter removed from the reserve daily;
- (xii) Red Bull Air Race GmbH is to apply to the City's Building Services to obtain:
 - A building licence for the erection of any temporary structure/marquee on Sir James Mitchell Park;
 - Approval for signage and sponsorship requirements
- (xiii) Red Bull Air Race GmbH to provide an effective media and communications campaign to ensure that all residents and visitors to the event understand the restrictions that will apply throughout the City; and

- (xiv) Red Bull Air Race GmbH to be responsible for all costs associated with the planning and implementation of parking measures including preparation of parking plans, residents information brochures, advertising and communication plan to effected residents and general public, sign installation and removal, labour costs and other costs associated with road barriers and access control points.
- (b) Council authorise the following arrangements relating to road closures and parking restrictions:
 - (i) the Temporary Road Closures bounded by Labouchere Road to Angelo Street to Douglas Avenue to Mill Point Road to Ellam Street, be managed by Traffic Controllers from 5.00 am to 6 pm Saturday 3 and Sunday 4 November, respectively; and
 - (ii) implementation of Parking Restrictions bounded by Labouchere Road to South Terrace to Canning Highway to Ellam Street from 7.00 am to 6.00 pm, Saturday 3 and Sunday 4 November as described in report Item 10.2.1 of the June 2007 Council Agenda.
- (c) the lessee of the Boatshed cafe be advised that Council requires the kiosk to remain open and accessible to members of the public during the whole period that Red Bull requires access to Sir James Mitchell Park.

CARRIED (9/2)

Reason for change

To ensure, that in accordance with the current lease, the kiosk at the Boatshed Café is accessible to members of the public during the whole period that Red Bull requires access to Sir James Mitchell Park.

Note: Mayor Collins returned to the Chamber at 8.10pm and resumed his position as Chair.

10.3 GOAL 3: ENVIRONMENTAL MANAGEMENT

10.3.1 Tenders for Annual Kerbside Bulk Rubbish Collection (2007 - 2012)

Location:	City of South Perth
Applicant	Council
File Ref:	WM/402
Date:	8 June 2007
Author:	Sebastian Camillo Manager, Environmental Health and Regulatory Services
Reporting Officer:	Steve Cope - Director, Strategic and Regulatory Services

Summary

To consider and approve the tender for the implementation of a five year kerbside bulk refuse collection within the City, for the period September 2007 to April 2012.

This report recommends the acceptance of the tender submitted by Steann Pty Ltd. The cost for the ten collections over the five year period will be \$1,143,928. This figure *includes* four CPI adjustments, one for each financial year after the first annual collections.

Background

An advertisement inviting tenders for the provision of bulk refuse collections was placed in the Western Australian newspaper. The closing date was Friday 4 May 2007. The tender was for ten kerbside collections, commencing in September 2007 and culminating in April 2012.

Comment

Sufficient funds have been budgeted and allocated in the 2007/2008 budget to implement two kerbside bulk rubbish collections. These collections will be scheduled from 27 August to 5 October 2007 and 10 March to 18 April 2008.

Each kerbside collection requires that the City is divided into six areas and each area will take a week to complete. Each kerbside collection (6 areas) will be completed within 35 days.

Kerbside collections will be conducted between 7 am and 5 pm on Monday to Friday, and Saturday between 7 am and 1 pm. No kerbside collection will be permitted on a Sunday or gazetted public holiday unless otherwise approved by the City.

Ten days prior to the collection dates all residents will receive pamphlets advising them of the impending collection dates and requirements. The City will supply the pamphlets and the Contractor or its representative will distribute them.

The Contractor is required to separate the refuse on the kerbside, and dispose of:

- uncontaminated green waste at Southern Metropolitan Regional Council;
- metal products (including white goods and household appliances of a recyclable nature) at Sims Metal WA Pty Ltd; and
- general waste at the Tamala Park Landfill Site, Mindarie or any other site as nominated by the City.

Four individual tenders submitted five tenders at the stipulated time and day, with one tenderer submitting an alternative tender. The tenders were opened in public with three tenderers present.

The tenders received were from:

- Steann Pty Ltd.
- ML & RD Graham Pty Ltd Trading as KRS
- WA Recycling Service
- Cleanaway

All tenders except for Steann Pty Ltd's tender, provided fixed rates and indicated incremental increases each financial year. As the CPI has been constant at 4% for the last four years, a 4 % increment was included in Steann Pty Ltd's tender price each financial year for adjudication purposes.

The following table shows a breakdown of the tenders received:

PERIOD	Steann Pty Ltd	KRS	WA Recycling Service	WA Recycling Service - Alternative			Cleanaway
	\$	\$	\$	\$/tonne			\$
				Gen	Green	Metal	
1	105,600	130,000	112,500	148.50	132.00	148.50	259,050
2	105,600	130,000	142,500	148.50	132.00	148.50	259,050
3	109,824 *	133,000	120,750	148.50	132.00	148.50	268,950

MINUTES : ORDINARY COUNCIL MEETING : 26 JUNE 2007

PERIOD	Steann Pty Ltd	KRS	WA Recycling Service	WA Recycling Service - Alternative			Cleanaway
	\$	\$	\$	\$/tonne			\$
4	109,824	133,000	153,250	148.50	132.00	148.50	268,950
5	114,217 *	136,000	130,000	163.50	145.25	163.50	278,850
6	114,217	136,000	164,500	163.50	145.25	163.50	278,850
7	118,786 *	139,000	139,750	171.50	152.50	171.50	289,520
8	118,786	139,000	177,025	171.50	152.50	171.50	289,520
9	123,537 *	142,000	150,025	180.00	160.00	180.00	300,520
10	123,537	142,000	190,250	180.00	160.00	180.00	300,520
TOTAL	\$1,143,928	\$1,360,000	\$1,480,550	N/A			\$2,793,780

* Increased by 4% estimated CPI

The City's policy is to award contracts to the Tenderer whose Tender offers the best value for money. Conforming and Alternative Tenders are initially assessed against the following criteria:

- The tender was delivered on time and marked clearly on the envelope the tender information. Document was not faxed or emailed
- Offer Form of Tender was received.
- All 9 Schedules attached
- 1 signed original and 2 copies of signed Tender attached.
- Materials/products suitability

All tenders received met the necessary criteria as mentioned above. Evaluation of tenders was based on the following criteria:

Weighting Criteria	Weighting %
Cost for service	40
Plant & equipment	15
Staffing	15
Prior experience	15
Current references	10
Start Time	5
Total Score	100%

Each company's price submission and response to the criteria was incorporated into the Selection Criteria matrix. The total scores appear below.

Steann Pty Ltd	KRS	WA Recycling Service	WA Recycling Service - Alternative Tender *	Cleanaway
87%	76%	69%	41%	24%

* Total Costs not provided.

The tender supplied by Steann Pty Ltd achieved the highest score based on the criteria assessment and is therefore recommended.

The total price over the 5 year period for the 10 collections submitted by the recommended company is \$1,143,928.

Consultation

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

Policy and Legislative Implications

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

Policy P607 - Tenders and Expressions of Interest is also relevant.

Financial Implications

The tender of Steann Pty Ltd, if approved, has an implication of \$1,143,928 over the 2007/08, 2008/09, 2009/10, 2010/11 and 2011/12 financial years. The tendered amount for the service is within budget expectations.

Strategic Implications

Consistent with the City's Strategic Plan, Goal 3 - Environmental Management, Strategy 3.7, which states: *"Develop and implement alternative waste disposal treatment, minimisation, recycling and refuse strategies to reduce the amount of refuse going to landfill sites"*

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.3.1
--

That the tender from Steann Pty Ltd for the implementation of a five year kerbside bulk refuse collection within the City, for the period September 2007 to April 2012 be accepted.

CARRIED (12/0)

DECLARATION OF IMPARTIALITY INTEREST : MAYOR COLLINS : ITEM 10.3.2

"As I am an ex officio Member of the Zoo Board (as Mayor of the City) I wish to declare an 'Impartiality Interest' in accordance with Local Government (Administration) Regulations 1996 S34.C in relation to item 10.3.2 on the Council Agenda for the meeting to be held 26 June 2007. I wish to declare that I have considered this matter only on the merits of the application and will not be influenced by other issues."

Note: Mayor Collins remained in the Council Chamber while Item 10.3.2 was discussed.

10.3.2 Proposed Replacement Perimeter Fence for Perth Zoo. Various Lots (No. 20) Labouchere Road, South Perth.

Location:	Perth Zoo-Variou Lots (No. 20) Labouchere Road, South Perth
Applicant:	Zoological Parks Authority
Lodgement Date:	26 April 2007
File Ref:	LA1/20
Date:	1 June 2007
Author:	Simon Bain, Consultant Town Planner
Reporting Officer:	Steve Cope, Director, Strategic and Regulatory Services

Summary

The application for planning approval is for construction of a new perimeter fence at the Perth Zoo. The recommendation is to advise the Western Australian Planning Commission that approval is recommended subject to conditions.

Background

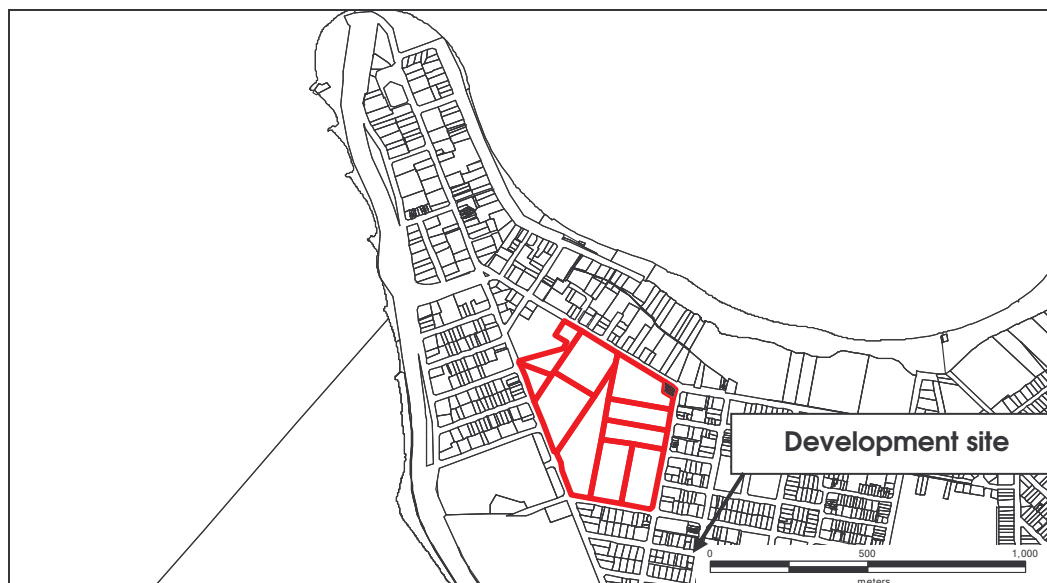
The development site details are as follows:

Zoning	Metropolitan Region Scheme – Parks and Recreation Reserve
Density coding	Not applicable
Lot area	190,426 sq. metres
Building height limit	7.0 metres
Development potential	Not applicable
Maximum plot ratio	Not applicable

This report includes:

- Confidential Attachment 10.3.2(a)** Plans of the proposed fencing.
- Attachment 10.3.2(b)** Covering report by consultants, Norman Disney & Young.

The location of the development site is shown below:



The Perth Zoo is reserved under the Metropolitan Region Scheme for the purposes of a Park and Recreation Reserve. The Western Australian Planning Commission holds planning responsibility for this land, while the City of South Perth has the ability to make a recommendation to the Western Australian Planning Commission as to how it believes that the application should be determined. The extent of amenity impact arising from the proposal will be minimal with the imposition of the recommended conditions.

Comment

(a) Description of the proposal

The proposal is for the replacement of the existing perimeter fence at the Perth Zoo. The current fence is predominantly chain link construction which was installed in 1971. There have been a number of alterations to the existing fence since that time.

The proposal is to totally replace the existing 1,500 metres of fence. The majority of the fence will comprise a 3.0 metre high palisade fence, with a short section on the Windsor Park frontage to comprise a 3.0 metre high solid concrete wall. The proposal also involves:

- Vehicular and pedestrian gates;
- General security signage;
- Landscaping to the Windsor Park frontage;
- Lighting;
- Electronic security systems including CCTV, access control and intercoms; and
- In-ground conduit infrastructure.

The fence will follow the current fence with minor deviations, including:

- Windsor Park frontage:
 - new concrete wall between the Visitor Services / Education building and Control Centre – the fence line will be straightened and new landscaping applied; and
 - new palisade fence adjoining the Control Centre and new landscaping applied.
- Existing vehicle entry gate on Mill Point Road – the existing vehicle gate and adjacent indentation within the fence will both be deleted (i.e. fence line to be continuous).
- Existing vehicle gate on Onslow Street – the existing vehicle gate will be replaced with a pedestrian gate and the indentation within the fence will be deleted (i.e. fence line to be continuous).
- Fence line immediately south of the Café / Function building – the fence will be set back further behind the existing garden bed.
- Existing vehicle delivery gate to Café / Function building – the gate opening will be widened and gates changed to inward opening gates.
- Entry area to staff car park on Labouchere Road – a section of existing fencing will be deleted (i.e. existing fence section will not be replaced) and some minor amendments made to the fence line adjacent to the internal carpark.

The solid wall section is proposed to be 3.0 metres in height and constructed with a flat top. The texture will be rammed earth appearance to match the adjoining Visitor Services / Education building. It is proposed that new landscaping and planting will be applied to this area. The proposal includes straightening the fence line, opening up areas adjacent to the fence and providing additional lighting to deter loitering and anti-social activities taking place at night.

In terms of the landscaping of the Windsor Park frontage, the following is proposed:

- All existing shrub and ground cover adjacent to the footpath / road be removed and replaced with low feature plantings of Western Australian plant species. With the proposed removal of Gate 4, the garden area is to be continued, replacing the existing paving.
- The existing coloured concrete seating is to be retained – the paved area with the seating alcoves will be reduced to allow for use immediately adjacent to the footpath (removing the concealed areas), with plantings in the remaining area.

Where there are heritage trees around the perimeter, the fence will be sculptured and formed to have minimum impact on the trees. Requests for pruning will be made to the City.

(b) Design, materials and colours

The proposed palisade fence will see an improvement to the existing perimeter fencing.

The proposed solid fencing adjacent to Windsor Park has the potential to impact on the amenity of Windsor Park. The fence is designed to be of rammed earth texture similar to the adjoining Visitor Services / Education building. This will upgrade the area by having a consistent design approach. Landscaping is proposed which will soften the impact of the fence. It is recommended that a landscape plan be prepared which addresses this matter.

(c) Truncation adjoining driveway

All new driveways will require adequate sight lines to ensure pedestrian safety. It is recommended that a condition be requested to address this matter.

(d) Impact on trees

No details are included in terms of any trees that are impacted upon. It is recommended that a condition be requested to address this matter.

Consultation

(a) Parks and Environment Department

Comments have been invited from the City Environment Department of the City's administration. The City's Landscape Officer has made the following comments:

(i) Proposed 3.0 metre high solid fence facing Windsor Park

On a purely aesthetic approach to the solid fencing wall it would be appropriate to soften its impact with plants. Not knowing the full extent of the landscape treatment and whether a sign is going to be placed on the wall, the City would suggest groundcovers and shrubs be implemented in the design.

The City would be pleased to see local or native species used to complement its green plan, plants to resident's scheme, and caring for your verge program where we actively encourage the use of local and native species. There are obvious benefits to this as using native or local species has the potential to reduce water, fertiliser and chemical use, with the added benefit of attracting our native fauna.

(ii) Treatment of fence in relation to existing large Moreton Bay fig trees, especially Mill Point Road frontage

The City's major concern is when constructing, retaining or repairing the fence that consideration is made to minimising any potential damage to the trees roots, trunk and limbs by the use of machinery.

During construction, appropriate protective fencing should be placed around the trees.

Looking at the plans there is no mention made of removing any of the existing trees and the City would encourage that all trees be retained and only removed as a last resort.

(iii) General comments

From a City Environment perspective, our major concern is that when constructing the perimeter wall that consideration is made to the retention and protection of trees that are impacted on and only removing them if absolutely necessary.

Any landscaping to be implemented is to involve the use of local and native species.

Neighbour consultation was not undertaken in conjunction with the consideration of this application.

Policy and Legislative Implications

As identified at the commencement of this report, the proposed development is situated on land which is reserved under the Metropolitan Region Scheme (MRS). The Western Australian Planning Commission has planning control over land reserved under the MRS.

Financial Implications

The issue has no impact on this particular area.

Strategic Implications

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

Conclusion

The proposed development will not detrimentally impact the amenity of adjacent residential areas or Windsor Park with the imposition of the recommended conditions. It is recommended that the Western Australian Planning Commission be advised that the application be conditionally approved.

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.3.2
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That the Western Australian Planning Commission be advised that the City of South Perth recommends approval of the proposed perimeter fence at the Perth Zoo on various lots (No. 20) Labouchere Road, South Perth subject to:

- (a) no pruning or removal of any trees without the prior approval of the City of South Perth;
- (b) the perimeter fence being designed so as not to adversely impact existing trees in any way without the prior approval of the City;
- (c) truncation of fencing adjacent to all driveways to ensure adequate sight lines;
- (d) a landscaping plan being prepared and approved by the City which retains all mature trees and is designed to soften the visual impact of the proposed 3.0 metre high solid wall adjacent to Windsor Park. Local and native species are to be used;
- (e) a separate application being submitted for any signage;
- (f) a construction management plan being prepared for approval by the City’s Infrastructure Department;
- (g) during construction, appropriate protective fencing being placed around existing trees adjacent to the proposed replacement fencing; and
- (h) fencing to be truncated along a standard 8.5 metre truncation at street corners.

CARRIED EN BLOC RESOLUTION

10.3.3 Reconsideration of Condition of Planning Approval for Single House Under Construction on Lot 291 (No. 3) Yallambee Place, Karawara.

Location: Lot 291 (No. 3) Yallambee Place, Karawara
 Applicant: Mr G & Mrs N Meiers
 Lodgement Date: 20 April 2007
 File Ref: 11/898 11.2007.545.1 YA1/3
 Date: 1 June 2007
 Author: Stephanie Radosevich, Planning Officer
 Reporting Officer: Steve Cope, Director, Strategic and Regulatory Services

Summary

At the Council Meeting held 27 February 2007, planning approval was granted for a Single House on Lot 291 (No. 3) Yallambee Place, Karawara. The applicants have requested that Condition 4 of that approval be deleted. Condition 4 states that:

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

Background

The development site details are as follows:

Zoning	Residential
Density coding	R20
Lot area	725 sq. metres
Building height limit	7 metres
Development potential	1 Single House
Maximum Plot Ratio	Not Applicable

This report includes the following attachments:

Confidential Attachment 10.3.3 Plans of the proposal.

The location of the development site is shown below:



Comment

(a) Description of the proposal

The Single House was approved with a standard condition requiring that the external colours of the proposed dwelling demonstrate compatibility with other existing neighbouring buildings. Other existing houses within the street are highly homogeneous with respect to materials and colours, and almost without exception incorporate orange coloured roof tiles. Against this background, the applicant proposes to use Colorbond roof sheeting with a 'Surfmist' (white / very light grey) colour.

Although the Colorbond material is accepted, planning staff are of the opinion that the selected colour does not demonstrate compatibility with neighbouring buildings, and that an alternative colour should be selected from a palette which is more compatible with the existing roof colour of other dwellings within the street. This is consistent with the provisions of Policy P370_T "General Design Guidelines for Residential Development" which identifies 'colour' as a primary element contributing to design compatibility. Policy P370_T identifies the need for new dwellings to demonstrate design compatibility with other existing neighbouring dwellings within the same "focus area".

Having regard to the preceding comments, an alternative acceptable colour could be selected from the following:

- Manor Red;
- Headland (red);
- Jasper (brown);
- Woodland Grey (mid grey); and
- Ironstone (dark grey)

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

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

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

The proposed development is considered to meet this overriding objective. However, the proposal is considered **not** to meet the following relevant general Scheme Objectives:

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

(c) 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:

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

Consultation

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

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

This issue has no impact on this particular area.

Strategic Implications

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

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

DIRECTOR’S COMMENT

The issue dealt with in this report relates to ‘streetscape compatibility’, ie. compatibility between the construction materials of the proposed dwelling and neighbouring houses in Yallambee Place. Council Policy P370_T contains provisions in this respect.

A different matter will be the subject of an independent report to the July Council meeting. That matter relates primarily to a separate policy provision requiring ‘matching materials’ where dwellings are arranged in ‘battle-axe’ configuration behind one another and as part of the same development. Council has called for a review of this requirement and accordingly, a new Policy is to be presented to the July meeting rescinding the ‘matching materials’ provision. It needs to be appreciated, however, that the new Policy has no bearing on the application currently under consideration. Therefore, a decision on the current request from the owners of No. 3 Yallambee Place should be made at the June meeting.

OFFICER RECOMMENDATION ITEM 10.3.3

That, in respect of the planning approval issued for a Single House on Lot 291 (No. 3) Yallambee Place, Karawara, Condition 4, which requires the selected external colours to demonstrate compatibility with neighbouring buildings, be retained and the applicant’s request for its deletion be refused .

OFFICER RECOMMENDATION

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

MOTION

Moved Cr Cala, Sec Cr Maddaford

That...

- (a) the officer recommendation not be adopted; and
- (b) in response to the applicant's request, Condition 4 of the planning approval issued for a Single House on Lot 291 (No. 3) Yallambee Place, Karawara which requires the selected external colours to demonstrate compatibility with neighbouring buildings, be deleted.

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Cala opening for the Motion

- issue of colour forming part of "streetscape compatibility"
- considered within provisions of Council Policy P370_T
- this is a matter Council have sought a review of in conjunction with other matters
- these matters relate to formulation of Residential Design Guideline Policy
- because of resource issues within the City this matter has not progressed.
- anomalies exist within this provision of the Policy
- until Council has carried out review, inappropriate to impose condition referred to

Cr Maddaford for the Motion

- support common sense
- support the Motion

COUNCIL DECISION ITEM 10.3.3

The Mayor put the Motion

That...

- (a) the officer recommendation not be adopted; and
- (b) in response to the applicant's request, Condition 4 of the planning approval issued for a Single House on Lot 291 (No. 3) Yallambee Place, Karawara which requires the selected external colours to demonstrate compatibility with neighbouring buildings, be deleted.

CARRIED (12/0)

Reason for Change

There are anomalies that exist within this provision of Policy P370_T and until Council has had the opportunity for a review, it is inappropriate to impose such a condition.

10.3.4 Proposed Dome Patio Within Front Setback Area for Grouped Dwelling on Lot 6 (No. 1/ 192) Coode Street, Como.

Location:	Lot 6 (No. 1/192) Coode Street, Como.
Applicant:	Mr M and Mrs A M Atthowe
Lodgement Date:	15 March 2007
File Ref:	11.2007.119.1 CO6/192
Date:	1 June 2007
Author:	Stephanie Radosevich, Trainee Planning Officer
Reporting Officer:	Steve Cope, Director Strategic and Regulatory Services

Summary

This application for planning approval proposes a dome colourbond patio addition to the front of an existing Grouped Dwelling.

The Officer report recommends that the application be refused, as the proposed development does not promote the objective contained within Policy P370_T “General Design Guidelines for Residential Development” which is to preserve or enhance desired streetscape character, and to promote strong design compatibility between existing and proposed residential buildings.

Background

This report includes the following attachments:

- **Confidential Attachment 10.3.4:** Plans of the proposal

The development site details are as follows:

Zoning:	Residential
Density coding:	R20/R30
Strata Lot area:	249 sq. metres
Building Height Limit:	7 metres
Development Potential:	3 Grouped Dwellings
Maximum Plot Ratio	Not Applicable

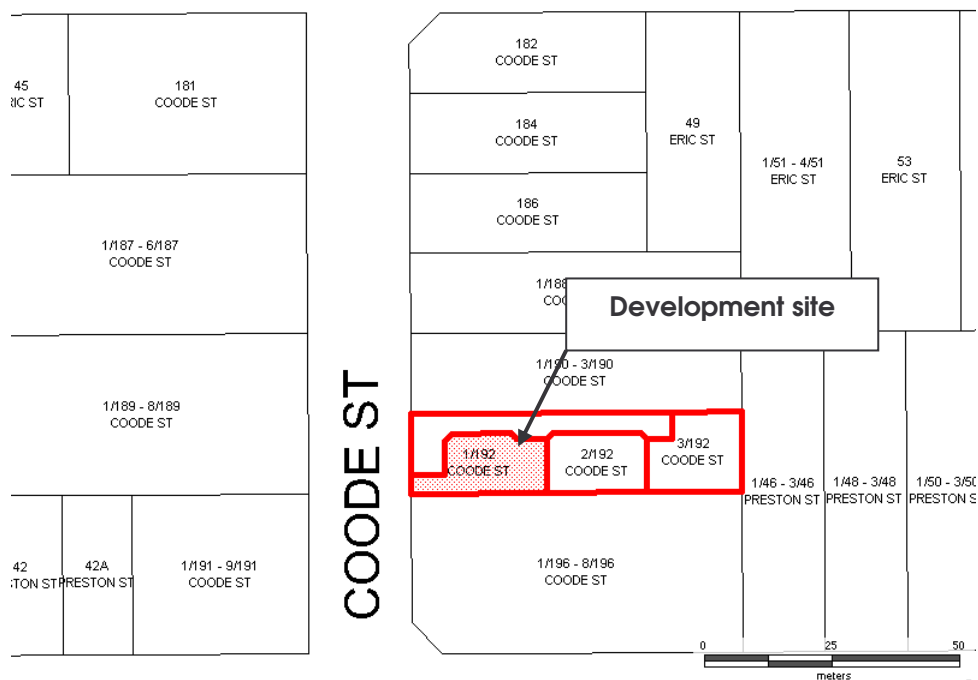
In accordance with Council Delegation DC342, the proposal is referred to a Council meeting because it falls within the following categories described in the Delegation:

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

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

In relation to item 2 above, the extent of amenity impact that would arise from the proposal would be the visual appearance of the proposed patio addition within the street setback area as seen from neighbouring properties and the street. The proposed addition is not compatible with the design and construction materials of the existing dwelling nor is it consistent with the setbacks within the street.

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



Comment

(a) Description of the Proposal

The application proposes the construction of a dome colorbond patio at the front of an existing Grouped Dwelling. The proposed patio will be set back 3.4 metres from the street alignment. The existing dwelling has a red terracotta tiled roof. The applicant is seeking approval to place a ‘Deep Ocean’ (blue) colour Colorbond metal roof on the proposed patio.

(b) Outdoor Living Area

The Acceptable Development provisions of the Residential Design Codes 2002 require an Outdoor Living Area to be provided which has at least 2/3 of the required area without permanent roof cover. As proposed, construction of the proposed patio would leave only half of the Outdoor Living Area without permanent roof cover, contrary to the provisions of the Codes.

(c) P370_T “General Design Guidelines for Residential Development

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

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

The proposed patio addition does not match the existing dwelling in any of the following respects; roof material, colour, pitch or design. Additions, particularly those visible from the street should match that of the existing building, which in accordance with the existing dwelling should be a structure with a pitched terracotta tile roof.

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

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

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

The proposed development is considered to meet this overriding objective. However, the proposal is considered **not** to meet the following relevant general Scheme Objectives:

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

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

In 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:

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

Consultation

(a) Design Advisory Consultants

The design of the proposal was considered by the City's Design Advisory Consultants at their meeting held on 16 April 2007. Their comments are summarised below:

"The Advisory Architects considered this proposal and recommended that the application be refused due to incompatible design and construction materials."

(b) Neighbour Consultation

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Policy P104 'Neighbour and Community Consultation in Town Planning Processes'. The owners of No. 196 Coode Street were invited to inspect the application and to submit comments during a 14-day period with respect to a proposed setback variation for the proposed patio. A total of 8 neighbour consultation notices were mailed to individual property owners and occupiers. During the advertising period, no submissions were received.

Policy and Legislative Implications

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

Financial Implications

This issue has no impact on this particular area.

Strategic Implications

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

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.3.4
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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 a dome colourbond patio addition to a Grouped Dwelling within the front setback area of Lot 6 (No. 1/192) Coode Street, Como **be refused** for the following reasons:

- (a) The proposal is in conflict with the provisions of Clause 5 of Council’s Policy P370_T “General Design Guidelines for Residential Development”, which requires that additions and alterations to an existing building be designed in such a way that they match the existing building.
- (b) The proposal is in conflict with the Acceptable Development provisions contained within Clause 3.4.2 “Outdoor Living Areas” of the Residential Design Codes 2002, due to the extent of roof cover which is proposed.

CARRIED EN BLOC RESOLUTION

Note: Manager Environmental Health and Regulatory Services retired from the meeting at 8.12pm

10.3.5 Proposed Change of Use - Religious Activities (Church) to Educational Establishment on Lot 150 (No. 46) Welwyn Ave, Manning.
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Location:	Lot 150 (No 46) Welwyn Ave, Manning.
Applicant:	Mr C Pontre
Lodgement Date:	11 June 2007
File Ref:	11.2007.138.1 - WE1/46
Date:	11 June 2007
Author:	Andrew Carville, Planning Officer
Reporting Officer:	Steve Cope, Director Strategic and Regulatory Services

Summary

The proposed change of use is to allow the property owners to run free Argentine Tango lessons, craft classes (patch work, knitting, crocheting and sewing), language classes (French and Italian) and a discussion group (movies, books) from the existing building at No. 46 Welwyn Avenue, Manning, which was previously used as a church (St Peters Anglican Church). The property is zoned Residential R20, and the existing building is in the process of being painted and landscaped, although no physical additions or alterations are proposed for the building itself.

Council’s discretion is sought in regard to whether the proposed land use is acceptable. The Council also needs to determine issues relating to the impact on the surrounding area, and the requirements for parking. The recommendation is for approval, subject to a number of standard and special conditions.

Background

This report includes the following attachments:

- | | |
|-----------------------------|---|
| Attachment 10.3.5(a) | Letter of clarification from applicant. |
| Attachment 10.3.5(b) | Site plan of proposed development. |

- Attachment 10.3.5(c)** Aerial photo of site and surrounding area.
Attachment 10.3.5(d) Photos of building.

The development site details are as follows:

Zoning:	Residential
Density coding:	R20
Lot area:	964 sq. metres
Building Height Limit:	7.0 metres
Development Potential:	Two Grouped Dwellings
Maximum Plot Ratio	Not applicable

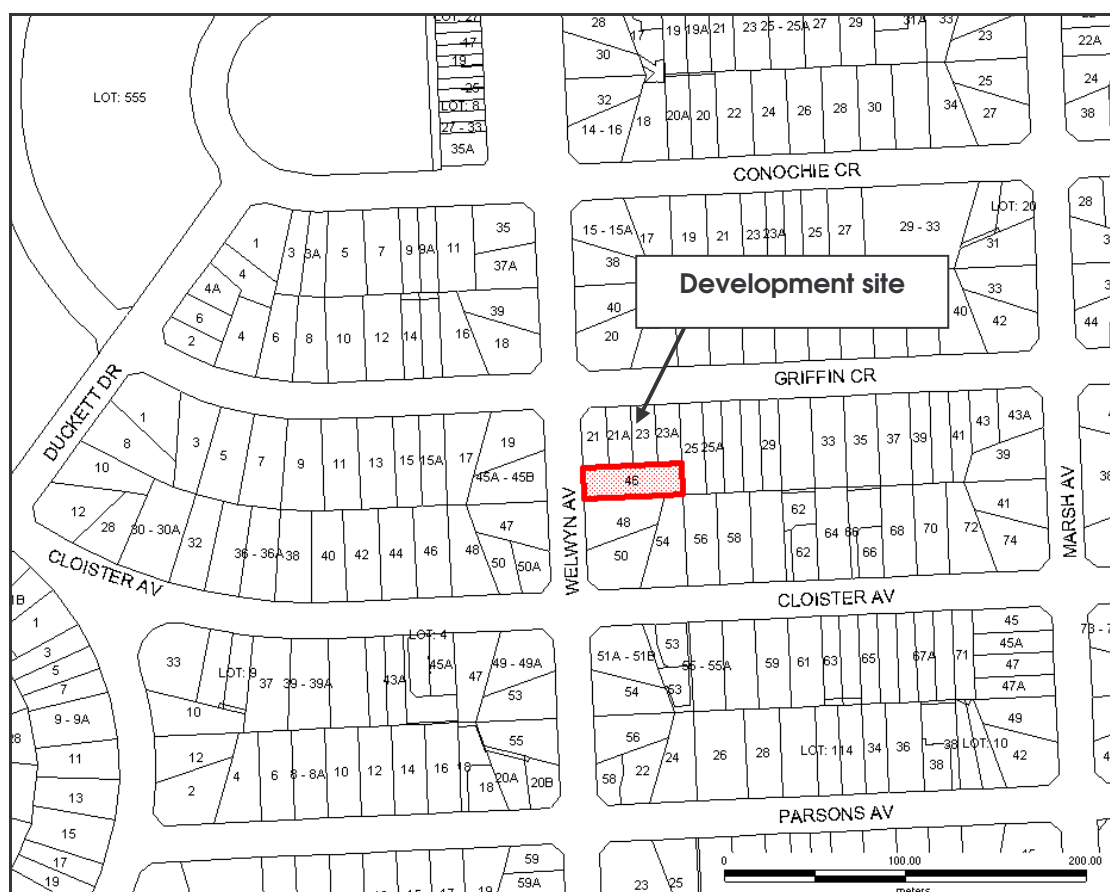
In accordance with Council Delegation DC342, the proposal is referred to a Council meeting because it falls within the following categories described in the Delegation:

1. ***Specified Uses***
 Non-residential uses within the Residential Zone.

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

In relation to Item 2 above, the extent of amenity impact arising from the proposal will be the impact of parking requirements on the surrounding area, and any noise in the form of music.

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



Comment

(a) Description of the proposal

The proposal is mainly for using the building for free Argentine Tango lessons and practice, although also refers to running various language and craft classes. The applicant’s letter, **Attachment 10.3.5(a)**, describes the proposal in more detail.

In relation to the surrounding area, the existing Church building is amongst residential housing, with a vacant block adjacent to its southern boundary. **Attachment 10.3.5(c)** shows the site and surrounding area, although as noted, the house at No. 48 Welwyn Ave has since been demolished.

According to the applicant’s letter, the sound levels from the building would be no greater than would normally be expected from a residential property. The neighbour consultation process resulted in a number of phone calls with concerns about potential noise impacts, however, after explaining the application in more detail, all of the enquirers were satisfied with the proposal.

The second concern of the neighbours was with respect to car parking. The proposal indicates an expectation of between 2 and 20 people using the premises at any one time. Welwyn Avenue is designated as a local distributor road, and has a public transport route along it. There are also 6 street parking bays immediately to the front of the building, and a small car parking area within the property boundary, as addressed below.

(b) Building history

The building was acquired by the Perth Diocesan Trustees in July 1952. The church was deconsecrated in February 2006, and vacated in July 2006.

(c) Suitability of proposed use

The nature of the proposed activities are similar to those often found in church buildings, both on weekdays and weekends, and therefore the proposed land uses are considered to be appropriate, based upon the long established non-residential land use of this property.

(d) Parking

Room exists for three (3) parking spaces in front of the building, two (2) alongside the building and six (6) marked street bays are situated within the road reserve immediately adjacent to the property. There is also around 300 sq.metres of vacant land to the rear of the building, which the applicant would like to keep vacant for now, but may also be suitable for temporary or permanent parking if required at a future date.

It is expected that the proposed land use will generate considerably less demand for car parking than the previous church.

The proposal indicates that the number of people on site would be between 2 and 20, depending on the activities and days. The capacity to park 11 cars on site and within the marked bays adjacent to the site should be adequate for the activities as described. There are also public transport services operating along Welwyn Ave which could be utilised by people using the facilities. A condition of no more than 20 people using the site at one time would be appropriate on an approval. Any further plans to increase the numbers of people could be considered in the future based on the impact of parking at the time, and the possible provision of further bays.

(e) Heritage

Although the building is not listed as being a heritage building, the applicant is currently undergoing painting and landscaping to retain the character of the building in the area.

(f) Comments from Environmental Health and Regulatory Services

The Manager, Environmental and Health and Regulatory Services (EH&RS) has stated that the only concern with respect to the proposal is in relation to compliance with the Health (Public Buildings) Regulations 1992.

Previous inspections by the EH&RS department have identified some minor items that need to be addressed in order to allow the building to be used as a 'multi purpose hall' as described below:

- Remove barrel bolts × 2 (western exit) and install two (2) strap bolts in place of barrel bolts;
- Remove non-compliant door locking device (western exit) and replace with an approved lock that cannot be locked by a key inside the building and is opened by one single downward movement;
- Install two (2) "Exit" signs that comply with Australian Standard 2293 - One (1) "Exit" sign above the southern exit and One (1) "Exit" sign above the western exit;
- Electrical switchboard to be secured by a locking device;
- Applicant to submit Form 2 (Application for Certificate of Approval); and
- Applicant to submit Form 5 (Certificate of Electrical Compliance).

(g) Comments from Engineering Infrastructure

The manager of Engineering Infrastructure has advised that the bays in front of the building are functioning properly and will not be changed in the near future. They have no other concerns about the proposal.

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

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

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

Objective (d) Establish a community identity and 'sense of community' both at a City and precinct level and to encourage more community consultation in the decision-making process;

Objective (e) Ensure community aspirations and concerns are addressed through Scheme controls;

Objective (g) Protect residential areas from the encroachment of inappropriate uses;

Objective (h) Utilise and build on existing community facilities and services and make more efficient and effective use of new services and facilities.

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

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

(i) the preservation of the amenity of the locality;

(p) any social issues that have an effect on the amenity of the locality;

(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;

(t) the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety.

Consultation

Neighbour consultation

Neighbour consultation has been undertaken for this proposal to the extent and in the manner required by Policy P104 "Neighbour and Community Consultation in Town Planning Processes". During the advertising period, the owners / occupiers of properties situated at the following addresses were notified of the proposed development, and invited to lodge a submission during a 14 day period:

- Nos. 19 - 25 Griffin Crescent;
- Nos. 43 - 47 and 48 Welwyn Avenue; and
- Nos. 54 and 56 Cloister Avenue.

During the advertising period, no formal submissions were received. There were, however, a number of phone calls from neighbouring residents, and the State Housing Commission, who own some of the nearby properties. Once the proposal was discussed in more detail, no objections were noted.

Policy and Legislative Implications

The relevant Town Planning Scheme provisions have been discussed in the “Comments” section above.

Financial Implications

This issue has no impact on this particular area.

Strategic Implications

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

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.3.5
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Moved Cr Trent, Sec Cr Ozsdolay

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 Change-of-Use (Religious Activities to Educational Establishment) on Lot 150 (No. 46) Welwyn Avenue **be approved**, subject to:

(a) **Standard Conditions**

330 (3), 351, 352 (3 forward of the building and 2 in tandem to the side of the building), 354,

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

(b) **Specific Conditions**

- (i) The hours of operation, and organisation of class times, being limited to between 9.00 am to 10.00 pm, Monday to Sunday.
- (ii) No more than 20 people are to use the building at any time.

(c) **Standard Advice Notes**

646, 648, 651.

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

(d) **Specific Advice Notes**

- (i) It is the applicant’s responsibility to liaise with the City’s Environmental Health Department to ensure satisfaction of all of relevant requirements.

CARRIED (12/0)

10.3.6 Request for deletion of Condition of Planning Approval regarding Fence Height. Lot 31 (Unit 5, No. 159) Melville Parade, Como.

Location: Lot 31 (Unit 5, No. 159) Melville Parade, Como
Applicant: Peter Piscetek
Lodgement Date: 9 August 2006
File Ref: ME3/159 - 11/404
Date: 1 June 2007
Author: Rod Bercov, Strategic Urban Planning Adviser
Reporting Officer: Steve Cope, Director, Strategic and Regulatory Services

Summary

To consider the deletion of Condition (3)(i) of Planning Approval for Additions and Alterations to a Grouped Dwelling at the above address. This condition requires fencing forward of the building line along the northern lot boundary to be visually permeable above a height of 1.2 metres. The recommendation is for approval. A further recommendation proposes that Melville Parade be deemed to be a District Distributor Road for the purpose of applying Clause 3.2.5 P5 of the R-Codes relating to fence height.

Background

In support of his request for deletion of Condition (3)(i) of Planning Approval, the applicant has submitted a letter dated 10 April 2007 (**Attachment 10.3.6**).

On 11 July 2006, planning approval was granted for additions and alterations to the applicant's existing Grouped Dwelling situated at No. 159 Melville Parade. Condition (3)(i) of that approval reads as follows:

- “(3) *Revised drawings shall be submitted, to the satisfaction of the City, and such drawings shall incorporate the following:*
- (i) *Front fencing forward of the building line along the northern boundary shall not exceed a solid wall height of 1.2 metres in accordance with Clause 3.2.5 ‘Street Walls and Fences’ of the Residential Design Codes 2002.*”

Clause 3.2.5 P5 of the R-Codes offers an alternative “Performance Criteria” path in relation to the height of fencing within the front setback area. That Clause reads as follows:

“Front walls and fences to promote surveillance and enhance streetscape, taking account of

- *The need to provide protection from noise and headlight glare where roads are designated as Primary or District Distributors or Integrator Arterials; or,*
- *The need to provide screening where there is no alternative outdoor living area to the front setback.*”

On 9 August 2006, the applicant wrote to the City requesting deletion of Condition (3)(i) of Planning Approval. Although he did not refer to the alternative Performance Criteria path contained in the R-Codes, his reasons for seeking the removal of Condition (3)(i) relate to the first criterion set out above. In the 9 August letter, the applicant acknowledges that the requirement for visually permeable fencing above a height of 1.2 metres has merit for most streets, however he contends that this requirement is not appropriate for his property for the following reasons:

1. It does not match the existing fence in front of his property.
2. It does not suit aesthetically.
3. It does not improve security and thus reduce the possibility of theft or damage.
4. It does not help alleviate the noise problem.

The City's reply letter to the applicant dated 22 August 2006 advised that the applicant's reasons for seeking approval of higher solid fencing were appreciated, however this would not meet either the Acceptable Development provisions or the Performance Criteria of the R-Codes. The Performance Criteria are not met in terms of the actual wording of those criteria, because Melville Parade is not designated as a *Primary or District Distributor or Integrator Arterial road* and there is an alternative Outdoor Living Area to the rear of the dwelling. Under these circumstances, the City advised that Condition (3)(i) of Planning Approval remains in place. It is noted however that the objective behind the first of the R-Codes Performance Criteria is met because the Melville Parade properties suffer from the adverse impacts of the Kwinana Freeway situated immediately alongside Melville Parade.

The applicant wrote to the City again on 10 April 2007 (**Attachment 10.3.6** refers). In that letter the applicant comments further on the adverse amenity impact associated with Freeway noise and also makes the point that this will be exacerbated when the new train service commences operation. He says that, to reduce noise problems, he is forced to sleep in the small bedroom located in the back of the unit. While he acknowledges that Melville Parade is not technically in one of the categories of roads which afford an exemption from the fencing restriction, he makes the point that the actual adverse amenity impact on Melville Parade properties is much greater than is experienced on the nominated roads. This is due to the proximity of the Kwinana Freeway which is classified as a Primary Regional Road.

Being mindful of the reasonable case presented by the applicant, the City has advised by letter dated 29 May 2007 that his request will be presented to a Council meeting for consideration.

Comment

While Melville Parade does not fall within the designated categories of roads referred to in the R-Codes Performance Criteria, the intent of the Performance Criteria is clearly to allow residents to obtain relief from traffic noise where properties are situated close to major roads. Under these circumstances, it would be appropriate for Melville Parade to be "deemed" to be a District Distributor road for the purpose of considering the "fence heights" provisions in Clause 3.2.5 of the R-Codes. If this approach were supported, the intention would be to subsequently incorporate provisions to the same effect within the Residential Design Policy Manual. It is recommended that Council proceed in this manner. This would then allow Council to support the current request.

Consultation

No neighbour consultation was required in this instance. However, as described above, the matter has been the subject of extensive liaison between the applicant and City Officers.

Policy and Legislative Implications

The implications of the proposal in relation to the Residential Design Codes have been explained elsewhere in this report.

Financial Implications

This issue has no impact on this particular area.

Strategic Implications

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

OFFICER RECOMMENDATION AND COUNCIL DECISION 10.3.6

That...

- (a) for the purpose of applying Clause 3.2.5 of the Residential Design Codes relating to Street Walls and Fences, having regard to the close proximity of the Kwinana Freeway and its impact in relation to noise, Council deems Melville Parade to be a District Distributor road;
- (b) in respect of the Planning Approval dated 11 July 2006 for additions and alterations to an existing Grouped Dwelling on Lot 31 (Unit 5/159) Melville Parade, Como, Condition (3)(i) relating to the height of fencing forward of the building line be deleted; and
- (c) as part of the review of the Residential Design Policy Manual, provisions be incorporated relating to fencing of Melville Parade properties reflecting the intent of part (a) above.

CARRIED EN BLOC RESOLUTION

10.3.7 Proposed Subdivision: Clontarf Estate Cnr Manning Road and Centenary Avenue, Waterford
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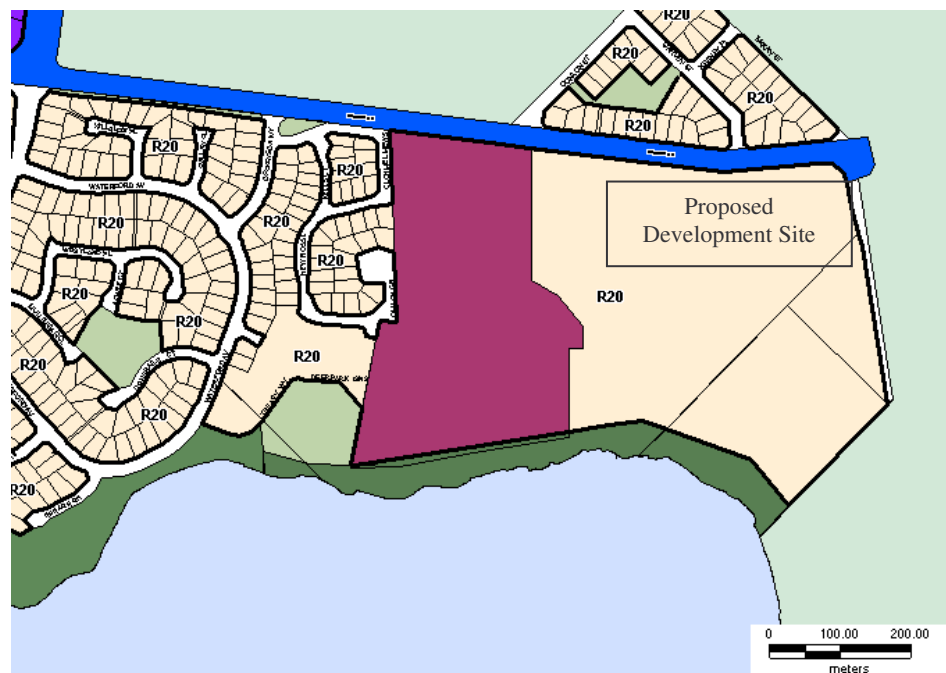
Location:	Lots 500, 501, 829 and Pt 83, corner Manning Road and Centenary Avenue, Waterford
Applicant:	Richard Noble on behalf of Trustees of the Christian Brothers
File Ref:	MA3/294 - WAPC 1211245
Date:	8 June 2007
Author:	Les Croxford, Manager Engineering Infrastructure
Reporting Officer:	Glen Flood, Director Infrastructure Services

Summary

At the July 2006 Meeting Council resolved in part that a Traffic Management Study be conducted during peak hours of Curtin University to confirm whether traffic movement into the estate from Manning Road is required to be limited to left in / left out movement only, as a break in the existing median strip in Manning Road is not acceptable. Supplementary Traffic Information has now been supplied that refutes the above proposition and demonstrates that the opening is an essential element in the subdivision design. The July 2006 Report did not outline the earlier objection which substantially relates to the loss of approximately 10 semi mature Eucalypts from the median and this report attempts to address this oversight.

Background

The proposed opening to the Manning Road median was depicted in an attachment to the July 2006 Report and reproduced now as **Attachment 10.3.7(a)**. The plan shows a deceleration (right turn) lane into the subdivision having a length notionally of 90 metres plus opening, or approximately 110 metres of median impacted by the proposal. The Attachment does not identify the eucalypts planted in the median at approximately 10 metre centres. The following is a locality plan of the subdivision with Centenary Avenue being the eastern boundary to East Clontarf.



The Traffic Study commissioned for the subdivision and included in the July 2006 Report identified that the subdivision incorporated one access road connecting to Manning Road and one connecting to Centenary Avenue. These are located well clear of the traffic light controlled junction of these two streets, the distances from the junction being approximately 246 metres along Manning Road and 262 metres along Centenary Avenue.

The traffic analysis undertaken in December 2002 was subsequently reviewed in February 2006 with the following conclusions:

- *Traffic flows on internal roads are based on a robust 20 trips per lot per day.*
- *The traffic generated by the development has no significant impact on the surrounding network.*
- *Traffic flows on all streets within the development are less than 3,000 vehicles per day and access streets are used. A standard 14 metre road reservation is used for local streets, except when adjacent to open space.*
- *No extraneous traffic is anticipated to use local streets within the development.*
- *Access to Manning Road is shown to operate close to capacity during the morning peak hour, with minimal impact to movements on Manning Road.*
- *The current design as proposed represents an improvement to the operation of Manning Road, given that the proposed intersection spacing between Manning Road and Centenary Avenue has been increased from 160 metres to approximately 270 metres. The internal road network increases the travel distance between Centenary Avenue and Manning Road. The increase will assist with reducing the opportunity for extraneous traffic to use the internal road network.*
- *Access to Manning Road has not changed in relation to the previous application.*
- *The revised plan provides a more legible road network pursuant to the objectives of 'Liveable Neighbourhoods'.*

From the above it was reasonable to conclude that the subdivision would not have any undue impact on the operation of both the Manning Road and Centenary Avenue and the signalised intersection of these streets, notwithstanding this earlier analysis was conducted on the premise of their being two full movement intersections.

The comment in the July 2006 report from the Manager, Engineering Infrastructure and in particular that relating to the median was as follows:

“Manning Road is currently divided by a constructed median strip which extends from the intersection of Conlon Street/existing entrance to the Clontarf College with Manning Road to the intersection of Centenary Avenue and Manning Road. The applicant is proposing a break in the median strip in order to obtain access for east-bound traffic. This proposed break is not acceptable to the City, and a condition is required that limits the entrance to the estate from Manning Road to left in/left out traffic movement only.”

Another significant concern not included in the previous Council Report was the potential loss of the central median trees and the impact on the overall streetscape along Manning Road.

Comment

Supplementary Traffic Information **Attachment 10.3.7(b)** has now been supplied in response to the Advice to Applicant note 3(iii) issued by the Western Australian Planning Commission (WAPC) and included in the Approval Subject to Conditions Freehold (Green Title) Subdivision. The note in essence states

“You (the applicant) are advised to liaise with the City of South Perth in respect of the new subdivision access onto Manning Road including requirements for the proposed median opening, turning lane length and geometric layout of the new intersection. The City advises that if any break in the median strip on Manning Road is to be considered a Traffic Management Study is to be conducted during peak hours of Curtin University.” The Supplementary Traffic Information is based on data supplied by Main Roads for Thursday 15th March 2007.

The City has been advised that the WAPC *“is prepared to endorse a deposited plan in accordance with the amended plan date stamped 17 January 2007 once the condition(s) set out have been fulfilled.”* The list of conditions do not include any reference to that part of the Council resolution that states *“ ... a break in the existing median strip in Manning Road is not acceptable”*. The intention of the resolution that a traffic study was necessary to confirm whether traffic movement into the estate from Manning Road is required to be limited to left in / left out movement only, is not consistent with the applicants plans which clearly shows the opening and the plans referred to in the WAPC advice. It could be construed from the resolution that the traffic study needed to identify that a full movement intersection was essential for the subdivision to offset the cities view that *“a break in the existing median in Manning Road is not acceptable”*. The Supplementary traffic information attached supports the proposed median opening in terms of the negligible traffic generation from the subdivision and the unnecessary congestion that would be caused at the Manning/Centenary intersection without the new median break.

In discussion with the Consultants it is clearly their view that the queue lengths Eastbound in Manning Road would significantly increase at the Centenary Avenue intersection without the proposed median opening. This increase is estimated to contribute at the peak evening hour a further 140 vehicles to Centenary Avenue. This equates to a projected 20% increase in the right turning traffic at this major intersection which will increase queuing lengths and further impede traffic on the adjacent through lanes reducing levels of safety at this intersection.

In an updated Traffic Report Consultants working for the Applicant have now indicated the median opening is essential to the staged construction of the East Clontarf site with the lots nearest Manning Road being the first to be developed. The access from and the widening of Centenary Avenue, and the release of the lots nearest Centenary Avenue are not planned to occur for several years. Accordingly for some period of time there will be only one access to the site (from Manning Road) and therefore makes the applicant's argument for a full movement intersection off Manning Road so much more of a necessity.

It does not however address the loss of the median trees and the visual impact the "gap" (right turn slip lane) will produce. A further consequence of the "no median opening" option (i.e. left in left out access to/from the subdivision) would be the expected increase in the illegal U turn movement through the traffic signals at Centenary Avenue.

In 2005 Curtin University sought and was granted an additional access from Manning Road to the campus that resulted in the loss of a similar number of trees as that proposed by the applicant to East Clontarf. The City secured from Curtin University compensation by way of a commitment to a more substantial landscape treatment, albeit on the Campus but adjacent to Manning Road, for the negotiated amenity value of the trees

Considering the staged subdivision approach to this significant land development, it is possibly not in the best interests of the City to continue to maintain that "a break in the existing median in Manning Road is not acceptable". The City has determined the amenity value of the trees to be \$17,000/tree and have secured from the applicant a commitment to pave and landscape the median using appropriate grasses and small shrubs plus the installation of banner poles as part of an expanded "Eastern Entry" treatment for Manning Road.

To add further support to this median break proposal, the City has recently received correspondence from The Royal Automobile Club with regard to its Red Spot campaign through which its members provide nominations of "*locations subject to traffic congestion that frustrate drivers*". Centenary Avenue (between Leach Highway and Manning Road) was one of the locations nominated.

Consultation

The contents of the report represent the collective views of Infrastructure Services.

Policy and Legislative Implications

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

Financial Implications

This issue has a potential financial impact on the City in relation to maintenance of the much reduced median width and the associated traffic management issues of confined areas.

Strategic Implications

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

OFFICER RECOMMENDATION ITEM 10.3.7

That the applicant be advised that to facilitate the orderly subdivision of Lots 9000, 9001, 829 and 83, corner Manning Road and Centenary Avenue.

- (a) the City will accept the opening of the Manning Road median to provide for an all movement intersection subject to (b) and (c) below;
- (b) the applicant will acknowledge that the removal of the median trees has an amenity cost to the City and will contribute to the City by way of compensation to an expanded "Eastern Gate" entry that incorporates paving, landscaping and the installation of banner poles along the entire frontage to the site and either side of the new opening to the Manning Road median; and
- (c) in addition to the list of matters required to be included onto the Engineering Drawings as detailed in resolution 9.3.4 part (a)(i) to (xx) of the July 2006 Council Meeting and referenced in Conditions 1 through to 11 of the Western Australian Planning Commission Approval Subject to Conditions dated 29 January 2007, the plans will detail the expanded Eastern Gate entry having a notional value equal to the amenity value of the lost median trees.

MOTION

Cr Ozsdolay moved the officer recommendation. Sec Cr Trent

FORESHADOWED MOTION

Cr Jamieson foreshadowed that he would be moving that consideration of this matter be deferred until a full traffic management study is undertaken while Curtin and school are in full mode.

**OFFICER RECOMMENDATION AND
COUNCIL DECISION ITEM 10.3.7**

The Mayor put the Motion

That the applicant be advised that to facilitate the orderly subdivision of Lots 9000, 9001, 829 and 83, corner Manning Road and Centenary Avenue.

- (a) the City will accept the opening of the Manning Road median to provide for an all movement intersection subject to (b) and (c) below;
- (b) the applicant will acknowledge that the removal of the median trees has an amenity cost to the City and will contribute to the City by way of compensation to an expanded "Eastern Gate" entry that incorporates paving, landscaping and the installation of banner poles along the entire frontage to the site and either side of the new opening to the Manning Road median; and
- (c) in addition to the list of matters required to be included onto the Engineering Drawings as detailed in resolution 9.3.4 part (a)(i) to (xx) of the July 2006 Council Meeting and referenced in Conditions 1 through to 11 of the Western Australian Planning Commission Approval Subject to Conditions dated 29 January 2007, the plans will detail the expanded Eastern Gate entry having a notional value equal to the amenity value of the lost median trees.

CARRIED (7/5)

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

10.3.8 Network City and Planning for the South Perth and Canning Bridge Railway Stations

Location:	South Perth and Canning Bridge train station precincts
Applicant:	Council
File Ref:	LP/201
Date:	13 June 2007
Author/Reporting Officer:	Steve Cope, Director, Strategic and Regulatory Services

Summary

During 2005/06 the City applied for and was awarded three separate Network City - Communities Program grants for:

- (a) South Perth Station and Peninsula Area Strategy
- (b) Canning Bridge Station Precinct Area Strategy
- (c) Waterford Triangle Urban Design Review

The objective of these community engagement projects was the preparation of a specific local area planning strategy for each precinct. The projects were undertaken in collaboration with the Department of Planning and Infrastructure.

This report summarises the key study findings with respect to the South Perth and Canning Bridge train station precincts. This report does not deal with the Waterford Triangle project as this was the subject of an earlier report to Council.

The final study report on the South Perth and Canning Bridge train station precincts prepared by study consultant Estill and Associates, were recently delivered to the City. Copies of each study report have been forwarded to Councillors under separate cover.

This report also details progress towards initiation of a second stage involving investigation of the project and preparation of a precinct plan for each train station precinct.

Council has recently been notified that the WA Planning Commission has agreed to contribute 50 percent of the cost of further planning studies and/or preparation of a precinct plan for the train station precincts. The DPI is seeking written confirmation from the City confirming that the City of South Perth will participate in and contribute towards these projects.

Background

The review of Town Planning Scheme 5 and the preparation of Town Planning Scheme 6 were undertaken between 1992 and 2000. Town Planning Scheme 6 (TPS6) was eventually gazetted in 2003. During the preparation of TPS6 the South Perth and Canning Bridge train stations were not planned or envisaged.

The construction of the Canning Bridge railway station and the proposed construction of the South Perth train station have been the subject of planning studies for the surrounding precinct within 800m radius.

The scope of the South Perth Railway Station and Peninsula Area Strategy and the Canning Bridge Railway Station Precinct Area Strategy funded under the Network City Communities Program was in summary:

- (a) South Perth Station and Peninsula Area Strategy
 - The State Government via Minister for Planning and Infrastructure has committed to the development of a South Perth Station.
 - Council has endorsed a proposal for an area strategy to be prepared for the Peninsula area taking into account the proposed South Perth Station.

- The scope of Stage 1 project was to examine:
 - Pedestrian/vehicular linkages within the precinct.
 - Appropriate development mix including density and form of development and types of land uses.
 - Integration of proposed rail station within the precinct.
- (b) Canning Bridge Station Precinct Area Strategy
 - The City of South Perth Strategic Plan 2004 -2008 endorses the development of a specific local area planning strategy for the area surrounding the Canning Bridge Station and Council has separately endorsed a proposal for an area strategy to be prepared for this area.
 - The scope of the Stage 1 project was to examine:
 - Appropriate development mix, density and form.
 - Pedestrian and vehicular linkages.
 - Public transport connections (e.g. Curtin University).

The project area for the South Perth station and Peninsula Area Strategy extends from Judd Street to Richardson Street and from the Freeway to the South Perth Esplanade including the Civic Triangle and the Mends Street commercial precinct.

The project area for the Canning Bridge Station Precinct Area Strategy extends in a radius of 800m from the newly constructed station.

The preparation of the strategy plans involves two stages. Stage 1 (this project) has sought the involvement of the South Perth community in determining the future direction of the precincts. The input and visioning gathered from Stage 1 will inform the basis of Stage 2 of the project which will involve developing formal planning strategies for the precincts.

The objective of this study has been to engage with the South Perth community, and to gain an appreciation of their vision for this precinct. In addition, the project has sought to:

- work closely with the community to understand their issues;
- help to create understanding of the project amongst the community;
- provide the community with clear information about study area; and
- provide opportunities for feedback.

A broad four stage methodology was employed to generate the community vision as follows:

- Key stakeholder interviews
- Focus groups
- Community forum
- Community survey

The community survey for the South Perth and Canning Bridge train station precinct studies was undertaken late in 2006 and the final project reports were delivered in May 2007. The key findings for each of the studies are incorporated in the Executive Summary for each study project as follows:

(a) South Perth Train Station Precinct

The South Perth Train Station precinct is within the Mill Street precinct of South Perth. The station will be located within the Kwinana Freeway reserve, in the area between Richardson and Bowman Street.

The South Perth station is intended to be a 'destination station' in that it will assist visitors accessing key locations such as the Perth Zoo and the South Perth foreshore. The intention is that the station will not be a park and ride station, nor will connecting bus services be provided. The focus will be on encouraging passengers to access the station via foot or cycle.

The project sought to include broad representation and inclusion of the South Perth community. The intention was not to seek community approval for plans or concepts, but rather to explore attitudes and preferences for the future of the precinct, and to gain an appreciation of a community vision for the area.

The community engagement methodology included a workshop with City of South Perth staff, interviews with key stakeholders in the project area, a focus group with randomly selected residents from the Mill Street precinct, an open community forum with South Perth residents and community groups and a survey that was sent to 2000 residents.

The key findings of the project include:

- Parking is perceived to be a major concern. In particular, there is a concern that train passenger parking will adversely impact local residents and local businesses;
- There is a need to manage not just parking but also increased traffic volumes associated with 'kiss-and-ride';
- The survey results indicate that pedestrian access to the station area is reasonable (in terms of pedestrian safety and crossing points);
- While only 30% of all survey respondents expect to walk to the station, this number increases (57%) when looking at the respondents who live within a 10 minute walk – only 4% of those within a 10 minute walk expect to not walk at all.
- Very few survey respondents expect to cycle to the station, regardless of their proximity to the station;
- There is some concern with crossing Labouchere Road. For example, the majority of survey respondents (68%) indicated they would use Labouchere Road to access the station, but only one quarter of them find this a pleasant experience;
- There is a need to develop clear links with Perth Zoo and the station. Suggestions for doing this include pedestrian/cycle paths that respect the amenity of existing residential areas (consider one half of Richardson Street). Other suggestions include providing an overpass across Labouchere Road;
- Focus group and community forum participants suggested the use of a bus service to connect the station with other parts of South Perth (including Mends Street);
- Survey respondents, focus groups participants and other stakeholders expressed concern about the lack of information on the station, particularly in regards to its location, design and footprint (how it would impact on other areas).
- Focus group and forum participants were happy with increased density in the area as long as it is well managed and there is a mixture of height and styles;
- The survey indicates there is support for a mix of uses in the immediate vicinity of the station. However, workshop participants and those interviewed do not see the station as the focal point of the Mill Street precinct (i.e. it should not be a Transit-Oriented Development);
- There is an opportunity to further enhance Mends Street as the focus of future development and activity (workshop participants considered this to be the location of Transit Oriented Development and the survey results support a mix of uses in the area);

- There is support for more ‘meeting places’ in the foreshore area (i.e. cafes, public spaces).
- There was a clear message from the stakeholder interviews and the community forum that Richardson Park should not be compromised.
- There is a need for more information about the station location exit/entry points and how these will impact existing streets (i.e. will the focus of pedestrian and vehicle traffic be on Charles, Richardson or other streets?);
- The ferry is a key part of the Mill Point precinct and should not be impacted by the introduction of a rail service.
- More than half of survey respondents support public art in the station precinct, with the main suggested themes including historical/heritage, water/river based and local community/family themes.

(b) Canning Bridge Train Station Precinct

The Canning Bridge Train Station precinct is broadly defined by an 800m radius around the station, which represents a ten-minute walk or a two-minute cycle. The Canning Bridge Train Station will be located in the vicinity of the existing bus station. The intention is that the station will not be a park and ride station; a Curtin University – Canning Station bus shuttle service has been proposed for the area. In addition to the bus service, passengers will be encouraged to access the station via foot or cycle.

The project sought to include broad representation and inclusion of the South Perth community. The intention was not to seek community approval for plans or concepts, but rather to explore attitudes and preferences for the future of the precinct, and to gain an appreciation of a community vision for the area.

The community engagement methodology included a workshop with City of South Perth staff, interviews with key stakeholders in the project area, a focus group with randomly selected residents from the Mill Street precinct, an open community forum with South Perth residents and community groups and a survey that was sent to 2000 residents.

The key findings of the project include:

- Walking and cycling to the station is perceived to be unsafe, mostly due to the high volumes of traffic and difficulty crossing roads (particularly Canning Highway);
- The survey results indicate that pedestrian and cycle safety, as well as the safety of crossing points, are poor or unsatisfactory;
- Survey results also indicate that a moderate amount of people (31% of respondents) will walk to the station daily or weekly. However, this increases to 48% among those who live within a ten-minute walk.
- Very few people expect to ride a bicycle regardless of their proximity to the station;
- Residents would like to see improved general access from Como to the foreshore area, with many seeing the foreshore as a good access point to the station;
- There is support for the Curtin University bus service from focus group discussions, stakeholder interviews and the community forum. However, the survey results suggests *actual* residential use may not be high, with approximately half of those who indicated they would use a bus and train service do not expect to use the proposed Curtin service;

- A range of suggestions to address the problem of access includes above grade solutions (i.e. overpasses), more and better-timed crossing points and the development of transit oriented type developments above the station which are connected to the surrounding residential areas.
- Focus group participants and survey respondents have expressed concern about parking in the precinct. In particular, there is a concern that passengers will park in residential streets, which will restrict traffic flow, impact on amenity, and see an increase in crime and antisocial behaviour.
- Focus group participants favoured minimal changes to land uses, preferring to see resources directed towards improving access;
- Community forum participants suggested a range of land use changes, including a Transit-Oriented Development above the station which would help to better connect the station with surrounding residential areas;
- Survey respondents were generally supportive of a mix of uses around the station, but were not supportive of four to five-storey buildings in the immediate vicinity of the station or along Canning Highway.
- There is strong support for the development of meeting places and small scale commercial activity along the foreshore.
- There is general support for the station and input from the focus groups, interviews and survey suggests it will be reasonably well used;
- Just under half of survey respondents support public art in the precinct, with the main suggested themes including river/nature and community themes (including Indigenous art).

Comment

The study brief for the South Perth Network City Communities Program projects anticipated that a second stage, to be undertaken after the results of the current community engagement projects had been completed, would focus on the planning strategy and future proposals for the area.

At its October 2006 meeting, Council resolved to:

- “(a) endorse preparation of a brief for the development of further detailed planning strategies for the South Perth and Canning Bridge train station precincts;
- (b) authorise the initiation of a tender process to select a suitable consultant(s) to conduct stage 2 of the Precinct studies; and
- (c) endorse investigation of a collaborative approach and/or partnership with the WA Planning Commission on the preparation of precinct planning strategies.”

The WA Planning Commission has recently advised the City that it has approved the contribution of:

- Half the cost of preparing, in conjunction with the Cities of Melville and South Perth, a precinct plan (including design guidelines and an outline implementation plan) for the 800m radius precinct surrounding the Canning Bridge Station, up to a minimum contribution of \$50,000; and
- Half the cost of investigating the opportunities for transit oriented development and/or redevelopment within the 800m radius precinct surrounding the future South Perth Station and, if warranted, prepare a precinct plan, design guidelines and an outline implementation plan for that precinct, up to a maximum of \$50,000.

The WAPC advises that as the WAPC will be a significant stakeholder, the Department for Planning and Infrastructure (DPI) will participate in these projects by contributing leadership and expertise, and other associated technical support.

Preliminary discussions have been held with DPI and the City of Melville officers regarding project management arrangements, funding agreements, project scope, objectives and timeframes. At this stage it has been agreed that the City of Melville will assume project management responsibility for the Canning Bridge project and the City of South Perth for the South Perth precinct project.

The Planning objectives for these and other similar precincts are set out in the WAPC's Development Control Policy DC 1.6 - Planning to Support Transit Use and Transit-Orientated Development.

As these projects are likely to each cost in the order of \$100,000 in consultancy fees (depending on the scope), the WAPC expects that the City of South Perth will also contribute funds towards these projects. It is expected that the City of Melville will also contribute funds towards the Canning Bridge Station precinct-planning project. The DPI is seeking written advice from the City confirming the City of South Perth's participation in, and contribution towards, these projects.

The City has anticipated making a significant financial contribution to both Stage 2 studies and has made appropriate provision in the 2007/08 draft budget.

Consultation

Community consultation will be undertaken in conjunction with further precinct planning however the nature of community consultation remains to be determined.

Policy and Legislative Implications

Total funding required for further planning associated with the South Perth and Canning Bridge rail station precincts is likely to exceed \$100,000; therefore selection of consultants would likely occur via a tender process in accordance with the *Local Government Act*.

Financial Implications

Subject to clarification of study cost a contribution from the City of South Perth will be required up to a maximum of \$50,000 per precinct. Allocation of funds for this purpose and to this extent has been incorporated in the City's draft 2007/08 budget.

Strategic Implications

The City's Strategic Financial Plan 2004-2008 and Environmental Strategy 3-6 incorporates the following: *"Develop Precinct Planning Strategies for the Mill Point and Canning Bridge areas to guide future development taking into account the Southern Suburbs Railway and the stations planned for those locations"*

OFFICER RECOMMENDATION AND COUNCIL DECISION 10.3.8

That

- (a) with respect to the Canning Bridge and South Perth train stations projects funded under the Network City Communities Grant Program:
 - (i) the Community Engagement Reports prepared by Estill and Associates for the City of South Perth (May 2007) for the Canning Bridge and the South Perth Train Station precincts be received and the final reports be made publicly available on the City's website and at City libraries;
 - (ii) the final report be forwarded to the WA Planning Commission and the Network City Communities Program grant acquitted; and

- (iii) participating stakeholders in the Stage 1 study process be thanked for their participation and informed of the current status of further planning for the Train Station Precinct Studies.
- (b) Council note the recent advice from the WA Planning Commission (WAPC) that the WAPC will contribute:
 - (i) half the cost of preparing, in conjunction with the Cities of Melville and South Perth, a Precinct Plan for the 800m radius precinct surrounding the Canning Bridge Station;
 - (ii) half the cost of investigating the opportunities for transit oriented development and/or redevelopment within the 800m radius precinct surrounding the future South Perth Station and if warranted prepare a precinct plan for that precinct; and
- (c) the WAPC be advised that the City of South Perth will match the proposed funding up to a maximum of \$50,000 per precinct.

CARRIED EN BLOC RESOLUTION

10.4 GOAL 4: INFRASTRUCTURE

10.4.1 Cape Lilac Replacement Program - Carr Street

Location:	City of South Perth
Applicant:	Council
File Ref:	PR/601
Date:	6 June 2007
Author:	Mark Taylor, Manager City Environment
Reporting Officer:	Glen Flood, Director Infrastructure Services

Summary

The City has been working with residents of Carr Street as part of the Cape Lilac replacement program since 2005. The Cape Lilacs in the street are being progressively replaced and a replacement species needs to be chosen.

There is overwhelming resident support for the Cape Lilac to be used as the replacement species. The City does not permit this species as a replacement street tree due to problems experienced with caterpillars which infest the trees and can move into adjacent houses. The City's Street Tree Management Plan, adopted by Council in 2000, reflects this position.

It is the officer's recommendation that the Cape Lilac should not be used, however in view of the level of interest and resident support for the Cape Lilac, this matter has been brought to Council.

Background

Council adopted its Street Tree Management Plan in November 2000 and subsequent Implementation Strategy in November 2001. A key component of the Implementation Strategy was the *Old Tree Stock Replacement Program*, which is aimed primarily at the Cape Lilac (*Melia azeradach*).

The majority of the remaining Cape Lilac street trees in the City are considered to be in need of replacement due to their poor structural health and because they represent an increasing risk to the community. This is in part due to their age (~70 years) but mainly because of poor pruning practises in earlier years necessitated in part by overhead power lines.

Since 2001, the City has been working with residents of various streets across the City to progressively replace Cape Lilac street trees with more suitable species. This program has been largely successful and the numbers of Cape Lilacs have reduced from approximately 700 to 306 today.

In March 2005 City officers met with residents of Carr Street to discuss a proposed Cape Lilac replacement program for that street. Following a series of meetings and letters, it became apparent that a majority of residents wanted to retain the Cape Lilacs in Carr Street for as long as possible. One resident had even contracted the services of a consultant arboriculturist to support their case.

The resident's consultant prepared a management program for the trees in the street based on retention where possible, in contrast to the City's practice of replacement where possible. The consultant is a respected member of his industry and his report was considered appropriate for the City to use. The program specified remedial pruning of all of the trees and the immediate removal of several trees due to poor health. This program was relatively expensive to implement (\$7,500 spent on pruning 28 trees) considering the number of trees the City maintains (16,189) and the available budget (\$530,000), but due to resident support, will continue. It is inevitable that most of the remaining Cape Lilac trees will have to be removed from the street within fifteen years and will require replacements.

At the time of developing the Street Tree Management Plan, the other major issue concerning the trees was that they are susceptible to attack by the White Cedar Moth larvae or caterpillars (*Leptocneria reducta*). This is an insidious pest which infests the trees at certain times of the year, but can also invade surrounding properties causing considerable nuisance and distress to residents. The City has attempted to contain the problem by regularly spraying trees following infestation. This is not considered to be a sustainable practice due to public health concerns, so it was recommended that the Cape Lilac be no longer considered suitable as a replacement street tree. Council accepted this recommendation when the Street Tree Management Plan was adopted.

The majority of residents of Carr Street however do not accept this and want the Cape Lilac as a replacement species for the street. The City reached this impasse when a resident vote (one vote per property) was requested for the replacement species. Initially, the Cape Lilac was not included in the list of possible species and the Jacaranda (*Jacaranda mimosifolia*) was selected by the majority of residents. Following representation from what appeared to be a majority of residents and the intervention of a Ward Councillor, the Cape Lilac was included on the list to formally gauge resident opinion.

A revised voting slip was sent to all residents with an accompanying letter outlining the reasons why the City preferred not to replace the street with Cape Lilacs. The result of the vote is as follows:

Cape Lilac	19
Jacaranda	2
Claret Ash	1

It is clear from this result that an overwhelming majority of residents prefer the Cape Lilac as the replacement species.

Comment

The outcome of the resident vote raises the question of where to go from here in Carr Street considering Council's previous position on the planting of Cape Lilacs. The officers' comment is as follows:

1. Structurally, replacement Cape Lilacs will not represent the same problem as the current trees because they will no longer require pruning for overhead wires and will not be subject to the same type of pruning practices (pollarding) that were once applied.

2. The form of the newly planted Cape Lilacs will eventually be somewhat different to that of the existing trees due to their being allowed to grow naturally. In essence, the streetscape of Carr Street will take on a different appearance to what is evident today. This is contrary to the view that planting a different species (eg. Jacaranda) will change the streetscape when Cape Lilacs will not.
3. The problems associated with White Cedar moth larvae cannot be discounted. There are at least two residents of Carr Street who are fed up with the nuisance they cause and have formally requested that the City remove the Cape Lilacs from their verges.
4. Officers are concerned about the future impact of control methods. A chemical previously used to treat the caterpillars has since been officially withdrawn from use. Chemicals considered safe to use today may again be found to be of concern in the future. Residents have stated that they are keen to assist with the control of the White Cedar Moth, but it is questionable how sustainable this is.
5. The trees that will be planted this winter will be in the street for at least 80 years and probably longer considering improved management practices. The majority of residents living in Carr Street today will more than likely be gone within 20 years. The City may be faced with requests to remove these trees due to caterpillar problem in future years.

It is the Officer's recommendation that the Cape Lilac should not be used because of the existing and potential White Cedar Moth larvae problem. Structurally, the replacement trees will be okay, however having to regularly treat the caterpillar problem with chemical is not considered sustainable and a potential unacceptable risk for the City. For this reason, the Jacaranda should be planted instead as this was the majority choice when the Cape Lilac was not being considered.

In view of the continued majority support for the Cape Lilac from the residents of Carr Street, this matter is being reported to Council for resolution.

Consultation

The Cape Lilac Replacement Program for Carr Street has involved the following resident consultation.

- The City initially wrote to all residents discussing the replacement program and inviting them to a street meeting to discuss the options.
- City officers and a consultant Arborist met with residents on site to demonstrate the structural problems with the trees and attempt to reach consensus on how best to move forward.
- At the meeting residents agreed that several people could be their representatives in dealings with City officers.
- Officers have since been meeting and corresponding with one or more of the resident representatives.
- When there has been need to canvas opinion (species voting) or impart information to all residents, letters have been sent out to each household.

Policy and Legislative Implications

The City's Policy P308 *Street Trees* states the following:

The City recognises and values the significance of street trees within the urban setting in terms of creating functional and aesthetic streetscapes and in the provision of natural habitat.

The City will plan for the provision, retention and maintenance of suitable street trees and streetscapes in accordance with the strategies established in the Street Tree Management Plan. The City recognises the need to remove unsuitable or unsafe trees.

Tree planting will be in street themes as identified in the Street Tree Management Plan and will be consistent with the intent of providing green linkages as identified in the City's Green Plan.

The Street Tree Management Plan states the following in regard to Cape Lilacs:

The City will no longer be planting the Queensland Box due to community complaints about fruit and litter drop, and most of the remaining Cape Lilac's and a number of other selected specimens will be progressively removed due to structural problems resulting from past pruning practices. The Cape Lilacs are also prone to infestation from White Cedar Moth larvae, which have proved to be a significant pest to some residents. Unsuitable tree removals will be programmed on a street-by-street basis and staged over eight years commencing in 2002.

Financial Implications

The Cape Lilac replacement program is funded annually through the City Environment operational budget.

There have been additional costs incurred (approximately \$7,500) associated with the remedial pruning of the Cape Lilacs in Carr Street.

Strategic Implications

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

COMMENT ON DEPUTATION

The Mayor requested an officer comment on the Deputation.

The Director Strategic and Regulatory Services stated that the City has been working with residents of Carr Street as part of the Cape Lilac replacement program since 2005. The Cape Lilacs in the street are being progressively replaced and a replacement species needs to be chosen. He advised that because of the overwhelming resident support for the Cape Lilac to be used as the replacement species in Carr Street and because the City does not permit this species as a replacement street tree due to problems experienced with caterpillars which infest the trees and can move into adjacent houses the matter has been brought to Council for determination. He further stated that it was very disappointing to read the type of literature that was being handed out by residents and directed at officers who were only doing their job and enforcing Council's policies.

OFFICER RECOMMENDATION AND

COUNCIL DECISION ITEM 10.4.1 ** Revoked December 2007 Council meeting at Item 10.1.2

Moved Cr Smith, Sec Cr Trent

~~That the Jacaranda (*Jacaranda mimosifolia*) be approved as the replacement street tree species for Carr Street, South Perth.~~

CARRIED (10/2)

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

MINUTES : ORDINARY COUNCIL MEETING : 26 JUNE 2007

Note: Manager City Environment retired from the meeting at 8.45pm

10.4.2 Tender 12/2007 Provision of Ground Maintenance, Turf Wicket Preparation and Croquet Court Preparation

Location:	City of South Perth
Applicant:	Council
File Ref:	Tender 12/2007
Date:	6 June 2007
Author:	Mark Taylor, Manager City Environment
Reporting Officer:	Glen Flood, Director Infrastructure Services

Summary

The current contract for the provision of ground maintenance at Richardson Park, turf wicket preparation and Richardson and Ernest Johnson Oval and croquet court preparation at the Como Croquet Club expires in June 2007. The City has advertised for tenders for this contract.

Only one tender was received by the closing date, which was the current contractor.

The main issue with the proposed new contract is the price to maintain the facilities to the same standard as under the previous contract has increased by 24%.

This report recommends acceptance of the tender as it has been submitted due to:

- the high standard of maintenance observed
- the level of support for the contractor from the sporting clubs using the facilities.

In addition, to achieve a degree of equity among sporting clubs, the report recommends that the City seek a minimum 25% recoup of the cost to maintain facilities used exclusively by the South Perth Cricket and Como Croquet Clubs within 3 years.

Background

Tenders were called for the provision of ground maintenance, turf wicket preparation and croquet court preparation for a period of 5 years. This involves the following work:

- Ground maintenance of the Richardson Park outfield (approximately 6.6 hectares);
- Preparation of turf wickets for the South Perth Cricket Club. This includes:
 - Two centre wicket blocks with a total of 10 wickets plus 20 practice wickets at Richardson Park, and
 - One centre wicket block with a total of 6 wickets at Ernest Johnson Oval;
- Preparation of courts for the Como Croquet Club.

Richardson Park is the City's premier active sports field. It supports men's 'A' grade cricket in summer and senior and junior men's and women's hockey in winter. The tender specification requires a standard of maintenance higher than that of any other sports field in the City.

Ernest Johnson Oval is another important sports field for the City supporting cricket, football and umpire training. The City maintains the outfield so this contract applies only to the turf wicket which is used by Suburban Turf and women's cricket under the auspices of the South Perth Cricket Club.

The Como Croquet Club is a private club operating from leased facilities (from the City) adjacent to Comer Reserve.

Tenders were advertised in the West Australian newspaper and closed at the City's Administration Offices at Sandgate Street, South Perth on Friday 20 April 2007.

Comment

Only one set of documents was distributed to prospective tenderers during the advertising period and at the close of the tender only one bid had been received. This was from the current contractor, Plant and Soil Management.

The tender received is for a total of \$998,923.63 plus GST over five years. The total cost for 2007/08 is \$180,780 plus GST with a 5% escalation each subsequent year. This is approximately 24% higher than the previous contract. The price rise submitted is not unusual in the current economic climate in Western Australia.

The breakdown of costs submitted for 2007/08 is as follows. All prices are GST exclusive:

- Centre wickets (Richardson and EJ) \$49,900
- Practice wickets (Richardson) \$31,200
- Richardson Park outfield \$77,680
- Como Croquet courts \$22,000

Plant and Soil Management have held the contract for 4.5 years. In that time, the standard of maintenance to the outfield and wickets at Richardson Park, the wicket at Ernest Johnson Oval and the Como croquet courts has generally been excellent.

In terms of cricket, the standard of turf and wicket maintenance at Richardson is as good, if not better than any other cricket ground outside of the WACA ground. International teams play and train there and in recognition of the high standard of maintenance, the principal of the company has been appointed as Head Curator at the WACA ground during the current contract period.

While most top grade hockey is now played on synthetic surfaces, the outfield at Richardson Park still supports many games of junior and senior men's and women's hockey. The standard of the outfield is recognised widely in this sport as well.

The Como Croquet Club recently held the Australian Championships and players were delighted with the standard of the courts.

Because there has only been one tender received and in view of the tendered rise in price, City officers have attempted to benchmark the tender in respect to turf wicket and croquet courts maintenance with other local authorities. This has been a difficult exercise as every Local Government Authority (LGA) handles this issue differently and the facilities being maintained are of different size (e.g. number of wickets and courts). Some LGA's pay the clubs directly who then carry out the maintenance themselves; others carry out the maintenance using 'in house' labour.

The cost to maintain the outfield at Richardson Park is roughly equivalent to Ernest Johnson Oval, which is slightly larger (7.2 hectares), but maintained by the City to a slightly lower standard.

The City has been able to roughly compare prices for wicket maintenance with the Cities of Rockingham and Swan. This is a little difficult as their contracts are now three to four years old and specifications are slightly different. Because their prices are older they are lower than the tender submitted by Plant and Soil Management. Incorporating CPI increases and compounding the price provides a rough comparison. The Plant and Soil Management price comes out higher but this is not exact science and it would be interesting, in the current economic climate, to see what prices were submitted when the other tenders are renewed.

Despite the price increase and the fact that only one tender was received, City officers are prepared to recommend the renewal of the existing contract due to the standard of service. It is therefore recommended that the tender of Plant and Soil Management for the provision of Ground Maintenance, Turf Wicket Preparation and Croquet Court Preparation for the value of \$998,923.63 plus GST over five years be accepted.

Consultation

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

Policy and Legislative Implications

Under Section 3.57 of the *Local Government Act 1995*, it is a requirement to call publicly and statewide for tenders for goods and services in excess of \$100,000.

The value of this tender is above the amount that the Chief Executive Officer has delegated powers to accept, and as a result, the tender has been referred to Council.

The following policies apply:

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

Financial Implications

As stated earlier, the tender received is for a total of \$998,923.63 plus GST over five years. The total cost for 2007/08 is \$180,780 plus GST with a 5% escalation each subsequent year. This is approximately 24% higher than the previous contract.

It should be noted that the outfield at Richardson Park aside, all other facilities being maintained under this contract are for exclusive use of the respective clubs. Taking the cost to maintain the outfield of Richardson Park out of the equation, as it is not for exclusive use, it will cost the City \$81,100 to maintain facilities for the exclusive use of the South Perth Cricket Club (wickets) and \$22,000 for the exclusive use of the Como Croquet Club (courts). This represents about 4% of the City's Reserves & Parks maintenance budget.

Recognising this fact, City officers have been working with the respective clubs to recoup maintenance costs for the exclusive facilities. In 2006/07 the City will receive \$2,000 from the Como Croquet Club and \$12,000 from the South Perth Cricket Club in contributions. In 2007/08 the cricket club has committed to providing \$15,000 and negotiations will commence soon with the croquet club with the aim of increasing their level of contribution.

There have been several studies undertaken recently by other local authorities grappling with the issue of equity in support to sporting clubs. The level and type of assistance varies with each LGA. Many local authorities forward an agreed amount directly to the respective clubs who are left to organise the contracts themselves. Other local authorities provide little financial support to clubs.

City officers believe the system operated by the City of South Perth is best practice in terms of the reserve maintenance outcomes achieved. The reserves are assets belonging to the ratepayers of the City and the City should therefore have a direct involvement in their maintenance.

It is the City's aim to have both clubs paying 25% of the exclusive facilities maintenance costs as contributions within 3 years. This would equate to \$20,275 ex. GST for the South Perth Cricket Club and \$5,500 ex. GST for the Como Croquet Club, based on tendered 2007/08 costs.

Officers believe that achieving a 25% contribution each from the cricket and croquet clubs is reasonable. If Council felt that the level of subsidy was not equitable, then it could resolve to reduce the level of service to each of these clubs or seek a higher contribution. Enforcing the latter has the potential to impact heavily on the clubs. If the clubs felt the amount of the 25% subsidy was too high then the City could reduce the level of service until the subsidy amount was affordable.

In relation to the Croquet Club, the Sporting Facilities Needs Study has made the following comment and recommendation in regard to its longer term viability.

Although the facilities are being used regularly by the club members, they are situated in a prime location at the Como Beach community hub. If in the future Council identified a need for a community purpose site in this locality there is potential to relocate the Como Croquet Club adjacent to the South Perth Lawn Tennis Club, and for both clubs to share the South Perth Lawn Tennis clubrooms. This would free up the Comer Reserve site for redevelopment to deliver broader community benefit.

Recommendation 2.2.36

That in the short to medium term Council continues to support the operation of the Como Croquet Club at the Comer Reserve site.

A 25% contribution should be achievable and goes some of the way to finding equity amongst sporting clubs who have exclusive facilities.

Strategic Implications

This report is consistent with

1. Goal 4 *Infrastructure* of the City's Strategic Plan 2004-2008.
To sustainably manage, enhance and maintain the City's infrastructure assets.
2. Strategy 6.3 of Goal 6 *Financial Viability*
Identify opportunities to introduce a 'user pays' fee charging model and develop strategies to implement this philosophy where appropriate, whilst continuing to recognise community service obligations.

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.4.2.

That....

- (a) the tender from Plant and Soil Management for the provision of Ground Maintenance, Turf Wicket Preparation and Croquet Court Preparation for the value of \$998,923.63 plus GST over five years be accepted, and
- (b) a benchmark of 25% recoup of the cost of maintaining facilities for the exclusive use of the South Perth Cricket Club and Como Croquet Club be sought and achieved by each club within 3 years.

CARRIED EN BLOC RESOLUTION

10.5 GOAL 5: ORGANISATIONAL EFFECTIVENESS

10.5.1 Applications for Planning Approval Determined Under Delegated Authority.

Location: City of South Perth
Applicant: Council
File Ref: Not applicable
Date: 5 June 2007
Author: Christian Buttle, Manager, Development Assessment
Reporting Officer: Steve Cope, Director, Strategic and Regulatory Services

Summary

The purpose of this report is to advise Council of applications for planning approval determined under delegated authority during the month of May 2007.

Background

At the Council meeting held on 24 October 2006, Council resolved as follows:

That Council receive a monthly report as part of the Agenda, commencing at the November 2006 meeting, on the.....

(b) exercise of Delegated Authority from Development Services under Town Planning Scheme No. 6, as currently provided in the Councillor's Bulletin.

The great majority (over 90%) of applications for planning approval are processed by the Planning Officers and determined under delegated authority rather than at Council meetings. This report provides information relating to the applications dealt with under delegated authority.

Comment

Council Delegation DC342 "Town Planning Scheme No. 6" identifies the extent of delegated authority conferred upon City Officers in relation to applications for planning approval. Delegation DC342 guides the administrative process regarding referral of applications to Council meetings or determination under delegated authority.

Consultation

During the month of May 2007, forty (40) development applications were determined under delegated authority refer **Attachment 10.5.1**.

Policy and Legislative Implications

The issue has no impact on this particular area.

Financial Implications

The issue has no impact on this particular area.

Strategic Implications

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

**OFFICER RECOMMENDATION AND
COUNCIL DECISION ITEM 10.5.1**

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

CARRIED EN BLOC RESOLUTION

10.5.2	Use of the Common Seal
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Location: City of South Perth
 Applicant: Council
 Date: 8 June 2007
 Author: Sean McLaughlin, Legal and Governance Officer
 Reporting Officer: Cliff Frewing, Chief Executive Officer

Summary

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

Background

At the October 2006 Ordinary Council Meeting the following resolution was adopted:
That Council receive a monthly report as part of the Agenda, commencing at the November 2006 meeting, on the use of the Common Seal, listing seal number; date sealed; department; meeting date / item number and reason for use.

Comment

Clause 21.1 of the City’s Standing Orders Local Law 2007 provides that the CEO is responsible for the safe custody and proper use of the common seal.

In addition, clause 21.1 requires the CEO to record in a register:

- (i) the date on which the common seal was affixed to a document;
- (ii) the nature of the document; and
- (iii) the parties described in the document to which the common seal was affixed.

Register

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

May 2007

Nature of document	Parties	Date Seal Affixed
Amendment No. 9 TPS6	City of South Perth	1 May 2007
Removal of expired term of CPV lease per TLA & LAA	City of South Perth	4 May 2007
CPV Hostel Residency Agreement	CoSP and Robin Flemming	4 May 2007
Standing Orders Local Law 2007	City of South Perth	7 May 2007
CPV Hostel Residency Agreement	CoSP and Gabrielle Rogers	16 May 2007

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

Consultation

Not applicable.

Policy and Legislative Implications

Clause 21 of the City’s Standing Orders Local Law 2002 describes the requirements for the safe custody and proper use of the common seal.

Financial Implications

Nil.

Strategic Implications

The report aligns to Goal 5 “Organisational Effectiveness” within the Council’s Strategic Plan. Goal 5 is expressed in the following terms: *To be a professional, effective and efficient organisation.*

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.5.2
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That the report on the use of the ‘Common Seal’ for the month of May 2007 be received.
CARRIED EN BLOC RESOLUTION

10.5.3 Perth Airport Municipalities Group (PAMG) Support for - “Airports and their Local Communities : A Way Forward”

Location:	City of South Perth
Applicant:	Council
File Ref:	TT/202
Date:	1 June 2007
Author:	Sebastian Camillo Manager Environmental Health and Regulatory Services
Reporting Officer:	Steve Cope, Director, Strategic and Regulatory Services

Summary

To support the response from the City of Belmont on the preferred option to Senator Kerry O’Brien’s discussion paper entitled “Airports and Their Local Communities : A Way Forward”.

Background

In September 2006, Senator Kerry O’Brien issued a discussion paper entitled “Airports and Their Communities: A Way Forward”. The paper provides an overview of the importance of airports to the nation’s transport infrastructure and economic wellbeing. He outlines the Labour Party’s commitment to supporting the Australian aviation industry in general whilst ensuring airports meet the requirements of the Federal, State and Local Governments and the community at large. The Senator outlines 3 key actions to which the Federal Labour Party intends to commit. They are:

1. Review of the *Airports Act 1996*
2. Proposed Planning Principles for Non Aviation Development
3. Fostering a Sense of Involvement in the Planning of Airport Developments

At the Perth Airports Municipalities Group (PAMG) Ordinary General Meeting of 8 February 2007, the City of Belmont requested the PAMG’s support on its proposed response to the Senator’s discussion paper. A specific response from the PAMG to support Option 2 of the Senator’s paper relating to “Fostering a Sense of Involvement in the Planning of Airport Development” was requested.

The PAMG delegates concurred with the proposed response with the added recommendation that a letter be sent to member councils also seeking their support. A copy of the Senator’s discussion paper is enclosed at **Attachment 10.5.3**. An extract from the PAMG Agenda for the Ordinary General Meeting of the 8 February 2007 stated as follows:

“The paper outlines the Labour Party’s commitment to:

- *A comprehensive review of the Airports Act 1996 and associated Regulations to establish whether current regulatory regime is sufficient for a modern and vibrant aviation industry;*
- *The adoption of a set of clear and open planning principles that will be applied to any airport development;*
- *Fostering a sense of involvement and encouraging input for communities into the planning of airport developments; and*
- *Transparency in the airport planning and development decision making process.*

Comment

The City of Belmont has already provided comment to the Senator's discussion paper based on its direct effects on the City. However, one section of the Senator's paper directly impacts on the operation of the PAMG and therefore comment was sought from the PAMG prior to any submission being made to either the City's Council for resolution or to Senator O'Brien.

The section relating to "*Fostering a sense of involvement and encouraging input from communities into the planning of airport developments*" outlines a series of options the Labour Party proposes to consider in determining the best way to establish cooperative working relationships between all parties.

Option 1 – Appoint an Airport Ombudsman

The independent ombudsman would have significant powers to investigate, make recommendations, report/publish findings and respond to individual complaints. The ombudsman would be independent of the Department of Transport and Regional Services (excepting secretariat support)

Option 2 – Establishment of Consultative Committees

Committees would be established comprising of stakeholders and the surrounding community and modelled on the successful UK Airport Consultative Committees system. These Committees would act as a forum for open and informed discussion for all parties to express their points of view on all aviation issues and for the Committee to make recommendations to airport operators and Ministers alike. These Committees would not replace the public consultation process required under the *Airports Act 1996*.

Option 3 – Hybrid Model

Merging of options 1 and 2 whereby Airport Consultative Committee would be able to refer matters to the Ombudsman; and

Option 4 – Maintain Status Quo

No change to current arrangements

The City of Belmont is lobbying for Option 2 as it is the most closely aligned option to the existence of the PAMG. The Senator proposes that an Airport Consultative Committee be formed using the guidelines developed by the UK Department of Transport, refer **Attachment 10.5.3** whereby the airport operators are required under legislation to set up an Airport Consultative Committee (ACC) headed by an independent Chairperson and include representatives from those sectors of the local and business community affected by airports.

The objectives of the ACC are:

- Provides awareness between parties of each others policies, future proposals, issues of risk, noise abatement, economic impact, world events affecting the aviation industry, development proposals etc.;
- Provides an avenue for open and transparent consultation, due diligence and the ability to make informed decisions
- Allows for opportunities to find common ground and negotiate acceptable solutions

- Allows the ACC to take a proactive role and react to local pressures and opinion and therefore encourage the ACC to make submissions/recommendations to Government, the Ministers, State Authorities and the Airport Operators; and
- Act as a repository of reliable information for the local community.
- Not to replace the public consultation process required under the Airports Act 1996.

The benefits of the establishment and operation of an ACC are as follows:

- Central Government develops guidelines for what is suitable development around airports;
- Noise restrictions and appropriate fines for breaches (Airports have noise monitoring equipment) and the fines are used to support local governments in managing traffic;
- Agreements with local governments over developments that can occur;
- Legislative requirements for airports to consult with the community i.e. community liaison group and noise committee;
- Airports acquire houses in high noise profile areas and pay for resident relocations;
- Sound insulation scheme available to residents;
- Airport lessees pay all costs including estate costs'
- Airport 'capped' on retail by local government so doesn't adversely affect other retailing centres;
- All planning approvals undertaken by local government.

Consultation

Nil

Policy and Legislative Implications

Nil

Financial Implications

Nil.

Strategic Implications

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

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.5.3
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That Council write to the PAMG supporting Option 2 under the section "*Fostering a Sense of Involvement and Encouraging Input from Communities into the Planning of Airport Developments*" of Senator Kerry O'Brien's Discussion Paper "Airports and Their Local Communities : A Way Forward".

CARRIED EN BLOC RESOLUTION

10.5.4 Voting Delegates at the WALGA AGM

Location:	City of South Perth
Applicant:	Council
File Ref:	GO/105
Date:	6 June 2007
Author/Reporting Officer	Cliff Frewing, Chief Executive Officer

Summary

The AGM of the Western Australian Local Government Association (WALGA) will be held on Sunday, 5 August 2007 as part of the Local Government Convention and it is necessary to appoint voting delegates to represent the City at this meeting.

Background

Council's appointed delegates to the Local Government Association (LGA) South East Metropolitan Zone are the Mayor and Cr Smith. Cr Cala is the deputy delegate. It has been the practice that if any two or more of these Elected Members are not present at Zone Meetings, the CEO will vote on behalf of the absent members. It is however felt that it is desirable for Elected Members to have the priority of voting at WALGA and Local Government Association meetings if that is possible.

Comment

Information relating to the West Australian Local Government Convention has been circulated to all Councillors and the Mayor and Cr Trent have advised of their interest in attending this Convention. Cr Trent is a life member of the LGA. Under the circumstances therefore it is suggested that the Mayor and Cr Trent (in lieu of Cr Smith) be authorised to vote at the Annual General Meeting of WALGA on Sunday, 5 August 2007 on behalf of the City. Cr Cala has indicated that although he is not available to attend the Convention, he may be able to attend the AGM of WALGA. The CEO is also registered to attend the Convention and would be available to vote only if either the Mayor, Cr Trent or Cr Cala were not present on the day.

It is recommended that WALGA be advised of these arrangements.

Consultation

WALGA will be advised of the City's voting delegates.

Policy and Legislative Implications

The Council should appoint voting delegates to WALGA's AGM.

Financial Implications

Nil

Strategic Implications

In line with Strategic Plan Goal 5: Organisational Effectiveness. *'To be a professional, effective and efficient organisation.'*

<p>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.5.4</p>

That the Western Australian Local Government Association (WALGA) be advised that Council's appointed delegates to the Annual General Meeting of WALGA on 5 August 2007 be as follows:

- Mayor John Collins; and
- Cr Kevin Trent

with Cr Cala being the first Deputy Delegate and the CEO, Cliff Frewing as second Deputy Delegate for the purpose of voting at the WALGA Annual General Meeting.

CARRIED EN BLOC RESOLUTION

10.5.5	October Council Meeting Date
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Location:	City of South Perth
Applicant:	Council
File Ref:	GO/105
Date:	6 June 2007
Author/Reporting Officer	Cliff Frewing, Chief Executive Officer

Summary

The purpose of this report is for Council to consider moving the October Council meeting date from Tuesday, 23 October 2007 to another date because the date of the Local Government elections has been scheduled for Saturday, 20 October 2007 (unless changed as a result of the forthcoming Federal Government Elections).

Background

At the meeting in November 2006 Council resolved to adopt the Council meeting calendar for the 2007 calendar year. The date set for the October meeting is Tuesday, 23 October 2007 which is the normal day for a Council meeting ie. the fourth Tuesday in the month.

In December 2006 the Director General of the Department of Local Government and Regional Development advised that State Parliament had passed legislation changing the date of the election from the first Saturday in May to the third Saturday in October.

Given that the third Saturday in October, ie 20 October is between the scheduled Council agenda briefing date (16 October) and the scheduled Council meeting date (23 October) it is considered appropriate to review the dates on which these meetings are held.

Comment

The Councillor calendar currently shows the last five meetings in the 2007 calendar year as follows:

Tuesday	28 August 2007
Tuesday	25 September 2007
Tuesday	23 October 2007
Tuesday	27 November 2007
Tuesday	18 December 2007

As would normally be expected the Councillor agenda briefing days are scheduled on the Tuesday prior to these Council meetings.

If there is no change to the October meeting date, there will be a total of nine weeks between the September, October and November Council meetings and a total of eight weeks between the October, November and December meetings which is considered normal, satisfactory and consistent practice.

However given that Saturday, 20 October is between the normal agenda briefing date and the Council meeting date it is considered to be unsatisfactory for the following reasons:

- any new Councillors elected would not receive their agendas for the Council meeting on 23 October until elected by announcement of the Returning Officer presumably late in the evening of Saturday, 20 October. On this basis, there would be little opportunity for an agenda briefing to be held prior to the meeting to enable the newly elected Councillors to become familiar with the October round of Council agenda items;
- there would be no opportunity to conduct in-house training in relation to the “Absolute Essentials” of the Standing Orders, Meeting Procedure and Code of Conduct education and training; and

- Councillors would need to be sworn in at a “swearing-in” ceremony which would normally be scheduled for the Tuesday following election day which is the same day that the Council meeting is currently scheduled for.

On this basis, there appears to be three obvious alternatives for Council to consider:

1. Hold no meetings at all in October 2007.
2. Bring forward the October meeting to an earlier date.
3. Put back the October meeting to a later date.

Comments in relation to each of these options are as follows:

1. Hold no Meetings at all in October 2007

From a public accountability and customer service point of view this is the least preferred option as it would mean that reports normally prepared for consideration in October would be deferred until the November meeting. This would effectively mean there will be no Council meeting for a nine week period between Tuesday, 25 September and Tuesday, 27 November.

This is not believed to be acceptable particularly because decisions may not be able to be made in relation to Planning items within the statutory time allowed for Council decision before deemed refusal applies. Other matters may also require a decision during this period of time.

2. Bring Forward the October Meeting to an Earlier Date

This option would mean that there would be three Council meetings within seven weeks ie 28 August, 25 September and 16 October. It would also mean that the agenda briefing day would be brought forward to 9 October, which is only two weeks following the September Council meeting.

The practice of bringing forward a Council meeting one week earlier is currently practised in December because of the Christmas period. It may mean that there would be fewer items on the agenda because the meeting has been brought forward by a week and that it is closer to the September meeting than otherwise would occur.

This is the most preferred option because it enables the current Council to have its last meeting on the Tuesday prior to the elections and therefore enabling the new Council to be sworn in on Tuesday, 23 October allowing a full month for a Councillor induction program to be conducted and becoming familiar with Council practices and processes before the next scheduled Council meeting on Tuesday, 27 November.

3. Put Back the October Meeting to a Later Date

This option would also mean that there would be three Council meetings within seven weeks ie 30 October, 27 November and 18 December.

It is not Council’s normal practice to defer a Council meeting and this would be an unusual outcome. If the meeting was put back a week to 30 October, the agenda briefing session would presumably still be required to be held on 23 October, and this may mean that the swearing in ceremony would also have to be held that day or alternatively a day earlier on Monday, 22 October 2007.

It is also considered that there would be insufficient time to properly conduct any meaningful Councillor induction program with any newly Elected Councillors during the remainder of that week or the following Monday, 29 October. At the very least there would be limited time available for this important activity.

Summary

Given the implications of the new Local Government election date and how it interacts with the City's meeting calendar, it is proposed that the meeting calendar for October 2007 be reviewed to accommodate the new election day. For the reasons outlined above it is suggested that the most appropriate course of action is to bring the Council meeting date forward by one week in October so that the current Council can conclude its Council meeting business cycle on Tuesday, 16 October 2007.

It is not proposed to change the meeting times for any of these meetings.

It is also noted that there is an outside chance that the election date of 20 October 2007 will be changed if the Federal Government decides to hold elections on that day. This would not possibly be known until six weeks prior to the day of the proposed election ie early September but it is totally outside the control of the City and Western Australian Local Government. On this basis the City should proceed to establish its preferred course of action to address this problem in the first instance.

Consultation

Nil but any change will be communicated to the community through articles in the City Update, Media Releases and notices on public notice boards.

Policy and Legislative Implications

The Council is able to set its own meeting dates and times which must be advertised to the community. Any change to the current adopted dates will need to be advertised in accordance with Section 5.25 (1) (g) of the *Local Government Act* (Section 12 of the Local Government (Administration) Regulation).

Financial Implications

Limited to the cost of advertising which is expected to be negligible.

Strategic Implications

In line with Strategic Plan Goal 5: Organisational Effectiveness. *'To be a professional, effective and efficient organisation.'*

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.5.5
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That....

- (a) the October Council meeting date be brought forward from the scheduled date of 23 October 2007 to the new date of Tuesday, 16 October 2007;
- (b) the October Agenda Briefing date be brought forward from 16 October 2007 to the new date of Tuesday, 9 October 2007;
- (c) the Council Swearing-in Ceremony following the 20 October elections be set for Tuesday, 23 October 2007; and
- (d) Public Notice be given of the changes to the Council calendar through articles in the City Update, media release, notices on Public Noticeboards and amending the Council Meeting Schedule on the internet.

CARRIED EN BLOC RESOLUTION

10.5.6	Agenda Briefing Sessions
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Location:	City of South Perth
Applicant:	Council
File Ref:	GO/105
Date:	5 June 2007
Author/Reporting	Cliff Frewing, Chief Executive Officer

Summary

The purpose of this report is to propose a change to the Council Agenda Briefing session to provide for Planning Deputations to be made in relation to those planning reports contained on the draft Council Agenda.

Background

The Council has for some time adopted a Council Meeting framework which consists of a Council meeting on the fourth Tuesday of each month and a Council Agenda Briefing session on the Tuesday prior to the Council Meeting. The first, second and fifth (if any) Tuesdays of each month are reserved for Concept Forums and other Council Briefings.

This framework has worked reasonably well in the past but in recent times planning applications have been under increased scrutiny and are becoming more complex. It is therefore proposed that more focus needs to be directed to these items on a monthly basis.

It is suggested that Planning Deputations be moved from the regular Council Meeting day cycle to the Agenda Briefing cycle and this report identifies the advantages and disadvantages associated with this proposal.

Comment

Since July 2006 there have been a total of 44 Deputations of which 39 have been related to planning items on the Agenda. On average there are 4 Deputations and 3.5 relate to planning items. Given that such a higher percentage of Deputations relate to planning items, there is an opportunity to consider moving the Deputations to the Agenda Briefing session.

It is also noted that since July 2006 Council Meetings have tended to be longer the latest finishing at 1.20 am with an average finish time of 11.30 pm.

The proposed system could be adopted using the following features:

When the draft "Work in Progress" Agenda is released to the Councillors in the week preceding the Council Agenda Briefing, it would also be released to members of the public. It is suggested that the public copies also contain the report recommendation so that members of the public have full access to the report and recommendation prior to the Agenda Briefing session. At the present time members of the public only receive the Table of Contents.

The "Work in Progress" Agenda would also be placed on the internet so that the public has easy access but the Agenda would be clearly marked with a disclaimer statement emphasising that it is a "Work in Progress" Agenda for discussion purposes.

The advantages of moving the Planning Deputations from the Council meeting day to the Agenda Briefing day are as follows:

- from the public point of view the applicants and other persons affected will have more time to consider the report and raise issues contained in the report. Whilst the same amount of time would be available between receiving public access to the report and having the ability to make a Deputation, if any matters remain unresolved, there is more time to obtain information and the officer reports amended accordingly;
- the Planning Officers would have one extra week in which to deal with issues arising from planning reports prior to the Council meeting which would be of benefit not only to the Planning Officers but Elected Members, applicants and other persons affected;
- Councillors would have more time to freely discuss and obtain more relevant information with Planning issues with officers and applicants should the need arise
- the work load of the Council Agenda Briefing sessions and the Council Meetings would be spread more evenly as it would reasonably be anticipated that the length of Council Meetings could reduce by approximately one hour;
- if Council Meetings could finish earlier it would reduce the fatigue for those Councillors and staff who have already spent a full day at work and would be seen as a “work friendly” initiative and supported; and
- the Council’s internal practices and process would be seen to be more open and accountable to the public as a greater amount of time would be afforded to applicants to respond to planning officers’ (and other officers) reports. It is noted that it is often claimed by applicants that becoming aware of a Planning Officer’s recommendation and the report only three days before Council consideration is not sufficient time to properly respond to issues contained in the reports.

The disadvantages of moving the Planning Deputations from the Council meeting day to the Agenda Briefing day are as follows:

- the report recommendations and agenda reports would have to be completed more thoroughly to enable the “Work in Progress” Agenda to be released to the public during the week prior to the agenda briefing;
- the increased time available that the public has to access the report and recommendations may increase the work load of Councillors as there will be an increased period available for lobbying etc; and
- it is possible that some applicants whether or not they made a Deputation at the Council Agenda Briefing may wish to make a further Deputation on a Council Meeting day. This is particularly likely where officer recommendations do not suit the applicant and it is possible the perceived benefit of moving Deputations from one meeting to another will be reduced.

If Council supports this proposal it could commence from the beginning of the new financial year ie in July 2007 for a trial period - say of one year.

A suitable article would be included in the City Update to advise members of the public of the new arrangements.

Consultation

Members of the public would be advised of Council’s decision.

Policy and Legislative Implications

Nil

Financial Implications

N/A

Strategic Implications

In line with Strategic Plan Goal 5: Organisational Effectiveness. *'To be a professional, effective and efficient organisation.'*

OFFICER RECOMMENDATION ITEM 10.5.6

That....

- (a) with effect from July 2007 the "Work in Progress" Agenda be made available to members of the public at the same time the Agenda is made available to Members of the Council;
- (b) those applicants and other persons affected who wish to make Deputations on planning matters be invited to make their Deputations to the Agenda Briefing workshop; and
- (c) this arrangement be reviewed within twelve months to ascertain its effectiveness.

MOTION

Cr Maddaford moved the officer recommendation, Sec Cr Trent

Note: Cr Doherty left the Chamber at 8.55pm and returned at 9.05pm

AMENDMENT

Moved Cr Ozsdolay, Sec Cr Smith

That part (b) be amended as follows:

- (b) those applicants and other persons affected who wish to make Deputations on planning matters be invited to make their Deputations to **either** the Agenda Briefing workshop **or Council or both.**

The Mayor put the Amendment

LOST (5/7)

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.5.6
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That....

- (a) with effect from July 2007 the "Work in Progress" Agenda be made available to members of the public at the same time the Agenda is made available to Members of the Council;
- (b) those applicants and other persons affected who wish to make Deputations on planning matters be invited to make their Deputations to the Agenda Briefing workshop; and
- (c) this arrangement be reviewed within twelve months to ascertain its effectiveness.

CARRIED (8/4)

10.5.7 South East Metropolitan Regional Council - Establishment Agreement - Deed of Variation

Location: City of South Perth
Applicant: Council
File Ref: A/EM/3
Date: 12 June 2007
Author/Reporting Officer: Steve Cope, Director, Strategic and Regulatory Services

Summary

To seek Council agreement for a Deed of Variation for the South East Metropolitan Regional Council Establishment Agreement to achieve consistency with the Local Government Amendment Act 2006.

Background

The City has received advice from the South East Metropolitan Regional Council (SEMRC) regarding the need to amend the SEMRC Establishment Agreement to reflect changes brought about by the Local Government Amendment Act as a result of changes to the Local Government election cycle (i.e. the change in the date of elections).

A secondary issue is that the SEMRC may wish to make further changes in the event that the study partners in the Regional Resource Recovery Facility (RRRF) study resolve to become full members of the SEMRC. This would require consideration and discussion with new partners at the time. As such any change to the Establishment Agreement associated with the RRRF study would be premature at this time.

It is noted that in order to ensure the validity of the tenure of current members of the SEMRC each member Council was earlier requested to extend the tenure of current members until October to provide for continuity until that time. Council of the City of South Perth resolved accordingly at its April 2007 meeting (refer item 9.5.3).

Comment

Advice provided to SEMRC by its legal advisor, Mr John Woodhouse indicates that a Deed of Variation is necessary to amend the Establishment Agreement in order to accommodate the resignation and appointment of Councillors of member councils, and the election of Chairperson and Deputy Chairperson. The SEMRC at its meeting of 19 April 2007 resolved to advise member councils that it supports the amendment by way of a Deed of Variation. **Attachment 10.5.7(a)** refers. A copy of Clauses 8.2 and 8.3 of the Establishment Agreement is attached. **Attachment 10.5.7(b)** refers.

In view of the significance of the Resource Recovery Facility Feasibility Study and likely continued involvement by the City of Mandurah, Shire of Murray and Shire of Serpentine Jarrahdale, these local governments have been invited to join the South East Metropolitan Regional Council. Should these additional local governments elect to join the SEMRC then further amendments to the Establishment Agreement will be necessary at a later date.

Consultation

Action in accordance with Regional Council advice and resolution.

Policy and Legislative Implications

Each Member Council will be required to approve the changes to the Establishment Agreement in accordance with legal advice received.

Financial Implications

Nil

Strategic Implications

In line with Strategic Plan Goal 5: Organisational Effectiveness: *'To be a professional, effective and efficient organisation.'*

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.5.7
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Moved Cr Cala, Sec Cr Trent

That Council agree to the Deed of Variation of the Establishment Agreement of the South East Metropolitan Regional Council as outlined in **Attachment 10.5.7(a)**.

CARRIED (12/0)

And by Required Absolute Majority

Note: Cr Macpherson left the Chamber at 9.15pm and returned at 9.20pm

10.5.8 draft Local Government (Rules of Conduct) Regulations 2007
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Location:	South Perth
Applicant:	Council
File Ref:	GR/307
Date:	13 June 2007
Author:	Sean McLaughlin, Legal and Governance Officer
Reporting Officer:	Cliff Frewing, Chief Executive Officer.

Summary

The purpose of this report is to consider the proposed draft Local Government (Rules of Conduct) Regulations 2007 which have recently been circulated by the Minister for Local Government to each Local Government for comment.

Background

The Draft Local Government (Rules of Conduct) Regulations 2007 follow recent amendments to the *Local Government Act* (the Act) which will require future Codes of Conduct to contain mandatory provisions which will be subject to and consistent with these Regulations.

The amendments to the Act, which were brought about by the *Local Government (Official Conduct) Amendment Act 2007*, will operate from the next round of local government elections in October 2007.

Once operational, the amended Act will provide a disciplinary framework to deal with misconduct by any local government council member. The framework involves using a State-wide standards panel appointed by the Minister to handle complaints about minor breaches which consist of a breach of the Conduct rules and/or of a local law and empowering the State Administrative Tribunal (SAT) to deal with complaints of serious breaches, which involve the commission of an offence under the Act or other written law.

Where a councillor is found to be in breach of the Conduct rules or a local law he or she may face penalties ranging from public censure and a public apology through to an order to undertake training as specified in the order.

Where the SAT finds that a major breach or recurrent breach has occurred it has, in addition to those powers, the power to suspend a member for up to six months or bar a member from holding office in any local government for up to five years.

At present the only avenue for tackling or deterring inappropriate behaviour by an individual council member is prosecution under the Act or Standing Orders Local Law or Ministerial action against the whole Council for suspension.

The new rules of conduct will apply to councillors in Committee Meetings as well as Council Meetings.

Comment

Local governments now have the opportunity to comment on the draft Regulations. The Government has already undertaken consultation with the peak industry groups.

The draft Regulations prescribe uniform Rules of Conduct for council members as follows:

1. *Use of Information*
A council member must not disclose information that the member derived from a confidential document or from a meeting closed to the public.
2. *Securing personal advantage or disadvantaging others*
A Councillor must not make improper use of the person's office as a Council Member to gain an advantage for the person or other person; or cause detriment to the local government or any other person.
3. *Misusing Council resources*
A Councillor must not use the resources of a local government for the purpose of persuading electors to vote in a particular way; or unless authorised under the Act, for any other purpose.
4. *Prohibition against involvement in administration*
A Councillor must not undertake tasks that contribute to the administration of council functions.
5. *Relations with local government employees*
A Councillor must not:
 - (a) direct or attempt to direct an employee to do anything in the person's capacity as a local government employee;
 - (b) attempt to influence, by means of a threat or the promise of a reward, the conduct of a local government employee;
 - (c) during a Council Meeting at which members of the public are present,
 - (i) make a statement that a local government employee is incompetent or dishonest; or
 - (ii) use offensive or objectionable expressions in reference to a local government employee.
6. *Disclosure of Interest*
A Councillor who has an interest in any matter to be discussed at a Council or Committee meeting must disclose the nature of the interest before the matter is discussed. Interest is defined to mean "an interest that could or could reasonably be perceived to, adversely affect the impartiality of the person having the interest, and includes an interest arising from kinship, friendship or membership of an association.

The draft Regulations are detailed in **Attachment 10.5.8**

The Regulations will apply to all Elected Members throughout the State.

The Regulations will only prescribe a minimum standard of behaviour and each Local Government will have the capacity to adopt a higher standard of behaviour in its Code of Conduct should that be considered necessary and appropriate. The regulations prescribe *General Principles to guide the behaviour of council members* which may be of relevance in this regard.

The contents of the draft Regulations are consistent with the provisions of the Official Conduct Bill on which a briefing was held last year.

Consultation

The Department of Local Government and Regional Development has circulated the proposed draft Regulations to all Local Governments for comment as part of its consultation process.

Policy and Legislative Implications

Contents of Regulations are required to be included in Codes of Conduct adopted by each Local Government. Local Governments are required to review Codes of Conduct following each ordinary election.

Financial Implications

Nil

Strategic Implications

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

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.5.8
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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.

CARRIED EN BLOC RESOLUTION

10.6 GOAL 6: FINANCIAL VIABILITY

10.6.1 Monthly Financial Management Accounts - May 2007
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Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	9 June 2007
Author / Reporting Officer:	Michael J Kent, Director Financial and Information Services

Summary

Monthly management account summaries compiled according to the major functional classifications compare actual performance against budget expectations. These are presented to Council with comment provided on the significant financial variances disclosed in those reports.

Background

Local Government (Financial Management) Regulation 34 requires the City to present monthly financial reports to Council in a format reflecting relevant accounting principles. A management account format, reflecting the organisational structure, reporting lines and accountability mechanisms inherent within that structure is considered the most suitable format to monitor progress against the budget. The information provided to Council is a summary of the detailed line-by-line information supplied to the City's departmental managers to enable them to monitor the financial performance of the areas of the City's operations under their control. This also reflects the structure of the budget information provided to Council and published in the Annual Budget.

Combining the Summary of Operating Revenues and Expenditures with the Summary of Capital Items gives a consolidated view of all operations under Council's control. It also measures actual financial performance against budget expectations.

Regulation 35 of the Local Government (Financial Management) Regulations requires significant variances between budgeted and actual results to be identified and comment provided on those identified variances. The City has adopted a definition of 'significant variances' of \$5,000 or 5% of the project or line item value - whichever is the greater. Whilst this is the statutory requirement, the City provides comment on a number of lesser variances where it believes this assists in discharging accountability.

To be an effective management tool, the 'budget' against which actual performance is compared is phased throughout the year to reflect the cyclical pattern of cash collections and expenditures during the year rather than simply being a proportional (number of expired months) share of the annual budget. The annual budget has been phased throughout the year based on anticipated project commencement dates and expected cash usage patterns. This provides more meaningful comparison between actual and budgeted figures at various stages of the year. It also permits more effective management and control over the resources that Council has at its disposal.

The local government budget is a dynamic document and will necessarily be progressively amended throughout the year to take advantage of changed circumstances and new opportunities. This is consistent with principles of responsible financial cash management.

Whilst the original adopted budget is relevant at July when rates are struck, it should, and indeed is required to, be regularly monitored and reviewed throughout the year. Thus the Adopted Budget evolves into the Amended Budget via the regular (quarterly) Budget Reviews.

For comparative purposes, a summary of budgeted revenues and expenditures (grouped by department and directorate) is provided throughout the year. This schedule reflects a reconciliation of movements between the 2006/2007 Adopted Budget and the 2006/2007 Amended Budget including the introduction of the capital expenditure items carried forward from 2005/2006.

A monthly Balance Sheet detailing the City's assets and liabilities and giving a comparison of the value of those assets and liabilities with the relevant values for the equivalent time in the previous year is also provided. Presenting the Balance Sheet on a monthly, rather than annual, basis provides greater financial accountability to the community and provides the opportunity for more timely intervention and corrective action by management where required.

Comment

The major components of the monthly management account summaries presented are:

- Balance Sheet - **Attachments 10.6.1(1)(A) and 10.6.1(1)(B)**
- Summary of Non Infrastructure Operating Revenue and Expenditure **Attachment 10.6.1(2)**
- Summary of Operating Revenue & Expenditure - Infrastructure Service **Attachment 10.6.1(3)**
- Summary of Capital Items - **Attachment 10.6.1(4)**
- Schedule of Significant Variances - **Attachment 10.6.1(5)**
- Reconciliation of Budget Movements - **Attachment 10.6.1(6)**

Operating Revenue to 31 May 2007 is \$31.02M which represents 101% of the \$30.82M year to date budget. Brief details on the favourable variance are provided below. A total of \$491,000 of revenue received during the year and included in the amended budget has been quarantined in cash backed reserves for projects (recreation, environmental and roadworks) that will not be expended until 2008. There will be no impost on the budget in those years as the funds have already been received from external parties and quarantined in reserves until needed.

The biggest single factor in the favourable variance on operating revenue is the continued excellent performance from investment revenue as funds awaiting use are actively being managed to generate additional interest revenue. Other significant items are the higher RCS subsidies being earned at the Collier Park Hostel (although these come with an additional cost burden as well), better than expected Planning & Building Services Revenue due to several larger residential developments and some additional small contributions for use of City land at Mill Pt Road and for roadworks done for third parties. Revenues from the Transfer Station have now fallen below expectations and will not reach the budget targets - proposed changes to the fee structure may assist in this regard next year.

Comment on the specific items contributing to the variances may be found in the Schedule of Significant Variances **Attachment 10.6.1(5)**.

Operating Expenditure to 31 May 2007 is \$26.82M which represents 98% of the year to date budget of \$27.40M. Operating Expenditure remains around 4% favourable in the Administration area and about ½% over budget in the Infrastructure Services area.

The most significant category of costs contributing to the favourable variance is under expended salary and wage costs. As noted in earlier months, the year to date figures for staff costs (permanent and temporary) remain well under budget due to staff positions having been vacant due to either resignation, leave entitlements or difficulties in filling vacant positions in the Administration area - particularly in Community Services, Planning, Building Services & Human Resources with extended vacancies in the Finance, Engineering Admin and Recreation areas. The City has continued to try new strategies to attract staff - including a different employment advertising regime which is returning very positive results. Several long term vacancies – particularly in the Finance and Engineering areas have been now filled as a result of attracting better candidates. To ensure that we continue to deliver responsive and timely customer service in all facets of our activities whilst we have these vacancies, the City is making use of temporary staff where appropriate. Overall, the salaries budget (*including temporary staff where they are being used to cover vacancies*) is now 6.8% under the budget allocation for the 210 FTE positions approved by Council in the budget process.

In the administration areas, most other costs are close to budget on a year to date basis other than some timing differences relating to consultants, Fiesta suppliers and some golf course maintenance activities. Some programs such as the special projects in Community Culture

and Recreation, some Safer City initiatives, staff training and building maintenance now may not be fully expended by year end. Masked by the favourable variance overall is higher expenditure on carers at the Collier Park Hostel and higher than expected expenditure on contracted services such as cleaning cost on halls, rubbish removal and street tree pruning. Overall, Infrastructure Services operating expenditure is close to budget - with a reversal of earlier timing differences on activities such as parks and environmental maintenance being evident in the May accounts.

Comment on the specific items contributing to the operating expenditure variances may be found in the Schedule of Significant Variances. **Attachment 10.6.1(5)**.

The net impact of the variances in the operating items is that the likely 2006/2007 year end Closing Position (which becomes the Opening Position for the purposes of the 207/2008 Budget) is likely to be somewhat higher than initially budgeted. This revised (higher) opening position has been factored into the 2007/2008 budget - allowing us to maintain our likely rates increase at a lesser rate than our local government peers. Capital Revenue is disclosed as \$1.25M at 31 May against a budget of \$1.23M. Road grant revenue appears to be on budget - but this is distorted by some unplanned revenue from contribution to roadworks whilst some budgeted road grants have not been received. Some of these are now earmarked as likely carry forwards for 2007/2008. The unfavourable variance in capital revenues relating to the lower than anticipated turnover of units in the Collier Park Village has continued. There is now only minimal chance that the full year budget for this item will be attained. However, the offsetting benefit from this is that capital expenditure on refurbishment of vacated units is also currently lower than budgeted.

Capital Expenditure at 31 May is \$6.89M against a year to date budget of \$10.05M - representing 69% of the year to date budget. Overall, the City has now completed around 62% of the revised full year capital program. Allowing for the previously identified \$2.42M in capital works to be carried forward to 2007/2008, this accounts for around 84% of the total capital budget - suggesting that some 16% or \$1.75 of works is still to be completed and invoiced by June 30. (In June last year around \$1.8M was invoiced).

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

Directorate	YTD Budget	YTD Actual	% YTD Budget	Total Budget
CEO / Financial & Info Services	1,869,500	1,279,179 *1	68%	1,962,000
Corp & Community Services	624,454	449,602 *2	72%	1,151,454
Strategic & Reg Services	159,400	36,117 *3	23%	216,500
Infrastructure Services	7,377,925	5,117,984 *4	69%	7,715,999
Underground Power	20,000	11,061	45%	20,000
Total	10,051,279	6,893,943	69%	11,063,953

*1 plus \$500K carry forward for library building

*2 plus \$500K carry forward for Collier Park Hostel

*3 plus \$90K carry forward for precinct studies & Rangers

*4 plus \$680K carry forward for Engineering Infrastructure & \$575K for City Environment Projects

Details on the variances relating to Capital Revenue and Capital Expenditure items are provided in **Attachment 10.6.1(5)** of this agenda. A list of potential carry forward capital works are included as **Attachment 10.6.1(7)** of this Agenda.

Consultation

This financial report is prepared to provide financial information to Council and to evidence the soundness of the administration's financial management. It also provides information about corrective strategies being employed and discharges accountability to the City's ratepayers.

Policy and Legislative Implications

In accordance with the requirements of the Section 6.4 of the *Local Government Act* and Local Government Financial Management Regulations 34 and 35.

Financial Implications

The attachments to this report compare actual financial performance to budgeted financial performance for the period.

Strategic Implications

This report deals with matters of financial management which directly relate to the key result area of Financial Viability identified in the City's Strategic Plan – *'To provide responsible and sustainable management of the City' financial resources'*.

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.1

That

- (a) the monthly Balance Sheet and Financial Summaries provided as **Attachment 10.6.1(1-4)** be received;
- (b) the Schedule of Significant Variances provided as **Attachment 10.6.1(5)** be accepted as having discharged Council's statutory obligations under Local Government (Financial Management) Regulation 35; and
- (c) the Summary of Budget Movements and Budget Reconciliation Schedule for 2006/2007 provided as **Attachment 10.6.1(6)(A)** and **10.6.1(6)(B)** be received.

CARRIED EN BLOC RESOLUTION

10.6.2 Monthly Statement of Funds, Investments and Debtors at 31 May 2007

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	8 June 2007
Authors:	Michael J Kent and Deborah M Gray
Reporting Officer:	Michael J Kent, Director Financial and Information Services

Summary

This report presents to Council a statement summarising the effectiveness of treasury management for the month including:

- The level of controlled Municipal, Trust and Reserve funds at month end.
- An analysis of the City's investments in suitable money market instruments to demonstrate the diversification strategy across financial institutions.
- Statistical information regarding the level of outstanding Rates and General Debtors.

Background

Effective cash management is an integral part of proper business management. Responsibility for management and investment of the City's cash resources has been delegated to the City's Director Financial & Information Services and Manager Financial Services - who also have responsibility for the management of the City's Debtor function and oversight of collection of outstanding debts.

In order to discharge accountability for the exercise of these delegations, a monthly report is presented detailing the levels of cash holdings on behalf of the Municipal and Trust Funds as well as the funds held in "cash backed" Reserves. Significant holdings of money market instruments are involved so an analysis of cash holdings showing the relative levels of investment with each financial institution is provided. Statistics on the spread of investments

to diversify risk provide an effective tool by which Council can monitor the prudence and effectiveness with which the delegations are being exercised. Finally, a comparative analysis of the levels of outstanding rates and general debtors relative to the equivalent stage of the previous year is provided to monitor the effectiveness of cash collections.

Comment

(a) Cash Holdings

Total funds at month end of \$26.06M compare very favourably to \$24.40M at the equivalent stage of last year. This is due to a number of factors including the very good cash collections from rates levied in July (still 1.0% ahead of last year after the final rates instalment due date). Timely claims for pension / seniors rebates from the Office of State Revenue and the delayed outflow of capital expenditure have also impacted our cash position favourably.

The impact on our cash position of the change in the way we remit ESL collections to FESA is changing with collections and remittances now almost equal. The City has, however, gained from the additional investment revenue earned whilst the ESL collections (above the pre-determined payment quotas) were invested until required to be remitted.

The net cash position is improved relative to May 2006 with monies brought into the year and our subsequent cash collections being invested in secure financial instruments to generate interest until those monies are required to fund operations or projects later in the year. Excluding the 'restricted cash' relating to cash-backed Reserves and monies held in Trust on behalf of third parties; the cash available for Municipal use currently sits at \$8.17M (compared to \$7.82M in 2005/2006). **Attachment 10.6.2(1).**

(b) Investments

Total investment in short term money market instruments at month end is \$25.37M compared to \$24.11M last year. As discussed above, the difference relates to improved cash collections and delayed outflows for capital projects.

Funds held are responsibly spread across various institutions to diversify risk as shown in **Attachment 10.6.2(2)**. Interest revenues (received and accrued) for the year to date total \$1.71M, which is significantly up from \$1.43M at the same time last year. This is attributable to higher cash holdings, higher interest rates accessed and timely, effective treasury management.

The average rate of return for the year to date is 6.37% with the anticipated yield on investments yet to mature currently at 6.51% - reflecting astute selection of investments after carefully considering our cash flow management needs. The City actively manages its treasury funds to pursue responsible, low risk investment opportunities that generate interest revenue to supplement its rates income.

(c) Major Debtor Classifications

The level of outstanding rates relative to the equivalent time last year is shown in **Attachment 10.6.2(3)**. Rates collections to the end of May 2007 (after the due date for the final regular rates instalment) represent 97.2% of total rates levied compared to 96.3% at the equivalent stage of the previous year. This continues to be the City's best ever rates collection result to this stage of the year - with the 95% year end key performance indicator being achieved ahead of the target date. This result again supports the rating strategy and the communication strategy used for the 2006/2007 rates strike.

Despite the impressive collection of rates to date, Financial Services officers are continuing to take responsible collection actions - including issuing reminder notices and taking other more serious and appropriate debt collection actions where necessary. These actions complement the rates strategy to ensure that we build upon our existing very solid treasury management foundations.

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

General debtors stand at \$0.84M at 31 May 2007 compared to \$1.27M at the same time last year. Most debtor categories are lower than at this time last year - most notably GST Refundable from the ATO and general debtors (which was inflated last year by some outstanding proceeds for vehicle trade-ins). The outstanding amount for Pension Rebates is also lower than last year but this is considered a timing issue relating to when claims can be lodged and processed at the Office of State Revenue. Until the pensioner / senior makes their qualifying payment, at any time up to 30 June, the City can not lodge a claim for reimbursement of rebate granted. Outstanding parking infringements are also slightly higher than at the same time last year.

Consultation

This financial report is prepared for Council and City management to evidence the soundness of financial management being employed. It also provides information that discharges accountability to our ratepayers. Community consultation is not a required part of these responsibilities.

Policy and Legislative Implications

Consistent with the requirements of Policy P603 - Investment of Surplus Funds and Delegation DC603. The provisions of Local Government (Financial Management) Regulation 19 are also relevant to the content of this report.

Financial Implications

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

Strategic Implications

This report deals with matters of financial management which directly relate to the key result area of Financial Viability identified in the Strategic Plan - *'To provide responsible and sustainable management of the City's financial resources'*.

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.2
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That the 31 May 2007 Statement of Funds, Investment and Debtors comprising:

- Summary of All Council Funds as per **Attachment 10.6.2(1)**
 - Summary of Cash Investments as per **Attachment 10.6.2(2)**
 - Statement of Major Debtor Categories as per **Attachment 10.6.2(3)**
- be received.

CARRIED EN BLOC RESOLUTION

10.6.3 Warrant of Payments Listing

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	7 June 2007
Authors:	Michael J Kent and Deborah M Gray
Reporting Officer:	Michael J Kent, Director Financial and Information Services

Summary

A list of accounts paid by the CEO under delegated authority (Delegation DC602) between 1 May 2007 and 31 May 2007 is presented for information to the June 2007 Council meeting.

Background

Local Government Financial Management Regulation 11 requires a local government to develop procedures to ensure the proper approval and authorisation of accounts for payment. These controls relate to the organisational purchasing and invoice approval procedures documented in the City's Policy P605 - Purchasing and Invoice Approval. They are supported by Delegation DM605 which sets the authorised purchasing approval limits for individual officers.

These processes and their application are subjected to detailed scrutiny by the City's Auditors each year during the conduct of the Annual Audit. Once an invoice has been approved for payment by an authorised officer, payment to the relevant party must be made from either the Municipal Fund or the Trust Fund and the transaction recorded in the City's financial records.

Comment

A list of payments made since the last list was presented is prepared and is presented to the next ordinary meeting of Council and recorded in the minutes of that meeting. It is important to acknowledge that the presentation of this list (Warrant of Payments) is for information purposes only as part of the responsible discharge of accountability. Payments made under this delegation can not be individually debated or withdrawn.

Consultation

This financial report is prepared to provide financial information to Council and the administration and to provide evidence of the soundness of financial management being employed. It also provides information and discharges financial accountability to the City's ratepayers.

Policy and Legislative Implications

Consistent with the requirements of Policy P605 - Purchasing and Invoice Approval and supported by Delegation DM605.

Financial Implications

Payment of authorised amounts within existing budget provisions.

Strategic Implications

This report deals with matters of financial management which directly relate to the key result area of Financial Viability identified in the City's Strategic Plan – *'To provide responsible and sustainable management of the City's financial resources'*.

**OFFICER RECOMMENDATION AND
COUNCIL DECISION ITEM 10.6.3**

Moved Cr Trent, Sec Cr Ozsdolay

That the Warrant of Payments for the month of May 2007 as detailed in the Report of the Director Financial and Information Services, **Attachment 10.6.3**, be received.

CARRIED (10/2)

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

10.6.4 Proposed Council Members Entitlements for 2007/2008 and 2008/2009

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	4 June 2007
Author /Reporting Officer:	Michael J Kent , Director Financial & Information Services

Summary

Proposed entitlements for Council Members are to be determined in accordance with the relevant legislative provisions of the *Local Government Act*. Given that there will be a Council election in October 2007 and at regular 2 yearly intervals thereafter, it is considered prudent for the Council sitting at the budget period immediately preceding these elections to determine the relevant allowances for the upcoming two year period - effectively eliminating any opportunity for perceptions of 'politicising the decision'. The recommendations for the next two year period are now presented for consideration by Council. The resulting Council resolution will provide information that will be incorporated in the City's final 2007/2008 Annual Budget.

Background

The Local Government Administration Regulations that complement the *Local Government Act* prescribe the maximum allowable limits for Council Members Meeting Attendance Fees and allowances. They also establish limits on the Local Government Allowances payable to the Mayor and Deputy Mayor of a local government. Meeting Fees, Communication Allowances and the Technology Allowance are set at a flat rate irrespective of the size or scale of the local government's operations. Mayoral Allowances are required to be set at an amount less than the specified percentage of the local government's total revenue budget - and the Deputy Mayoral Allowance is set at 25% of the figure determined by Council for the Mayoral Allowance.

Comment

The *Local Government Act* recognises that Council Members are required to attend numerous meetings and briefing sessions in undertaking Council business. In recognition of the commitment of time that Council Members are required to make, they are paid a fee for meeting attendance. Typically, metropolitan local governments adopt the maximum prescribed annual Meeting Attendance Fee set by the Department of Local Government. This fee is payable at a rate of \$7,000 per Council Member and \$14,000 for the Mayor of any local government.

The *Local Government Act* also provides for the payment of a Communication Allowance of \$2,400 per Council Member to meet the costs of staying in touch with their constituents. The City pays this annual allowance at the prescribed rate to each Council Member but in return, it does not reimburse any telephone, facsimile or internet costs - nor does it provide Council Members with fax machines, mobile phones or telephone or broadband connections.

In accordance with the provisions of Reg 34AA, the City will continue to pay the \$1,000 per year Information Technology Allowance to each Council Member for 2007/2008 and 2008/2009. Council Members may choose to apply this allowance to any technology application of their choosing. The City does not issue Council Members with desktop or notebook computers nor printers for home use. Shared generic computer facilities are available in the Council Members Resource Room.

The *Local Government Act* also recognises the significant commitment that the Mayor makes in serving the local community - and particularly in relation to attending the many community and official events required of the mayor. Accordingly, it permits the payment of a Mayoral Allowance. The maximum permissible amount for the allowance is 0.2% of the City's total revenue budget up to a maximum of \$60,000. (Current allowance is paid at \$40,000 or $\frac{2}{3}$ of the permitted maximum. Currently the Mayor is also entitled to the use of a fully maintained 6 cylinder sedan).

The Mayoral Allowance was increased to \$40,000 in 2005/2006 and has remained at that level since. The Mayoral Allowance had been set at \$30,000 between December 2002 when Council was reinstated and June 2005.

During the period between July 2005 and March 2007, the CPI (weighted average - all groups) has increased by 9.5%. This would suggest that it may be timely to review the quantum of the Mayoral Allowance payable for the next two years. An increase in line with the CPI movement would set the fee at approximately \$44,000. Council may choose to establish the allowance at \$44,000 for the 2007/2008 year - and increase it by CPI in the second year or alternatively it may elect to set a fixed amount for each of the next two years of say \$45,000. Any other amount up to \$60,000 may be set.

Whatever amount is determined as appropriate for the Mayoral Allowance will establish the Deputy Mayoral Allowance - which must represent no more than 25% of the Mayoral Allowance. By default, this would set the Deputy Mayoral Allowance at either \$11,000 or \$11,250 depending upon whichever of the alternatives above were chosen.

Consultation

Consultation has occurred with the Department of Local Government to validate the allowable limits and calculation methods for each of the various Council Member Entitlements.

Strategic Implications

This report deals with matters of financial management which directly relate to the key result area of Financial Viability identified in the City's Strategic Plan – '*To provide responsible and sustainable management of the City's financial resources*'.

Policy and Legislative Implications

Consistent with the legislative requirements of the *Local Government Act*.

Note: Declarations of Financial Interest do not apply in relation to payment of allowances under Section 5.63 of the *Local Government Act*.

Financial Implications

The adoption of the recommendation in this report will establish the financial accommodation that must be provided in the 2007/2008 Annual Budget for Council Member Entitlements.

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.4
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That

- (a) the Meeting Attendance Fee for the 2007/2008 year be set at \$7,000 per Council Member and \$14,000 for the Mayor - payable quarterly in advance;
- (b) a Communication Allowance of \$2,400 per annum per Council Member be paid quarterly in advance;
- (c) a Information Technology allowance of \$1,000 per annum per Council Member be paid quarterly in advance;
- (d) the Mayoral Allowance for 2007/2008 and 2008/2009 be set at \$45,000 payable in quarterly instalments in advance;
- (e) the Deputy Mayoral Allowance for 2007/2008 and 2008/2009 be set at \$11,250 payable in quarterly instalments in advance; and
- (f) the Meeting Attendance Fee, Communication Allowance and Information Technology Allowance for 2008/2009 be set at the recommended statutory maximums - payable quarterly in advance.

CARRIED EN BLOC RESOLUTION

10.6.5 Strategic Financial Plan 2007/2008 - 2011/2012.

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	4 June 2007
Author/Reporting Officer:	Michael J Kent, Director Financial and Information Services

Summary

This report recommends adoption of the City's revised Strategic Financial Plan for the period from 2007/2008 to 2011/2012. **Attachment 10.6.5(a)** (circulated separately).

Background

The revised Strategic Financial Plan represents a \$228M commitment over the next five years to the South Perth community for the delivery of services - plus the enhancement and development of new facilities and infrastructure for our community. The Strategic Financial Plan 2007/2008 to 2011/2012 is a key demonstration of the Council's commitment to responsibly plan for the City's financial future in an open and accountable manner.

The Strategic Financial Plan reflects a responsible and sustainable financial strategy for our City with all proposals detailed in the plan during the 2007/2008 - 2011/2012 period being fully funded. Recommended funding sources reflect a responsible blend of options including use of accumulated reserve funds, borrowings, fees and charges, asset sales and grant revenue in addition to rates income. Particular care has been given to restraining the City's dependence on rates as a source of revenue - keeping within the self imposed benchmark of 50% of the total funding package.

Funds are distributed responsibly across the wide range of services and proposals that compete for funding on the basis of demonstrated need, delivering community benefit and

providing value for money. The spread of funds across the City's strategic goals is also a key consideration in developing the plan. During the five years covered by the Strategic Financial Plan, the City proposes to responsibly distribute its funding across the strategic goals of Community Enrichment, Environmental Management, Infrastructure Management and the essential support activities of Customer Focus and Organisational Effectiveness.

Comment

During the 2007/2008 - 2011/2012 period, the City proposes to commit \$170M (approximately \$34M per year) to the delivery of ongoing services and programs such as community development, building control, libraries, park maintenance, community safety, roads and paths and aged care. Supporting these programs are a number of administration services which address matters of good governance, statutory compliance and excellent customer service delivery. Excluding the 'non cash' portion of these costs, the cash commitment is \$135M.

A further \$58M capital program is proposed for the creation of community facilities and infrastructure to support the theme of 'connecting our community' and enhancing the lifestyles of those who live in or visit our City.

Cash backed Reserves represent savings plans for future projects and services. During the plan's life, an amount of \$36M is provided for funding cash backed reserves - and a total of \$32M of existing cash reserves will be drawn down to support services. The net increase in Reserves relates to quarantined reserves associated with monies refundable to residents of the Collier Park Village and Hostel under statutory obligations. The Strategic Financial Plan has been prepared based upon themes of building for a sustainable future and creating a connected community. The Plan and the activities contained within it are aligned to the corporate goals of the City to ensure that the community enjoys value for money and significant community benefit from these corporate initiatives.

Indicative funding and project proposals contained in the plan are presented as part of a responsible approach to forward financial planning. Financial projections are reviewed in the light of the prevailing economic circumstances and community expectations. This review, which occurs as part of the budget process, may result in new priorities being added or planned projects being deferred or even deleted according to the priorities established by Council each year. A different blend of funding options may also be considered in view of these changed circumstances.

In developing the plan, input has been obtained from a variety of forums involving the community, Council Members and staff members. The City's Policy P601 - Strategic Financial Plan and Budget Preparation guides the process and includes consultation opportunities at appropriate points in the process that culminates in the adoption of the Strategic Financial Plan 2007/2008 - 2011/2012. The Strategic Financial Plan includes a number of significant community projects that demonstrate visionary leadership for the future. It has been developed on the theme of building for a sustainable community and looks at ways in which we can assist our community to connect through its people, their lifestyles and values and through the facilities and services that the City provides.

Consultation

In addition to the input from community forums, consultant's reports and feedback from Council Members and community in the development of the draft Strategic Financial Plan, an extensive community consultation process was undertaken to allow ratepayers and others interested in the City's financial direction to offer comment on the Strategic Financial Plan.

Consultation activities included:

- The Strategic Financial Plan was available for inspection on the City's website, at the administration centre and in the libraries.
- Distribution of a comprehensive community newsletter explaining the plan and the initiatives contained within it to every household within the City.
- Publication of press releases and weekly City Update notices in relation to the Strategic Financial Plan.
- A public information session was held on 7 May 2007 at which senior City officers were present to explain and answer questions about the plan.

Given the numerous opportunities for community input as detailed in the Strategic Financial Plan itself and the City's recognised commitment to responsible, sustainable and accountable financial management, it is not surprising that a number of people have viewed the Strategic Financial Plan document but few written submissions on it were received from the community. **Attachment 10.6.5(b)** contains the Report on Submissions.

The limited public comment received was supportive of the initiative contained within the plan and the funding allocations suggested within it. Limited community response should not be taken as an adverse reflection, but rather as an endorsement of the financial model supporting the well established and clearly stated strategic direction of a mature local government.

Aligned strategic direction, responsible financial management principles and an accountable process are the objectives of the legislative requirement to produce a 'Plan for the Future of the District'. That the City has delivered against those objectives seems unchallenged by those who viewed the document.

Since the draft Strategic Financial Plan was released for comment, further information about some costs, capital grants and the current year proceeds from plant trade-ins that were previously noted in the draft plan as exclusions has become available. This information is now incorporated in the plan.

From the community, Council and officer feedback, the following changes have been incorporated into the final Strategic Financial Plan 2007/2008 - 2011/2012.

Of the matters impacting directly on the Strategic Financial Plan in a financial sense, the following changes are being incorporated into the final version of the plan to be presented to Council at the June Council meeting:

- Include funding for a future 'City Visioning' exercise in 2008.
- Include 'prize' funding to encourage the development of an iconic building on the Civic Triangle after the disposal of the site by long term lease.
- Adjust the cost of loan servicing to reflect the full anticipated future borrowing costs for the UGP program based on updated Treasury Corp quotations.
- Revise / update all revenue and expenditure projections to reflect current values for the 2006/2007 year as these form the basis for the future projections.
- Include the increased costs relating to waste management, utilities costs and some contract services costs that have been advised to the City **after** the draft SFP was formulated and published.
- Include additional revenue relating to the levy offset for the increased waste management costs.
- Include recently advised cost implications relating to actions recommended by the Dept of Local Government that will need to be funded from the City's resources.

- Allow for significant increases in the cost of elections (to be run by the WA Electoral Commission) and the cost of future property valuations (GRVs for rating purposes). The City has received details of these costs from the relevant agencies after the SFP was prepared.
- Update the likely opening position for 2007/2008 (whilst recognising that this is likely to continue to move up until the current year's accounts are completed - at this time it reflects a best estimate)
- Minor text changes to the narrative.
- Include anticipated capital revenue from grants for Infrastructure works included in the 2007/2008 capital program.
- Capital Expenditure on infrastructure relating to the grants has been 'grossed up' by the amount of the grant to reflect the application of the grant monies.
- Anticipated motor vehicle trade in proceeds have been included in 2007/2008 - with a corresponding increase to the Capital Expenditure item for fleet purchases.

Policy and Legislative Implications

In accordance with the requirements of the *Local Government Act*.

Financial Implications

The Strategic Financial Plan is a guiding document that gives an indication of the City's longer term planning for its financial sustainability. The contents of the 2007/2008 year in the Strategic Financial Plan in particular will exert a very strong influence on the development of the 2007/2008 Annual Budget.

Strategic Implications

The Strategic Financial Plan plays an integral role in aligning the City's organisational and financial capacity with its strategic direction. It is reviewed annually to recognise changing community expectations and emerging opportunities.

Note: Recognising the increased extent of community consultation being undertaken through other forums, the Department of Local Government now requires that the 'Plan for the Future of the District' is reviewed only every 2 years.

The Strategic Financial Plan deals with matters of financial management which directly relate to the key result area of Financial Viability identified in the City's Strategic Plan - *'To provide responsible and sustainable management of the City's financial resources'*.

Note: Cr Gleeson left the Chamber at 9.28 and returned at 9.33pm

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.5
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Moved Cr Ozsdalay, Sec Cr Maddaford

That having carefully considered submissions received in accordance with legislative requirements, Council resolves that the following actions be taken:

- (a) the Strategic Financial Plan 2007/2008 - 2011/2012 as amended, and as per **Attachment 10.6.5(a)**, be adopted; and
- (b) reviews and consultation exercises currently underway in relation to major projects and facilities continue to be progressed.

CARRIED (11/1)

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

DECLARATION OF FINANCIAL INTEREST MAYOR COLLINS : ITEM 10.6.6

"I wish to declare a conflict of interest in Agenda Item 10.6.6 on the Council Agenda for the meeting to be held 26 June 2007. As Graeme Millar, Principal of Millar Holdings (lessee of the Boatshed Café) contributed to my 2002 election campaign I will leave the Council Chamber and not seek to discuss or vote on this matter."

Note: Mayor Collins left the Chamber at 9.38pm and Deputy Mayor Maddaford took the position as Chair.

10.6.6 Boatshed Café - Crown Reserve R34565 - Sir James Mitchell Park

Location: City of South Perth
Applicant: Millar Holdings PL (Graeme Millar)
File Ref: CP/608/4
Date: 12 June 2007
Author: Sean McLaughlin, Legal and Governance Officer
Reporting Officer: Cliff Frewing, Chief Executive Officer

Summary

Graeme Millar, Principal of Millar Holdings PL, has presented the City with a proposal to negotiate an extension/variation of the current lease relating to the Boatshed Cafe on Sir James Mitchell Reserve, together with an application for building improvements and liquor licence.

Mr Millar is seeking Council's in-principle agreement to the proposal so that statutory processes concerning the underlying tenure of the current lease site may be initiated and to enable the commencement of negotiations in relation to the substantive aspects of the proposal relating to the commercial aspects of a revised lease.

The purpose of this report is to canvass the implications of the proposal and to make recommendations for Council's consideration in order to respond to the proposal.

Background

The current lease was entered into in November 1994 for a term of 21 years and provided for the construction and operation of the Boatshed Cafe by the current lessee. It is due to expire in November 2015, leaving approximately eight and a half years to run.

Features of the current lease include:

- Rent is presently \$40,000.00 pa. and will increase to \$50,000.00 by end 2007 at which point it is indexed annually in accordance with the CPI thereafter;
- A Profit Bonus is payable in the 11th year if the gross profit of the business exceeds \$150,000 ;
- The 'Permitted Use' is ambiguous - it states that the premises are to be used for the purpose of a kiosk ... and not to be used as a restaurant....not to take any bookings ...but the lessee is allowed to provide table service;
- The Cafe is located on a reserve which is managed by the City under a Management Order issued pursuant to the provisions of the *Land Administration Act*;
- At the expiry of the term, ownership of the premises would revert to the City.

The proposal

Mr Millar wants to extend the term to the current maximum permissible under the terms of the Management Order, which is 21 years. Mr Millar notes in his proposal that since 1994 when the lease commenced, public attitudes and entertainment needs have changed considerably and this has prompted the need to review the existing facilities and operations

at the Cafe to make it more relevant to modern business practice and the needs of both the lessee and the City. In addition to the extension and re-negotiation of the current lease, the other major elements of the Proposal include:

1. Improvements to the Existing Building to incorporate:

- major refurbishment of the existing building, public toilets and kiosk.
- provision of a store room;
- construction of an enclosed rubbish bin area;
- construction of a 'smokers' gazebo; and
- upgrade the main electricity supply.

2. Granting of a Liquor Licence.

A copy of the proposal is at *Confidential Attachment 10.6.7*.

Comment

Some operational aspects of the current lease would benefit from a review, such as the uncertain application of the permitted use clause notwithstanding which the premises have been used as a restaurant since commencement. The profit-sharing clause is also uncertain in its operation and could be productively reviewed in the context of an overall review of the lease.

The extension of lease is necessary to recover the costs of the capital improvements. It is noted that few successful food premises do not upgrade on a regular basis to reflect current changing customer needs. The Boatshed is no exception.

Refurbishment of the building, including the public toilets is considered desirable at this time and the proposal to do something about the unsightly bin storage area is also welcomed.

Tenure implications

Because the current lease is located on a reserve managed by the City under the terms of a Management Order issued by the Minister responsible for administering the *Land Administration Act*, the Minister for Planning and Infrastructure, the Hon. Alannah MacTiernan, currently any proposed changes to current lease must be approved by the Minister or her delegate.

The Administration has consulted with DPI on the proposal and has been advised by it that it would agree to the proposal in principle however it would require a change to the current tenure arrangements. It would require that the current site be excised from the reserve and a new reserve would be created with a specific purpose related to the operation of a cafe/restaurant.

The DPI considers any new proposals to use public recreation reserves for commercial purposes on a case-by-case basis. In general terms, State Government policy is to take a % share of the rental return received by the local government. Whilst in this instance the DPI is in favour of the proposal the City would need to present a compelling case to the Minister as to why the State Government should waive this requirement in the particular circumstances of Sir James Mitchell Park. These circumstances would obviously include the substantial cost to the City of maintaining the extensive park land in the vicinity of the lease site and provision and maintenance of nearby and adjacent car bays.

Commercial implications

It will be necessary for the City to commission a review of the rent and profit bonus provisions of the current lease in order to make a proper assessment of the benefits to the City and to the South Perth community of the proposal. It is recommended that the City commission an independent valuer/property analyst to assist in this assessment.

Lease documentation

Consequent upon the tenure arrangements being satisfactorily concluded and with the assistance of the review of the commercial implications of the proposal, it will be necessary to negotiate and prepare a variation agreement relating to the current lease. All clauses will be reviewed as to their relevance and application.

Liquor Licence

The intention to apply for a liquor licence is to a certain extent separate and independent from the other aspects of the proposal. An application for a liquor licence is dealt with by the Liquor Licensing Authority under the *Liquor Control Act* with provision for the local government to comment on an application. However, the applicant is seeking an indication from Council as to its disposition in regard to an anticipated application being made at the relevant time. The DPI, which must also be consulted, is in favour of an application as long as the revised tenure arrangements described above have been put in place.

Planning Approval

The proposal includes refurbishment of the existing buildings and some minor new construction which will require planning approval at the relevant time.

Consultation

The DPI has been consulted in relation to tenure issues.

Policy and Legislative Implications

There are no policy and legislative implications other than those described above.

Financial Implications

The financial implications of the proposal will need to be reviewed if the proposal proceeds.

Strategic Implications

Consistently with Strategic Goal 6 - Financial Viability: *To provide responsible and sustainable management of the City's financial resources.*

CHIEF EXECUTIVE OFFICER - REVIEW OF LEASE - ITEM 10.6.6

The Chief Executive Officer reported that at the request of the Deputy Mayor he had reviewed the lease for the Boatshed Café in respect to how it relates to the 'profit sharing clause' and Item 10.6.6 on the Agenda. He then gave an overview to Members of his review of the Lease document in this regard.

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.6
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Moved Cr Trent, Sec Cr Gleeson

That....

- (a) Council receives the officer report and endorses administrative action to:
 - (i) initiate all necessary statutory procedures to obtain appropriate tenure arrangements;
 - (ii) commission an independent valuer/property analyst to provide advice on the commercial implications of the proposal; and
 - (iii) prepare necessary documentation in relation to varying the current lease.
- (b) following completion of parts (i) - (iii) above that a further report be presented to Council; and
- (c) Council agrees in principle to an application from Millar Holdings PL for a liquor licence at the premises.

CARRIED (11/0)

Note: Mayor Collins returned to the Chamber at 9.50pm and resumed his position as Chair.

10.7 MATTERS REFERRED FROM COMMITTEE

10.7.1 Audit and Governance Committee Recommendation - Meeting held 6 June 2007
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Location:	City of South Perth
Applicant:	Council
File Ref:	GO/108
Date:	8 June 2007
Author:	Kay Russell, Minute Secretary
Reporting Officer:	Cliff Frewing, Chief Executive Officer

Summary

The purpose of this report is to enable Council to consider a recommendation arising from the Audit and Governance Committee meeting held 6 June 2007.

Background

The Committee was established by Council in recognition of the importance of its audit functions and to monitor and improve the City's corporate governance procedures. The Committee normally meets on a regular (usually quarterly) basis. However, the Committee Meeting held 6 June was called specifically to review and receive Policy P517 "Audio Recording of Council Meetings".

Comment

The Minutes of the Committee meeting held on 6 June 2007 are attached. **Attachment 10.7.1(a)** refers.

The Committee does not have delegated authority but may make recommendations to Council. The recommendation from the Committee requiring Council's consideration is set out below:

- (a) **Policy P517 "Audio Recording of Council Meetings" Report on Submissions**
(*Item 4.1 Audit & Governance Committee Meeting 6.6.2007*)

Officer Recommendation

That the Committee having considered the submissions received from Members recommends to Council that it adopt policy P517 "Audio Recording of Council Meetings", as revised and as per **Attachment 4.1(d)**.

Comment

Following discussion on submissions received and questions raised by Members the Committee moved the following recommendation.

Following discussion on submissions received and questions raised by Members, Policy P517 was further revised to include reference to section 1.3(2)(c) of the *Local Government Act*.

Committee Recommendation Item 4.1

That the Committee having considered the submissions received from Members recommends to Council that it adopt policy P517 "Audio Recording of Council Meetings", as revised and as per **Attachment 4.1(d)**.

Consultation

N/A

Policy and Legislative Implications

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

Financial Implications

Negligible on the basis of the proposed policy. If significant operational changes were made to the policy then the financial implications would have to be re-assessed.

Strategic Implications

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

OFFICER RECOMMENDATION ITEM 10.7.1

That Council considers the following recommendation from the Audit and Governance Committee meeting held 6 June 2007:

That the Committee having considered the submissions received from Members recommends to Council that it adopt policy P517 "Audio Recording of Council Meetings", as revised and as per **Attachment 10.7.1(b)**.

MOTION

Cr Maddaford moved the officer recommendation. Sec Cr Wells

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Maddaford opening for the Motion

- Audit and Governance Committee spent a considerable amount of time on this
- considerable debate occurred amongst all Members of Committee
- other Members attended as observers and contributed input
- support Motion

AMENDMENT

Moved Cr Doherty, Sec Cr Best

That Policy P517 "Audio Recording of Council Meetings", including modifications as per Cr Doherty's 'tabled' submission and *amended Attachment 10.7.1(b)* be adopted.

Cr Doherty opening for the Amendment

- under the heading **Rationale** the sections (a), (b) and (d) of section 1.3.2 of the Local Government Act have been deleted and the reference to this section of the Act moved under the heading Policy.
- under the heading **Policy** reference to the relevant section of the LGA 1.3.2 "(c), which promotes greater accountability of local governments to their communities" is included, under this heading. Deletion of sections (a), (b) and (d) streamline the Policy and focus on the main part from the Act that aligns to the Policy.

- under **Purpose** change to include the words “a true and accurate account of debate and discussions at all meetings is available” as the primary purpose of audio recording meetings. This is critical and key to why meetings are audio recorded
- under **Access** change to make copies of recordings available at no charge to Elected Members.“ the recordings shall be made available to Elected Members upon request to the Chief Executive Officer free of charge.”
- Members of the public “may purchase a copy” – the use of the word “approved members of the public” has been deleted, as it could be seen as being discriminatory to exclude members of the public from purchasing a copy of the recording.
- seek Council support for Amendments to this Policy

Cr Best for the Amendment

- Cr Doherty has put a lot of effort into this Policy
- we want a true and accurate record of proceedings
- value added to Policy is first rate - taken out ambiguity
- support Amendments to Policy

Mayor Collins point of clarification - in relation to Members receiving a copy free of charge, is this limited to one copy per Member / any restrictions on burning additional copies etc?

Director Financial and Information Services responded yes that it was envisaged that one copy upon request would be provided. He further stated that the initial copying is a resource issue for the Information Technology Department. There would be no control over what Members then did with their copy.

The Mayor put the Amendment

CARRIED (8/4)

COUNCIL DECISION ITEM 10.7.1

The Mayor put the Amended Motion

That Policy P517 “Audio Recording of Council Meetings”, including modifications as per Cr Doherty’s ‘tabled’ submission and *amended* **Attachment 10.7.1(b)** be adopted.

CARRIED (12/0)

11. APPLICATIONS FOR LEAVE OF ABSENCE

Nil

12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12.1 Electronic Voting Proposal : Cr Doherty 13 June 2007

I hereby give notice that I intend to move the following motion at the Council Meeting to be held on 26 June 2007.

MOTION

That....

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

MEMBER COMMENTS

The reasons for moving to electronic voting are:

- to provide greater accountability and transparency in decision making;
- to ensure consistency as opposed to selectivity;
- to ensure accuracy of records to avoid challenges to the Council Meeting Minutes; and
- to further enhance the Inquiry Report Recommendations.

COMMENT CEO

In accordance with Clause 5.3(4)(d) of Standing Orders Local Law 2007 the Chief Executive Officer comments as follows:

The capacity to achieve electronic voting had previously been referred to in the Discussion Paper "Future Technology Options for the Council Chamber" distributed in January 2007.

The City currently has all of the necessary hardware in place to facilitate electronic voting. The City's audio-visual consultants and the Information Technology Department staff have been researching all the practical aspects of implementing this initiative. Subject to some additional software programming, testing and some refinement of current meeting processes, the practical aspects of electronic voting are expected to be able to be implemented within two Council Meeting cycles.

The City's Standing Orders do not make a reference to electronic voting per se, but the practice is within the parameters for voting established by the Standing Orders.

COUNCIL DECISION ITEM 12.1

Moved Cr Doherty, Sec Cr Trent

That....

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

CARRIED (10/2)

12.2 Proposal to Measure Height, Setbacks and Plot Ratio of buildings at 73 Mill Point Road and 16 Jubilee Street : Cr Smith 18 June 2007

I hereby give notice that I intend to move the following motion at the Council Meeting to be held on 26 June 2007.

MOTION

That....

- (a) the CEO, Mr Frewing be directed to:
 - (i) re-employ Mr Wilcox and Mr Partridge to measure the height, setbacks and plot ratio of the buildings at No. 73 Mill Point Road and No. 16 Jubilee Street which are nearing completion;
 - (ii) re-engage Mr Samec of Kott Gunning Layers to be **directly** involved in the calculation of the plot ratio (in co-operation with Messrs Wilcox and Partridge) of the two aforesaid buildings; and then Mr Samec be requested to liaise with the planning officers of the City of South Perth to come to a consensus agreement as to the agreed plot ratio of these building; and
- (b) until it is clearly determined that these buildings comply with the approved plans, no Strata Title or any other approvals are to be issued.

COMMENT CEO

In accordance with Clause 5.3(4)(d) of Standing Orders Local Law 2007 the Chief Executive Officer comments as follows:

73 Mill Point Road

The City received a Form 7 (Certificate of Local Government) from Sorensen Short and Associates, surveyors dated 20 April 2007.

The City's Building Surveyor conducted an inspection of the development on 26 April 2007. During this inspection, the Building Surveyor did not detect any issues or concern or departures from the approved working drawings and advised that he was prepared to clear the strata documents.

Members of the City's Development Services Team conducted a detailed inspection of the development site on 16 and 25 May 2007 to ensure that the development satisfied relevant Planning requirements.

During the detailed inspections conducted by City officers on 16 and 25 May, it was observed that the as constructed floor area was consistent with the approved working drawings. This was verified by a visual inspection of the completed development and a cross-check between the approved building licence drawings and the strata plan documents.

The surveyors have been asked to provide verification with respect to the as-constructed height of the building and further advice in this respect will be provided directly to Councillors prior to the Council meeting.

16 Jubilee Street

A Form 7 (Certificate of Local Government) was received by the City from surveyors, Survey 21, on 16 March 2007.

As the development was still incomplete when the strata documentation was lodged, the City's Building Services Department instructed the builder to make contact with the City for the purpose of arranging a final strata inspection, once construction works were complete. The City is yet to receive advice from the builder regarding the completion of construction, and the development site has not yet been inspected by the City's Planning or Building Officers.

There is no reason to expect that the development is not proceeding other than in accordance with the approved drawings.

STATEMENT BY THE MAYOR

The Mayor referred Members to correspondence received today from the Department of Local Government and Regional Development in relation to this matter. **Note:** A copy of the correspondence referred to was circulated to Members prior to the commencement of the meeting.

Cr Smith stated that in view of the correspondence that he would withdraw his Motion. He stated that the reason he was proposing the Motion was to expedite measuring 73 Mill Point Road and 16 Jubilee Street.

Cr Gleeson point of order - If Cr Smith is withdrawing his Motion he should not be making statements about it.

Mayor Collins stated point taken. He said that when he had suggested to Cr Smith, during Deputations, that he could respond to comments made when the item was being discussed later in the Agenda, he was not aware of Cr Smith's intention to withdraw the item and as such there would be no discussion.

Cr Smith then advised that he was not withdrawing this Motion but that he intended to withdraw his Notice of Motion at Item 12.4.

AMENDMENT

Following further discussion it was suggested that the Motion could be put if the 'names' mentioned were removed.

MOTION

Moved Cr Smith, Sec Cr Best

That....

- (a) the CEO, Mr Frewing be directed to:
- (i) measure the height, setbacks and plot ratio of the buildings at No. 73 Mill Point Road and No. 16 Jubilee Street which are nearing completion;
 - (ii) obtain legal advice in respect to the calculation of the plot ratio of the two aforesaid buildings; and the solicitor then be requested to liaise with the planning officers of the City of South Perth to come to a consensus agreement as to the agreed plot ratio of these building; and
- (b) until it is clearly determined that these buildings comply with the approved plans, no Strata Title or any other approvals are to be issued.

Cr Smith opening for the Motion

- do not want to delay approval unnecessarily - but want these buildings measured for height and plot ratio
- resent threat during Deputations / implication that the building is up, is not going to be altered but may result in legal action
- in accordance with 'planning law ' *Cr Smith read aloud from McLeods lawyers ruling on setbacks, height and plot ratio.....*
- if there is an excess in plot ratio - will pursue - owe it to developers who build in accordance with R Codes and Town Planning Scheme
- all I want is that the buildings be measured

Cr Best for the Motion

- no Councillors want to delay any development - particularly as building constructed
- heard Deputation - also concerned about threat of possible consequences for Councillors
- want it on record that I and all Councillors are acting to the best of their ability
- do not want to hold this up - does not take a lot of time to calculate if building as constructed conforms with R Codes and Town Planning Scheme of this City
- owe it to ratepayers to ensure building constructed in accordance with Town Planning Scheme and R Codes
- buildings need to comply
- implore Councillors support this Motion

Cr Wells point of order - In relation to part (ii) of the original Motion in the Agenda paper - why can't we nominate the preferred adviser?

Mayor Collins stated that based on the advice received from the Department, it is up to the CEO to make the decision.

Cr Ozsdolay point of clarification - the CEO Comment on 73 Mill Point Road in the Agenda paper talks about a surveyor's report being made available. Can we have that - is it available?

Director Strategic and Regulatory Services - confirmed the information was available. A copy of a memo detailing the information relating to the "as constructed" height of the buildings as provided by the project surveyor, Sorensen Short and Associates was circulated to Members.

Note: Director Infrastructure Services retired from the meeting at 10.25pm

Cr Ozsdolay point of clarification - in view of information received is there any reason for this Council to not issue Form 7?

Director Strategic and Regulatory Services said no.

COMMENT ON DEPUTATION

The Mayor requested an officer comment on the Deputation.

Director Strategic and Regulatory Services stated that the City's planning and building staff have acted in as timely a manner as possible. A City building surveyor conducted an inspection of the development on 26 April 2007 and did not detect any issues or concern or departures from the approved working drawings and advised that he was prepared to clear the strata documents. Members of the planning team conducted a detailed inspections of the development site on 16 and 25 May 2007 to ensure the development satisfied relevant Planning requirements. During the detailed inspections conducted by City officers it was observed that the 'as constructed' floor area was consistent with the approved working drawings. This was verified by a visual inspection of the completed development and a cross-check between the approved building licence drawings and the strata plan documents. Verification with respect to the as-constructed height of the building has also now been received.

Cr Ozsdolay point of clarification - if the Notice of Motion had not been brought forward would you have issued the Form 7?

Director Strategic and Regulatory Services said yes.

Cr Ozsdolay point of clarification - if officers received advice of completion and were not satisfied that the building conformed, would they be issuing a Form 7?

Director Strategic and Regulatory Services said no.

Cr Ozsdolay against the Motion

- all for protecting the City / ratepayers
- acknowledge Cr Smith's right to bring Motion forward
- process working
- would now like officers to do their job and do it well

Cr Best point of clarification - in memo circulated do not see any reference to the plot ratio?

Director Strategic and Regulatory Services stated that this issue was covered in the Comments section on page 103 of the Council Agenda paper.

Manager Development Assessment provided more detailed information in respect to inspections, on two occasions, of a number of units within the complex. The cross-referencing of surveyors / architects documents and the conclusion that the 'as constructed' buildings match the approved drawings.

Cr Jamieson for the Motion

- key is part (b) of Motion - do buildings comply with approved plans
- will also be able to establish some 'lessons learned' in retrospectively looking at our processes
- support the Motion

Cr Cala against the Motion

- Agenda Item 10.0.1, Certificate of Occupancy, Council endorsed the Motion from March which was deferred pending legal advice
- we are not approaching this in an ad hoc way
- cannot do this on a 'gut feeling' not the professional way of handling the issue
- acknowledge the fact that it is an issue
- need to put in place Certificate of Occupancy
- March 2007 Council resolution states:

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

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

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

- understand there was a hold up with legal advice - trust this comes back to July Council
- do not want to have these issues coming up month after month
- at Item 10.0.1 Council endorsed we wait for legal advice
- sympathise with concerns raised but have to handle professionally

Chief Executive Officer Comment

The CEO reminded Councillors of Denis McLeod's comments that it was not a relevant consideration for Council to withdraw approval to issue a Strata Title Certificate until it revisited planning approval. That opportunity goes the day the inspection is done and the building complies with the building plans as approved. Cannot now go back and revisit plot ratio issues. At the time planning approval is granted every building changes between then and when the building is constructed in minor ways. Changes made to this building at 73 Mill Point Road have been documented. It is now not a consideration to go back and revisit the 'built' building.

Mayor Collins it has previously been acknowledged that the plot ratio formula previously used by the administration in calculating plot ratio was determined by SAT to be the incorrect formula therefore any building built prior to this change to regulations would be different and now here we are again with the same issue coming forward.

Cr Maddaford - until we have a computer program in place in the planning department to calculate plot ratio we will have this issue month after month. Have taken this up with the IT Department who advised we would have to change the current program. Can assure you that there are programs that will do this calculation.

Cr Smith closing for the Motion

- wished all buildings complied
- have to learn from problems
- 11 Heppingstone Street did not comply - went to the Minister

Mayor Collins point of order - debate is in relation to 73 Mill Point Road

- received previous assurances from officers/CEO that buildings complied then found overbuilt
- pivotal factor was a SAT decision that has thrown calculations out
- will not have someone dictate to this Council about its responsibilities
- derelict if we approve buildings that do not comply there will be agreement between an independent and officers
- perception out there is 'argy bargy' going on
- support the Motion

12.3 Request for Legal Advice on Reimbursement of Legal Fees : Cr Best 19 June 2007
--

I hereby give notice that I intend to move the following motion at the Council Meeting to be held on 26 June 2007.

MOTION

That....

- (a) Council direct the CEO to obtain legal advice as to whether Council may reimburse Cr Smith for any legal fees he may have incurred in connection with obtaining legal advice relating to or arising from the findings of the Inquiry by the Department of Local Government and Regional Development; and
- (b) the CEO provide a copy of the legal advice to Councillors.

MEMBER COMMENT

The CEO comments in the Minutes of Council Meeting 23 March 2007 in relation to this matter (11.2)(g) says... *"It is strongly recommended that appropriate legal advice be sought before such a decision is made after the report is released"*

The Report has now been released and Cr Smith has incurred legal fees in obtaining legal advice relating to the findings of the Inquiry.

In the spirit of Natural Justice, Cr Smith must be provided with legal fee support to allow him access to legal advice and representation in discharging his duties as a Councillor of the City of South Perth. A limit of \$10,000 could be applied in the motion if it is recommended for tabling.

This right of Natural Justice has been confirmed by the Department of Local Government that the Councillors who made submissions to the Inquiry can have legal counsel to provide advice and representation - as Cr Smith participated in his capacity as a Councillor he must be provided legal support so that Natural Justice is provided and seen to be done.

This Motion seeks to establish the legal basis for providing retrospective payment of the legal fees incurred by Cr Smith.

COMMENT CEO

In accordance with Clause 5.3(4)(d) of Standing Orders Local Law 2007 the Chief Executive Officer comments as follows:

The Notice of Motion poses the question of whether it would be legal for the Council to pay Cr Smith's legal fees in relation to the Findings of the Inquiry into the City of South Perth and suggests that legal advice be obtained to answer it.

On the basis of previous legal advice received, Departmental Guidelines on the subject and the City's Legal Representation Policy, I do not consider that there is a need for the City to obtain further legal advice as to whether Council may reimburse Cr Smith for any legal fees he may have incurred in connection with obtaining legal advice relating to or arising from the findings of the Inquiry by the Department of Local Government and Regional Development.

The legal advice obtained by the City in relation to Council's resolution of March 2007 comprehensively covered the issues relating to payment of legal costs and that advice remains relevant to the current proposal implicit in the notice of motion. That advice, dated 3 April 2007 although previously circulated is attached, **Confidential Attachment 12.3** and copies of the City's Legal Representation Policy and the Department of Local Government's Guidelines on Legal Representation can be made available on request.

The fundamental element of the legal advice centred on the nature of Council's power to authorise the expenditure of money from the City's municipal fund. In essence, expenditure can only be authorised towards the performance of the functions ...conferred on the City by the *Local Government Act*; and,

'the general function of the local government is to provide for the good government of the persons in its district'.

The question then becomes: would the implementation of the proposal implicit in the resolution be for the good government of persons in the district?

Departmental Guidelines on Legal Representation

The guiding principle in the application of the Guidelines is directed to funding legal representation in those (rare) circumstances where councillors or employees are threatened with legal action when an aggrieved party believes that they have not carried out their statutory responsibilities in the correct or appropriate manner.

Consistently with the Guidelines, the City's Legal Representation Policy, adopted by Council in October 2006, sets out the criteria under which the funding of legal representation may be considered - two of which are relevant to the present circumstances:

- * *the legal representation costs must be in respect of legal proceedings that have been, or may be, commenced;*
- * *in performing his or her functions, to which the legal representation relates, the member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct.*

'Improper conduct' as defined in the Policy means "a breach of the standards of conduct that a reasonable person would expect of a person knowing their duties, powers and authority."

Paragraph 13 of the Guidelines is also pertinent:

Local government council members and employees will at times be subject to personal public criticism they consider to be unfair. Depending on the circumstances and the veracity of the criticism council members or employees may seek to redress the situation by taking legal action. Legal advice received by the Department suggests that only in exceptional circumstances would a local government be able to justify under the "good government" provisions [of the Act] funding the initiation of legal action by a member or employee.
[emphasis added]

There is no suggestion in the notice of motion that Cr Smith intends to initiate legal proceedings.

Natural Justice

The phrase ‘natural justice’ refers to a principle of administrative law which essentially requires the application of procedural fairness in administrative proceedings such as an investigative inquiry of the kind conducted by the Department. Thus in its application of this principle, the Department wrote to councillors and staff members with extracts of those portions of the draft report which may contain possible adverse comments in relation to the recipients. Each person was then provided with the opportunity to comment on the material contained in the extracts.

The Department entered what it called the *natural justice phase* on or about 20 February 2007 with a request for submissions to be forwarded by 7 March. The submission period was subsequently extended by approximately a week.

Cr Smith presented the City with an invoice dated 30 March from Lavan Legal, for services rendered up to 23 March 2007. The natural justice phase was concluded by that time.

The “right of natural justice” has no relevance to the determination by Council of an application to it under the Legal Representation policy or otherwise - any application would need to be considered on its merits and in accordance with the criteria set out in the policy.

In addition, the notice of motion refers to “legal fees he *may* have incurred in connection with obtaining legal advice relating to or arising from the *findings* of the Inquiry...” [emphasis added].

The Report of the Inquiry containing the findings was published on 10 May 2007. Of the 15 Findings, six are adverse to or critical of Cr Smith. As far as the Administration is aware, no legal proceedings have been instituted as result of those adverse findings.

Assistance with Departmental Inquiries

The Administration is not aware (see Member Comment) that the Department “has confirmed that the councillors who made submissions to the Inquiry can have legal counsel to provide advice and representation” as of right, as seems to be suggested by the Comment.

Certainly the Department noted in its letter to natural justice recipients that they may disclose the document to a legal advisor, however there is no suggestion that the costs of such legal advice should be funded by local government.

The suggestion that it is the Department’s view that local government should fund the cost of legal advice appears unlikely in light of the commentary in the Department’s own Guidelines that the Guidelines do not address the situation where council members and employees are interviewed during or are required to give evidence to an inquiry into their local government. However for clarification purposes the Administration has forwarded a copy of the Notice of Motion to the Department and is seeking its response in this regard.

Consistent with this commentary, the City’s Legal Representation Policy applies to legal proceedings, not to administrative inquiries.

MOTION

Moved Cr Best, Sec Cr Jamieson

That....

- (a) Council direct the CEO to obtain legal advice as to whether Council may reimburse Cr Smith for any legal fees he may have incurred in connection with obtaining legal advice relating to or arising from the findings of the Inquiry by the Department of Local Government and Regional Development; and
- (b) the CEO provide a copy of the legal advice to Councillors.

Cr Best opening for the Motion

Cr Best read aloud from the correspondence dated 26 June 2007 received from the Department of Local Government in relation to Item 12.3 on the Agenda:

The Department notes that each elected member was fully entitled to natural justice in the Inquiry process, however, this does not lead to the conclusion that this should automatically result in the City being liable for the cost of such advice. The Department understands the City has a policy on the funding of legal expenses.

Cr Mapherson - in view of the correspondence received from the Department stated her intention to leave the Chamber as she was not prepared to debate the matter.

Mayor Collins advised that the correspondence received from the Department pointed out the issue of bringing forward a Motion of this nature. He then ruled that Councillors may continue to discuss Item 12.3.

Cr Best (cont'd)

- natural justice is a legal philosophy used in some jurisdictions in the determination of just, or fair, processes in legal proceedings
- concept of natural justice is very closely related to the principle of natural law which has been applied as a philosophical and practical principle in the law in several common law jurisdictions in Australia
- natural justice operates on the principles that man is basically good - that a person of good intent should not be harmed - treat others as one would like to be treated
- natural justice includes the notion of procedural fairness
- Cr Smith raised the allegations in a Code of Conduct complaints many month ago
- Cr Smith did not request the Department handle the matter - justice should be seen to be done - if community satisfied that justice has been done they will continue to place their faith in the process

Mayor Collins point of Order - debate seems to be talking about findings of the Department of Local Government Inquiry whereas proposed Motion is about legal costs.

- Councillors imagine that you were placed in this position. A resident comes to you with evidence about a matter, as did Mr Cazalet and the Dyers, and you find yourself in report tabled in Parliament

Mayor Collins point of Order - getting off the track again, the proposed Motion is simply about obtaining legal expenses.

- believe Councillors would want the assurance that the business of Council in pursuing a community matter did not cost you personally
- at March 2007 meeting (Item 11.2) CEO on a similar matter says *it is premature to provide legal support* - in tonight's agenda advice is that it is too late report has been tabled and Cr Smith is not entitled to legal support
- CEO's comments highlight, in my opinion, the problems this Council faces. CEO's reasoning is bureaucratic and does not actually answer the question. Tells us all the things we can't do, but does not tell us how a second opinion can be achieved - response straight out of 'Yes Minister'

Cr Macpherson point of Order - CEO is required to provide comments in relation to any Notice of Motion - he is damned if he does and damned if he doesn't. It is not appropriate to comment about CEO's responsibilities in this way.

- if we want new Councillors to stand they need to know they are protected - residents will be terrified of incurring expenses, paying legal fees that they should be entitled to expect the City would pay for them
- Councillors may not like the way Cr Smith raised the allegations but he had a genuine belief the he had not been give the truth, the full truth, the complete truth
- as Councillors we are all allowed to express concerns and have them investigated
- motion asks for a second opinion - believe Cr Smith is entitled to a second opinion - do not throw the baby out with the bath water
- encourage Members support this Motion

Cr Jamieson for the Motion

- motion is about getting legal advice
- legal advice as to whether we can consider it
- get advice back and then consider it - give us a choice
- need to establish whether we can consider it or not
- by getting legal advice as per part (a) we make a determination if a request comes in
- ask Members focus on 'wording' of Motion to get legal advice

Mayor Collins

The Mayor stated that in the current situation there has not been a formal application made by Cr Smith which has come before Council for a decision. This Motion proposed at Item 12.3 would be more appropriate after an application has come to Council. If a formal application is received from Cr Smith that is the time to then seek advice on legal expenses. He said he acknowledged the efforts by Members in supporting Cr Smith but reiterated that the correct process has to be followed and followed properly in that there has to be a claim made in respect to this matter which is basic common sense.

Cr Maddaford against the Motion

- have a policy in place that covers legal expenses
- do not want to see Cr Smith out of pocket
- believe Cr Smith took advice for a reason
- proper process is about submitting an appropriate claim

Cr Cala point of clarification - in regard to legal advice is it on whether he is entitled to receive fees on advice he sought at natural justice process or is it since the report released? Also there is no mention of an amount of money?

Mayor Collins responded that initially there needed to be an application submitted.

Cr Gleeson against the Motion

- read report from Department of Local Government - adverse findings against Cr Smith
- no evidence in report that says legal action has been taken against Cr Smith
- find it difficult to vote for Motion on that basis
- Cr Smith made statements in Southern Gazette newspaper 22 May "*I told the truth*" (Cr Gleeson quoted from the article.)

Mayor Collins point of Order - asked Cr Gleeson to stop making personal comments and to debate the item properly.

- no formal application under Policy P519 has been made
- my request for legal aid was submitted / judged and dismissed by Council - proper process in line with Policy P519
- not in the interests of the City to pay this money at this stage
- against Motion based on Department of Local Government Inquiry Report Findings and Policy

Cr Doherty against the Motion

- disappointed that when previously we discussed this matter and Declarations of Interest were made there was an opportunity to achieve the outcome Cr Smith is seeking

FORESHADOWED MOTION

Cr Doherty foreshadowed she would be moving an alternative Motion if the current Motion is Lost.

Cr Macpherson against the Motion

- issue is whether it is good governance for ratepayers of the district
- if Council should pay this money - is it right to do so
- departmental guidelines are being bypassed
- would ratepayers want money spent this way
- adverse findings of Department of Local Government report
- Cr Smith obtained advice - what was the purpose
- all applications should be processed in accordance with Council Policy
- motion is unnecessary - more evidence of a waste of resources
- need to move on - implement Inquiry Report Recommendations from Department of Local Government
- against Motion

Cr Best closing for the Motion

- motion is looking for a second legal opinion
- an opinion as to whether Cr Smith can be reimbursed for legal advice obtained relating to, or the findings of, the DoLG Inquiry can be provided to Councillors
- heard putting cart before the horse - given the process believe pro-active to support Cr Smith
- shows future Councillors they can conduct business and be protected
- do not want to see anyone out of pocket for doing Council business
- urge Members support Motion

The Mayor put the Motion

LOST (3/8)

NOTE: CRS GLEESON AND MACPHERSON REQUESTED THAT THEY BE RECORDED AS HAVING VOTED AGAINST THE MOTION

MOTION

Moved Cr Doherty, Sec Cr Cala

That in accordance with Policy P519 “Legal Representation” that Cr Smith submit an application for legal expenses for consideration by Council for any costs incurred in connection with obtaining legal advice relating to, or the findings of, the Department of Local Government Inquiry.

Cr Macpherson against the Motion

- Cr Smith could have brought this forward
- no reason for Council to direct Cr Smith as to what he can or cannot do

Mayor Collins stated that Council cannot direct any Councillor to do anything.

Chief Executive Officer said that as a further suggestion the words *if Cr Smith wishes to pursue his claim* could be added to the Motion.

COUNCIL DECISION ITEM 12.3

The Mayor put the Motion

That if Cr Smith wishes to pursue his claim and in accordance with Policy P519 “Legal Representation” that he submit an application for legal expenses for consideration by Council for any costs incurred in connection with obtaining legal advice relating to, or the findings of, the Department of Local Government Inquiry.

CARRIED (9/2)

Note: Cr Smith returned to the Chamber at 11.28pm

12.4 Request for Information - Email sent to Health Department of Western Australia - Cr Smith : 13.6.2007

I hereby give notice that I intend to move the following motion at the Council Meeting to be held on 26 June 2007.

MOTION

That the CEO of the City of South Perth, Mr Frewing, be directed to provide a copy (to all Councillors) of the email that the Legal and Governance Officer, Mr Sean McLaughlin, sent to the Health Department of Western Australia re one of their female employees (who was an elector of the Manning Ward) informing them that the lady in question had used the Department’s email system to send several emails to the City of South Perth, four of these were complaints, but two were constructive suggestions to help stop the theft of bicycles from outside the Manning Library.

MEMBER COMMENT

Mr McLaughlin’s actions in this matter were completely unacceptable as he put at risk the public perception that when they made a complaint their identity was not disclosed to a third party without their written consent. The implications and ramifications of this are patently obvious. If people become concerned that their identity would not be kept completely confidential they would not risk providing information to either Neighbourhood Watch or even worse Crime Stoppers.

COMMENT CEO

In accordance with Clause 5.3(4)(d) of Standing Orders Local Law 2007 the Chief Executive Officer comments as follows:

There are a number of fundamental issues raised by this Notice of Motion.

Roles of Council and CEO

There is a danger that Councillors are attempting to become involved in an issue where they have no legal power or statutory responsibility to be involved. All matters concerning staff (other than very limited circumstances involving appointment and dismissal of “senior employees”) are the sole responsibility of the CEO.

The *Local Government Act* at section 5.41 specifies the functions of the CEO as follows:

The CEO's functions are to -

- (d) *manage the day to day operations of the local government; and*
- (g) *be responsible for the employment, management supervision, direction and dismissal of other employees (subject to section 5.37(2) in relation to senior employees).*

A significant component of the May 2007 Inquiry Report is devoted to Council’s involvement in administrative matters and in particular matters relating to staff issues and this resolution with its direction to produce a document created by an employee appears to be heading in a similar direction.

I have already reviewed the officer’s conduct and am completely satisfied that his actions were appropriate. There is no role for Council in my management of the officer and his conduct.

Council/CEO Dispute Resolution Process

The resolution seeks to have Council become involved, via a different process, in one of the 12 Matters [Allegation 9] which is the subject of the Council/CEO Dispute Resolution Process which Council initiated at its 10 April 2007 meeting and which is currently being facilitated by Deacons Lawyers.

Mr McLaughlin’s Conduct

The Member Comment asserts that Mr McLaughlin’s actions in this matter were completely unacceptable.

As I advised Cr Jamieson by memo dated 5 April 2006 in my view Mr McLaughlin’s conduct was appropriate and consistent with his obligations under his contract of employment including his obligations under the City’s Governance Framework (including its Code of Conduct). Moreover as the memo advises, his actions were consistent with advice received from the Office of Public Sector Standards, were welcomed by the Department of Health and were in accordance with the principles set out in section 9 of the *Public Sector Management Act 1994*.

Resident’s position

At no time has the Administration received any communication from the resident involved about the particular event of 14 February 2006. It is not known if the person is aware of Council’s interest in the issue between February and July 2006; and it is not known if the person is aware that the issue was resurrected in March 2007 by Cr Smith in his no-confidence motion against me; or that the issue became Allegation 9 in the 12 Matters in May 2007.

At no time has the person made any complaint about the actions taken or the purported breach of confidentiality - a confidentiality which the Administration has maintained notwithstanding Crs Smith and Jamieson using the person's name in Agenda Briefings and Council Meetings which were not open to the public.

Period of time elapsed

The conduct which Cr Smith's notice relates to occurred in February 2006. I think it is relevant to query why this matter is being raised at this time given the fact that more than 16 months have elapsed since its occurrence.

Other relevant agencies

If Cr Smith, Cr Jamieson or other councillors have concerns about either the propriety of the original conduct or my endorsement of the officer's actions, then the appropriate course of action would be to refer the matter to either the Director-General of the Department of Local Government, the Ombudsman or to the Office of Public Sector Standards.

Elected member training

I will be proposing to Council to include in the program of elected member training being planned in response to Recommendation 2 of the Inquiry Report an item relating to this and similar issues and I also propose to invite the Commissioner for Public Sector Standards to attend such a session.

COUNCIL DECISION ITEM 12.4

Note: Cr Smith withdrew his Motion at Item 12.4.

CHANGE TO ORDER OF BUSINESS - ITEM 7.1.2

As resolved by Council at Item 7 on the Agenda, Confirmation of Minutes of the Special Council Meeting held on 6 June 2007 to be dealt with at this point in the meeting.

CONFIRMATION OF MINUTES

7.1.2 Special Council Meeting Held: 6.6.2007

The Mayor reported that at the Special Council Meeting on 6 June 2007 when Cr Doherty was making a Declaration of Interest she asked could she make a statement. Normally dot points of statements would be entered into the Minutes but in this instance not knowing a precursor of what was going to be said the request was denied. Cr Doherty now proposes an amendment to those Minutes accordingly.

MOTION

Moved Cr Doherty, Sec Cr Maddaford

That the Minutes of the Special Council Meeting held 6 June 2007 be amended on page 5, following the heading: Declaration of Interest Cr Doherty Item 6.2 part (b)(1), to include the following statement:

Statement in relation to Code of Conduct issue:

- Appreciate possibility of Code of Conduct issue being brought to my attention by the CEO.
- Identification that matter had the potential to escalate if not addressed
- Concern regarding manner in which way this was issue was presented to me as a Councillor.
- In spirit of co-operation I had previously offered assistance to the CEO regarding the process of compiling list of mediators/facilitators because of my experience in mediation.
- Initiation of communication with channels still open.

- Accepted this offer was not taken up.
- In the context of my open communication, upon receiving notification from the CEO on Friday of last week in my weekly satchel re possible Code of Conduct issue I felt was both confrontational and adversarial.
- The comment in the Memo "*If conflict of interest situations are not properly identified and managed, they can endanger the integrity of the organization*" resulted in my feeling deeply hurt that my integrity had been called into question in this manner.
- Would sincerely have appreciated either a phone call or email message from the CEO advising that he had concerns about a possible Code of Conduct issue and even the opportunity to talk about the possible issue.
- Receiving document in this manner displayed both a lack of respect for me as a Councillor and poor interpersonal skills by the CEO.
- Through my actions as a Councillor I have publicly shown that I am more than willing, committed and ready to move on.
- The reinstatement of trust, respect and goodwill is not a one way street for this Council.
- The manner in which I was advised of a possible Code of Conduct issue clearly reflects that as a Councillor it is not a journey I travel alone as all parties need to work together to reach the best possible joint decisions that the circumstances allow.

Cr Doherty opening for the Motion

- Council has resolved to record Council meetings - will have a total record
- do not believe therefore it is unreasonable to ask that my statement at Special Council Meeting be recorded
- Council has been rebuked for not doing this
- want points of order included - agree with that
- went through Minutes of 2004, 2005, 2006 - at no time were points of order included
- believe this statement should be included
- part of good governance of Council - important points of order be recorded

Cr Maddaford for the Motion

- support comments
- support Motion

Cr Gleeson against the Motion

- disappointed in Cr Doherty's attack on CEO in a public arena
- attack refers to a document no other Councillor has seen
- issue ended up in the local press that the CEO's memo was adverse, confronting and showed a lack of respect
- CEO had no way of defending himself
- believe this is shameful conduct, lacks a sense of decency, integrity or fairness

Cr Best injected with the comment 'slow learner'. Cr Macpherson called point of order

Mayor Collins reminded Councillors to show respect to each other

- sure if other Councillors had the chance to read the memo they would agree the CEO had done the right thing
- clear Cr Doherty is ignorant of her obligations

PROCEDURAL MOTION

Moved Cr Cala, Sec Cr Wells - That the Member be no longer heard.

Cr Cala for the Motion

- behaviour unbecoming one Councillor to another
- appalling behaviour
- support the Motion

The Mayor put the Motion that the Member no longer be heard.

CARRIED (8/4)

STATEMENT MAYOR COLLINS

The Mayor stated that he believed there should be a 'balanced view'. He said that there was no opportunity for Members to read the memo the CEO had forwarded to Cr Doherty and that he believe it should be also included in the Minutes so everyone can have a balanced view. He referred to previous discussion on natural justice and suggested that the CEO's memo be included in the Minutes.

AMENDMENT

Moved Cr Maddaford, Sec Cr Smith

That the Motion be amended to include after the word 'statement' the words *from Cr Doherty and Memo to Cr Doherty from the CEO.*

Cr Jamieson against the Amendment

- this is nothing to do with the Minutes
- against the Amendment

The Mayor put the Amendment.

CARRIED (10/2)

COUNCIL DECISION ITEM 7.1.2

The Mayor put the Amended Motion

That the Minutes of the Special Council Meeting held 6 June 2007 be amended on page 5, following the heading: Declaration of Interest Cr Doherty Item 6.2 part (b)(1), to include the following statement from Cr Doherty and Memo to Cr Doherty from the CEO.

Statement in relation to Code of Conduct issue:

- Appreciate possibility of Code of Conduct issue being brought to my attention by the CEO.
- Identification that matter had the potential to escalate if not addressed
- Concern regarding manner in which way this was issue was presented to me as a Councillor.
- In spirit of co-operation I had previously offered assistance to the CEO regarding the process of compiling list of mediators/facilitators because of my experience in mediation.
- Initiation of communication with channels still open.
- Accepted this offer was not taken up.
- In the context of my open communication, upon receiving notification from the CEO on Friday of last week in my weekly satchel re possible Code of Conduct issue I felt was both confrontational and adversarial.
- The comment in the Memo "*If conflict of interest situations are not properly identified and managed, they can endanger the integrity of the organization*" resulted in my feeling deeply hurt that my integrity had been called into question in this manner.
- Would sincerely have appreciated either a phone call or email message from the CEO advising that he had concerns about a possible Code of Conduct issue and even the opportunity to talk about the possible issue.

- Receiving document in this manner displayed both a lack of respect for me as a Councillor and poor interpersonal skills by the CEO.
- Through my actions as a Councillor I have publicly shown that I am more than willing, committed and ready to move on.
- The reinstatement of trust, respect and goodwill is not a one way street for this Council.
- The manner in which I was advised of a possible Code of Conduct issue clearly reflects that as a Councillor it is not a journey I travel alone as all parties need to work together to reach the best possible joint decisions that the circumstances allow.

Memo from CEO to Cr Doherty dated 1.6.2007 re Code of Conduct issue:

I feel it is necessary and appropriate to draw to your attention to the possibility of a Code of Conduct issue regarding a matter that you are involved in and the potential for it to escalate if it is not addressed. The matter concerns the City of South Perth Inquiry Report and in particular Recommendation 1 that deals with the need for mediation services.

You may recall that at the May Council meeting you moved and spoke on the following motion which was ultimately adopted by Council:-

Moved Cr Doherty, Sec Cr Hearne

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.*

CARRIED (10/1)

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

When the Administration began to implement Council's decision the websites of LEADR and IAMA were reviewed for contact details and it was noticed that the website of IAMA indicates that a Kim Doherty is recorded as the Deputy President of that organisation. It is understood that Kim is your husband. Your name is also recorded on the website - albeit in relation to an old subject.

On the basis that the website is correct and current and that the Kim Doherty referred to is your husband, I believe it would be in your best interest to record a declaration of a "Conflict of Interest" when this particular matter is discussed at the Special Council meeting on 6 June (and any other Council meeting at which mediation services relating to the Inquiry Report is discussed that relate to the May resolution). I say this because, you may recall that the Code of Conduct at clause 2.1 deals with Conflicts of interest and the relevant sections are repeated as follows:

2.1 Conflicts of Interest

- (a) *Members and employees will ensure there is no actual or perceived conflict or incompatibility between their personal interests and the impartial fulfilment of their public and professional duties.*
- (b) *Where a member or employee has a conflict of interest referred to in (a) above then that member or employee will openly and fully disclose the conflict of interest.*
- (f) *Members will make a disclosure before dealing with a matter that involves relatives or closely associated persons and will disqualify themselves from dealing with such a matter.*
- (g) *The onus is on members and employees to identify possible conflicts of interest and to determine whether such interests exist.*

It is acknowledged that the Code of Conduct is not legally binding or legally enforceable, but I am aware that the Inquiry Report attaches significant importance to it and its application.

I am sure you would be aware that in the public sector context, a conflict of interest involves a conflict between duty as a public officer, and personal or private interests. Conflicts of interest can also be perceived or potential. The perception that an elected member's private interests could improperly influence their public duty can be as important as an actual conflict of interest. This is because public confidence in the integrity of the organisation is vital.

A potential conflict of interest arises where an elected member has private interests that could conflict with their official duties in the future. Another type of conflict of interest can exist where an elected member has competing interests through more than one official role, or public duty. Conflicts of interest can occur quite frequently and are not necessarily unethical, or wrong. However, it is how they are identified and managed that is important. If conflict of interest situations are not properly identified and managed, they can endanger the integrity of organisations.

Having said that, I am very well aware that your involvement was for the best of intentions and these were well articulated and expressed publicly at the May Council meeting during the debate on the matter when you stressed the need for the highest standard independence when selecting a mediator. I also acknowledge your involvement has been to progress the important matter of mediation as quickly as possible and it is recognised that you have special knowledge and experience in this area.

In view of the contents of the Code of Conduct, could I respectfully suggest that you consider making a declaration of interest when this matter comes before Council, so that the matter of conflict of interest can be publicly recorded.

CARRIED (10/2)

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

13. QUESTIONS FROM MEMBERS WITHOUT NOTICE

13.1.1 LGMA Media Release 28.3.2007 : Cr Jamieson

Summary of Question

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

Summary of Response

The Mayor stated that the media statement referred to general comments made by the LGMA President, Mr Eric Lumsden. He further advised that the question was taken on notice.

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

In accordance with Clause 5.4 of the City’s Standing Orders as follows:

- (1) *In cases of extreme urgency or other special circumstances, matters may, on a motion by the Presiding Member that is carried by the meeting, be raised without notice and decided by the meeting.*
- (2) *In subclause (1), 'cases of extreme urgency or other special circumstances' means matters that have arisen after the preparation of the agenda that are considered by the Presiding Member to be of such importance and urgency that they are unable to be dealt with administratively by the City and must be considered and dealt with by the Council before the next meeting.*

an item of ‘New Business of an Urgent Nature’ has been received from Cr Jamieson calling for a report to be prepared outlining strategies and process for the development of a Cat Local Law. A copy of the proposed Motion together with ‘Member Comments’ was circulated to Members prior to the meeting.

COUNCIL DECISION ITEM OF NEW BUSINESS OF AN URGENT NATURE

Moved Mayor Collins, Sec Cr Trent

That the item of new business introduced by Cr Jamieson be discussed.

CARRIED (12/0)

MOTION

Moved Cr Jamieson, Sec Cr Wells

That in order to promote responsible cat ownership, a report be prepared for the September 2007 Council meeting outlining alternative strategies and process for the development of a Cat Local Law.

Cr Jamieson opening for the Motion

- Goal 3 of City’s Strategic Plan states:
 - sustainably manage, enhance and maintain the City's unique, natural and built environment
 - develop and implement a Sustainability Strategy and Management System to coordinate initiatives contained in associated Management Plans and to ensure City's environment is managed in a sustainable way
- cats outside the control of owners are a known hazard to the natural environment
- cats have great night vision, climb trees, are intelligent, and are very good hunters
- in contrast our natural wildlife have not evolved with cats and hence have limited if any defence
- Byford Enviro Link advise that "Every cat that is allowed to wander kills an average of 25 native animals each year. "

- the City is lagging well behind other WA Councils in cat controls who either have or are in the process of creating cat local laws
- CEO's comments in the last Agenda on this item states: *The creation of a Cat Local Law will be controversial and will therefore require a robust development process including considerable community involvement. This will take some time and effort to complete.*
- thank CEO for allowing me to put forward this item

Cr Wells for the Motion

- understand it being brought forward as item not considered at last month's meeting
- CEO suggested it could be brought forward under urgent business to which I agreed

COUNCIL DECISION ITEM 14

The Mayor put the Motion

That in order to promote responsible cat ownership, a report be prepared for the September 2007 Council meeting outlining alternative strategies and process for the development of a Cat Local Law.

CARRIED (10/2)

15. MEETING CLOSED TO PUBLIC

15.1 Matters for which the Meeting May be Closed.

15.2 Public Reading of Resolutions that may be made Public.

16. CLOSURE

The Mayor closed the meeting at 11.55pm 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.

