

## **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 27 March 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, in particular Nadia and Stephanie students from Ursula Frayne Catholic College who are currently studying politics.

**2. DISCLAIMER**

The Mayor read aloud the City's Disclaimer

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

Present

Mayor J Collins, JP (Chairman)

Councillors:

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

Officers:

Mr C Frewing	Chief Executive Officer
Mr R Burrows	Director Corporate and Community Services (until 10.30pm)
Mr S Cope	Director Strategic and Regulatory Services (until 10.30pm)
Mr M Kent	Director Financial and Information Services (until 10.30pm)
Mr L Croxford	Acting Director Infrastructure Services (until 10.30pm)
Mr C Buttle	Manager Development Assessment (until 10.30pm)
Ms D Gray	Manager Financial Services (until 10.30pm)
Ms A Spaziani	Manager Human Resources (from 8.00pm)
Mr S McLaughlin	Legal and Governance Officer
Ms R Mulcahy	City Communications Officer (until 10.30pm)
Mrs K Russell	Minute Secretary

Gallery

Approximately 28 members of the public and 2 members of the press were present in the gallery

**4. DECLARATION OF INTEREST**

The Mayor reported to the meeting Declarations of Interest from:

- Cr Best in relation to Agenda Item 9.3.2
- Cr Wells and the Chief Executive Officer in relation to Agenda Item 9.7.1(b)
- Cr Smith in relation to Agenda Item 11.2
- Chief Executive Officer in relation to Agenda Item 13.1.2; and
- Cr Gleeson in relation to Agenda Item 13.1.3

He then read aloud the Declarations as detailed in the Minutes before Items 9.3.2, 9.7.1(b), 11.2, 13.1.2 and 13.1.3 respectively.

**5. PUBLIC QUESTION TIME**

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

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

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

Summary of Question

In relation to vehicles parked on the street displaying an illegal 'for sale' sign - I have written to Council three letters on this matter but the vehicles are still there. What action has been taken?

Summary of Response

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

The City officers have replied to your previous correspondence in relation to the matters that you have raised. Your original letter of 18 May 2006 referred to the residents in your street parking their vehicles on the road instead of on their properties. The Manager Engineering Infrastructure replied to your letter on 29 May 2006, advising you that this practice was not illegal and your request to the City to prevent this from occurring was not supported.

In your second letter of 6 June 2006 you acknowledged the City's reply to your first letter and advised that a vehicle was being advertised for sale on the road. This was the first time the City became aware of this matter. You also advised that the vehicle was no longer being advertised for sale and that your complaint was the vehicle being parked on the road. The Manager Engineering Infrastructure replied to your letter on 23 June 2006, again advising you that your request was not supported.

The third letter was received by the City on 1 February 2007 and I confirm that your complaint has been investigated by the City's Community Ranger Service. The owner of a vehicle which may have been left on the street for an extended period was instructed to relocate the vehicle on to private property, or risk having it impounded under the provisions of the City's Parking Local Law. I confirm that the vehicle has now been relocated on to private property.

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

Summary of Question

Re 'Excelsior' 152 Mill Point Road. In November 2005 I gave a letter to the Mayor listing several buildings, both built and not built, expressing my concern to what I believed to be excess plot ratios of the buildings. This resulted in the commissioning of the "Belmont Report". The City issued a 'stop work' notice on a domestic shed in Lansdowne Road, Kensington that it believed did not comply with planning approval. Given that there is strong grounds to believe that this building does not comply with planning approval, will the City be issues a 'stop work notice'? Will the City be writing to the developer reminding them of the condition of planning consent in respect to plot ratio?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 9 March 2007, a summary of which is as follows:

The developer is aware of the need to construct the building in accordance with the approved drawings and conditions of approval, and there is no evidence to suggest that the building is being built otherwise than in accordance with the approved drawings and conditions of approval. Having regard to the preceding comments, the City will not be issuing a stop work notice in relation to this development and it is considered unnecessary to write to the developer in relation to the conditions of approval.

**5.1.3. Ms Diane Cheong, 18 Murray Street, Como (representing Neighbourhood Watch)**

Summary of Question

In relation to a development site in McDonald Street I have received a complaint about the amount of rubbish on and around this site. Does Council provide rubbish bins for workers on development sites?

Summary of Response

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

Council does not provide bins for building sites. However, under the provisions of the building licence issued to the builders, they are required to provide adequate refuse receptacles to contain all rubbish generated from the building site.

**5.1.4. Cr Lindsay Jamieson, 14 Tralee Way, Waterford**

Summary of Question

**Question 1.** This question is based on non-confidential public information.

On 24 October 2006 Council passed a motion in Agenda Item 9.5.2 that expressed dissatisfaction of the State Government's handling of the changes to Local Government voting legislation. The motion specifically had the words of "no confidence" removed between the motion in the meeting agenda and the motion presented to, and subsequently adopted by, Council. On 27 October 2006 (three days later) there was a press release from Mayor Collins that states in part that "the City has adopted a motion of no confidence in the State Government". This was not true.

The reporting in the Southern Gazette on this matter stated that “The City of South Perth has hit out at planned changes to local government voting methods - but stopped short of declaring a vote of no confidence”. It is interesting that the Southern Gazette was correct and the Media Statement from Mayor Collins is not correct. On 28 Nov 2006 Council passed a motion, agenda item 12.2, of “no confidence in the Mayor of the City of South Perth, Mr John Collins, for his failure to comply with all aspects of s.2.8 of the Local Government Act”. There was no associated press release. A media statement was released on 18 December 2006 attributed to Mayor Collins. In response to the question “Why do you believe a motion of no confidence was passed against you?” the media statement stated “The motion of no confidence is related to the fact that the Department of Local Government is conducting an authorised enquiry into an aspect of the City’s affairs.” This response is not consistent with the motion of no confidence that was carried, nor the debate that preceded the passing of the motion of no confidence.

- (a) Do you believe that media releases, media statements and any other form of communication with the media from you and by the city should represent the truth, the whole truth and nothing but the truth?
- (b) Why do you put out a media release that states that council adopted a motion of no confidence in the state government when this did not occur?
- (c) Why did you NOT put out a media release about council adopting a motion of no confidence in you that did occur?
- (d) Why did your media statement on 18 December 2006 refer to a single issue of an inquiry when that is not supported by the motion that was carried, nor the debate that occurred in the chamber?
- (e) Do you believe that the media releases and media statements on these matters have represented the truth, the whole truth and nothing but the truth?
- (f) Are you going to provide additional media releases or media statements to rectify any anomalies from previous media releases or media statements?

#### Summary of Response

A response was provided by the Mayor, by letter dated 15 March 2007, a summary of which is as follows:

#### **Question 1 - parts (a) &(b)**

One of the roles as Mayor includes the statutory obligation to speak on behalf of the City on issues of interest and which I consider to be important to the wellbeing of the community. It is noted that since the Council was elected some 500 Media Releases have been issued.

The media release which was issued on 27 October 2007 had been prepared before Council decided to delete the reference to a no-confidence motion. The City’s Communications Officer rang the journalist at the *Southern Gazette* to advise him of the terms of the motion as passed. The *Southern Gazette*, whose journalist was absent from this part of the Council meeting, was thereby able to report the motion correctly.

#### **Question 1 - parts (c) to (f)**

I did not put out a media release concerning Council’s no-confidence motion. I was approached by the *Southern Gazette* for an interview and I obliged.

The reference to the Departmental Inquiry was made by the mover of the Motion who cited my referral of Code of Conduct matters to the Department in support of his Motion.

**5.1.5. Cr Lindsay Jamieson, 14 Tralee Way, Waterford**

**Question 2.** This question is based on non-confidential public information.

On 19 December 2006 Agenda Item 13.1.2 Council adopted a Motion that states:

“....(d). Council notes with concern the lack of co-operation received from the CEO with regard to the implementation of Council’s resolution of 28 November 2006.”

On 20 December 2006 there was a media statement with the following attributed to the CEO: “The CEO accepts resolutions (a) (b) and (c) but does not agree with (d). The CEO has fully complied with the November resolution. There is no factual basis on which this decision was made and it is not justified. The COSP Code of Conduct section 1.4 (e) (vi) states that the role of the CEO includes to: “speak on behalf of the City on operational matters.” The City of South Perth Code of Conduct section 3.4 (b)(iii) states that employees: “will follow the policies, management practices and decisions of the City and Council, whether or not they approve, and will support City and council decisions”.

- (a) In your opinion, in the Media Statement on 20 December 2006 was the CEO outside his role of speaking on operational matters as defined code of Conduct section 1.4 (e) (vi) by speaking about a council decision he did not agree with?
- (b) In your opinion, in the Media Statement on 20 December 2006 was the CEO outside his duties as defined in Code of Conduct section 3.4 (b) (iii) by publicly disagreeing with the council decision?
- (c) Do you agree that the appropriate action if the CEO disagreed with a Council decision would be a memorandum to council members instead of a Media Statement?
- (d) What action have you taken with respect to the Code of Conduct and the CEO’s media statement of 20 December 2006?
- (e) What action will you be taking with respect to the Code of Conduct and the CEO’s media statement of 20 December 2006?
- (f) Do you acknowledge there may be a breach of the Code of Conduct in the CEO’s media statement of 20 December 2006?

Summary of Response

A response was provided by the Mayor, by letter dated 15 March 2007, a summary of which is as follows:

Section 5.41 of the *Local Government Act* sets out the functions of the Chief Executive Officer, including speaking on behalf of the local government if the Mayor agrees.

The Media Statement dated 20 December 2006 was prepared in response to an inquiry from the *Southern Gazette* which thought that a censure motion had been passed at the December 19 Council meeting.

In view of the fact that:

- (i) the motion in question related to a continuing review of the CEO’s KPI’s;
- (ii) there was no demonstrable basis for part (d) of the motion;
- (iii) the CEO’s **rebuttal** to the assertion which was made in a confidential session is not publicly available; but
- (iv) the negative connotation arising from the motion is public.

I consider that the CEO’s response was reasonable and appropriate in all the circumstances and within his statutory powers. I do not consider that there has been any breach of the Code of Conduct.



**5.1.6. Cr Lindsay Jamieson, 14 Tralee Way, Waterford**

**Question 3.** This question is based on non-confidential public information.

I viewed a document in the Councillors' lounge titled Memorandum of Understanding between Rotary clubs of Como, Mill Point and South Perth and the City of South Perth 1 January 2007. The last page has the signatories dated 20 December 2006: Signed on behalf of the City of South Perth - John Collins; Signed on behalf of the Rotary Club of Como; Signed on behalf of Rotary Club of Mill Point; Signed on behalf of the Rotary Club of South Perth. My questions relate to the process leading up to the signing of this Memorandum of Understanding, not the content of the memorandum.

- (a) Was there a Council briefing session held on this matter? If Yes then please advise the date.
- (b) Was there a Council meeting that considered and accepted the Memorandum of Understanding? If yes then please advise the meeting date and Agenda Item Number.
- (c) Does the City possess any documentation to establish that the Rotary Club of Como as a body accepted the memorandum (e.g. minutes of a committee meeting)? If Yes then please provide a copy.
- (d) Does the City possess any documentation to establish that the Rotary Club of Mill Point as a body accepted the memorandum (e.g. minutes of a committee meeting)? If Yes then please provide a copy.
- (e) Does the City possess any documentation to establish that the Rotary Club of South Perth as a body accepted the memorandum (e.g. minutes of a committee meeting)? If Yes then please provide a copy.
- (f) What agreement or understanding documents has the Mayor signed on behalf of the City without first establishing agreement with Council? If there are any then please provide a copy.
- (g) In signing the MOU with the Rotary Clubs, did this follow a City and Council process for similar agreements such as the "Millennium Kids"? If not then what were the differences and why did you do it differently?

Summary of Response

A response was provided by the Mayor, by letter dated 15 March 2007, a summary of which is as follows:

**Question 3 - parts (a) and (b)**

The Memorandum of Understanding between the City and the three local Rotary Clubs which was signed in December 2006 provides some formal acknowledgement of the arrangements which have been in place for some years concerning the collaborative efforts of the parties in running major South Perth community events such as Skyworks, Fiesta, Australia Day Breakfast and more recently the Red Bull Air Race.

As indicated in an Item in the December 22 edition of The Bulletin, the MOU outlines the objectives for the organisations involved and provides the opportunity for developing a more coherent collaborative framework for undertaking such projects.

As such the MOU is a non-binding agreement and accordingly is not the subject of Council meetings. It is noted that a number of councillors are also members of the Rotary clubs.

**Question 3 - parts (c) to (e)**

The MOU is signed by the Presidents of each of the three Rotary Clubs on behalf of the respective club under the authority that is attached to that position. Questions about the constitutional arrangements and internal decision-making processes of the clubs should be directed to the relevant club.

**Question 3 - parts (f) and (g)**

Council is consulted in relation to binding legal agreements as required under the *Local Government Act* or other written law.

Community Partnership Agreements with the Millennium Kids, Perth Zoo, Southcare and the South Perth Church of Christ are the subject of Council meetings because of their different character.

**5.2 PUBLIC QUESTION TIME : 27.3.2007**

Opening of Public Question Time

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

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

Summary of Question

Can the Council indicate today a definite time line for proceeding to formation of a separate precinct and Precinct Plan for the Waterford Triangle in line with last month's Council discussion? If not, when does Council intend this time line to be made available?

Summary of Response

The Director Strategic and Regulatory Services stated the question was taken on notice.

Summary of Question

Can Council elucidate the progress to date of any action to develop an area planning scheme that would give residents and ratepayers options for their future viability as a significant area of interest for small households (students or otherwise)? What actions are proposed for the coming month and who will be actioning them?

Summary of Response

The Director Strategic and Regulatory Services stated the question was taken on notice.

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

Summary of Question

Refer to Agenda Item 13.1.3: What is it about?

Summary of Response

The Mayor stated Item 13.1.3 was a *Confidential* late report.

Summary of Question

In relation to the Annual Compliance Return, and the question: *were all questions raised by members of the public answered...* the response in the Return is showing as yes. Is Council aware that Council did not answer all questions?

Summary of Response

The Chief Executive Officer replied that as far as he was aware all questions asked during the 15 minutes allocated to public question time were answered. He further stated that on occasions if time did not permit all questions from the public gallery to be asked, that those questions were 'tabled' and responded to in writing.

**5.2.3. Cr Lindsay Jamieson, 14 Tralee Way, Waterford**

Summary of Question

Since the time when Council adopted a Motion of No Confidence in you in November 2006, I am advised that your assistant, Ms Shorter, at your request, organised or attempted to organise personal meetings with some Councillors.

- (a) What was your criteria for selecting those Councillors to attempt to have a personal meeting?
- (b) By attempt to have meetings with some Councillors but not others, do you believe you are treating all councillors equally? If not, then why are you not treating all Councillors equally?
- (c) Did any of the Councillors contacted by Ms Shorter agree to meet with you? If yes then how many?
- (d) Did any of the Councillors contacted by Ms Shorter decline to meet with you? If yes then how many and what were their reason(s)?
- (e) If you do wish to treat all Councillors equally, under those circumstances I would be pleased to discuss issues about the No-Confidence Motion. Are you going to treat all Councillors equally?

Summary of Response

The Mayor stated that he believed he treated all Councillors equally. He further stated that he believed that about 4 years ago he had taken Cr Jamieson out to lunch.

Summary of Question

On 28 November 2006 Council passed a Motion, Agenda Item 12.2, of No Confidence in you. Following the vote you made statements, recorded in the Minutes, about a Kangaroo Court. I had recorded in the Minutes my objection to your comments (as did Councillor Smith). The Minutes also show that you repeated the Kangaroo Court statement after my objection. I have the following definition of a kangaroo court:

<http://legal-dictionary.thefreedictionary.com/kangaroo+court> **kangaroo court** n. 1) *a mock court set up without legal basis, such as a fraternity, sports team or army squad might set up to punish minor violations or organizational decorum.* 2) *slang for a court of law in which the violations of procedure, precedents, and due process are so gross that fundamental justice is denied. It usually means that the judge is incompetent or obviously biased.*

- (a) Does your definition of a Kangaroo Court match the definition I read out? If not, what is your definition of a Kangaroo Court?
- (b) Why did you close the debate early when not all Councillors that wanted to speak to the Motion had spoken?
- (c) Before the vote was taken, did you anticipate that more than two Councillors would vote for the Motion (ie more than the mover and seconder)?
- (d) I was not a party to the Motion and I voted based on my knowledge of subject of the Motion and the content of the arguments presented. Did you include me as one of the Councillors you said were involved in a Kangaroo Court?
- (e) Are you going to apologise to me for your comments which imply my involvement in a Kangaroo Court?

Summary of Response

The Mayor replied that the Minutes of 28 November 2006 have been confirmed and adopted. He further thanked Cr Jamieson for providing a definition of 'kangaroo court'.

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

Summary of Question

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

Summary of Response

The Mayor responded that the questions were taken on notice.

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

Summary of Questions

In relation to graffiti:

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

Summary of Response

The Mayor responded that the questions were taken on notice.

Summary of Questions

In relation to Ryrie Reserve:

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

Summary of Response

The Mayor responded that the questions were taken on notice.

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

Summary of Question

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

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

Summary of Response

The Mayor responded that the questions were taken on notice.

Summary of Question

On the 19 January 2007, I met with staff and consultants of the City to review 21 South Perth Esplanade for nearly 4 hours. The report by Mr Semec dated 14 February was a *Confidential* Attachment 9.0.3(a). Given that I spent a considerable amount of time in assisting the City with the assessment of this building, could I or the KCA (Kensington Community Association Inc) have a copy of Mr Semec’s report?

Summary of Response

The Chief Executive Officer stated that he could certainly provide Mr Defrenne with a summary of the outcome of the item in question.

**5.2.7. Mr Brett Jackson, 20 Ridge Street, South Perth**

Summary of Question

I have noticed recently a lot of press about Councillors interaction with the working staff. Is the City running effectively in light of these issues?

Summary of Response

The Mayor acknowledged that in press reports and at meetings that there certainly have been personal issues drawn into Council business. He further stated that Council is currently endeavouring to work through these issues and that hopefully this will come about.

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

Summary of Questions

Can the Council now indicate what funding is believed to be necessary to create a plan for revitalisation of the Triangle or the stated “design review” specified in last months minutes? If so, what amount has been determined? If not, what parameters are being applied for the design review?

Summary of Response

The Mayor responded that the questions were taken on notice.

Summary of Question

Would Council be willing to make a visit to the Waterford Triangle, to include relevant planning and services officers, Councillors and local ratepayers, at a date to be determined prior to the next Council meeting?

Summary of Response

The Mayor responded that the questions were taken on notice.

**5.2.9. Ms Jan Semple, 80 Monash Avenue, Como**

Summary of Question

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

Summary of Response

The Mayor responded that the questions were taken on notice.

EXTENSION OF TIME

Moved Cr Jamieson, Sec Cr Best

That Public Question Time be extended to allow for further questions from the public gallery.

CARRIED (13/0)

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

Summary of Questions

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

Summary of Response

The Mayor responded that the questions were taken on notice.

Summary of Question

I note in the Delegate's Report the Mayor has requested that the Chief Executive Officer organise a Briefing in relation to the Precinct Plan. Given that the plans for this precinct will greatly affect the neighbouring suburbs, will this Briefing be open to the public?

Summary of Response

The Chief Executive Officer stated that the initial meeting would normally be held with the consultant, relative government agencies and Council. He said that following the initial meeting that Council would form a position so that it could communicate with the community with some direction in place.

The Mayor advised that there is a Technology Precinct Committee meeting with the Minister scheduled for Wednesday 28 March at which time the City will be trying to find out the position on what they are proposing to do and effectively run through any proposed amendments which would mean consultation with the community and in particular the Kensington area which is one of the prime areas of the Precinct Plan.

Summary of Questions

Developers frequently give presentations to Council at briefing sessions. Will residents be able to attend such briefing sessions so that they can be as familiar with such proposals that affect them as the Council? Is there any reason that these briefing sessions are confidential?

Summary of Response

The Chief Executive Officer stated that at this stage Council has not commenced 'Developer Briefing Sessions'. When commenced and after a trial period Council would decide whether to open them to the public. He further stated that what is about to commence is briefing sessions for major developments with the developers attending.

Summary of Question

Will the proposed briefing sessions relating to major developments be open to the public?

Summary of Response

The Chief Executive Officer replied that this has not yet been decided.

The Mayor added that he had seen it in other Councils and that it worked well.

<b>5.2.11. Mr John Stewart, 7 Keaney Place, Waterford also representing 5 other residents</b>
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Summary of Question

Can Council indicate whether they have now researched the level of support services required beyond what Council itself has in-house and what such services might be? If not, when can we expect this to occur?

Summary of Response

The Mayor responded that the questions were taken on notice.

Summary of Question

Can Council now confirm that the terminology "key stakeholders" reflects current international participatory planning practices in that those who have a "direct financial, and/or livelihood and habitation" interest are the primary stakeholders and agencies that support such interests are essential but secondary stakeholders. This confirms the role of ratepayers as key stakeholders in any planning process and ensures their presence at all meetings concerning the area in question.

Summary of Response

The Chief Executive Officer stated that currently there has been no work done on who are our primary and secondary stakeholders at this time.

The Director Strategic and Regulatory Services confirmed that residents were consulted on Stage 1 of the study for the area and said that the question was taken on notice.

Close of Public Question Time

There being no further questions from the public gallery the Mayor closed public Question time at 7.35pm

## 6. CONFIRMATION OF MINUTES / BRIEFINGS

### 6.1 MINUTES

#### 6.1.1 Ordinary Council Meeting Held: 27.2.2007

##### MOTION

Moved Cr Ozsdolay, Sec Cr Macpherson

That the Minutes of the Ordinary Council Meeting held 27 February 2007 be taken as read and confirmed as a true and correct record.

##### AMENDMENT

Moved Cr Jamieson, Sec Cr Macpherson

That the Minutes of the Ordinary Council Meeting held 27 February 2007 be amended at the top of page 154 under the item: **Note:** Cr Gleeson retired from the meeting at 12.20am to include the following additional words: *exclaiming 'you're all idiots' as he rose and left the Chamber.*

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

The Mayor put the Amendment.

CARRIED (11/2)

#### **COUNCIL DECISION ITEM 6.1.1**

The Mayor put the Amended Motion

That the Minutes of the Ordinary Council Meeting held 27 February 2007 be amended at the top of page 154 under the item: **Note:** Cr Gleeson retired from the meeting at 12.20am to include the following additional words: *exclaiming 'you're all idiots' as he rose and left the Chamber.* and with the foregoing amendment be taken as read and confirmed as a true and correct copy.

CARRIED (13/0)

#### 6.1.2 Audit and Governance Committee Meeting Held: 13.3.2007

#### **COUNCIL DECISION ITEM 6.1.2**

Moved Cr Doherty, Sec Cr Ozsdolay

That the Minutes of the Audit and Governance Committee Meeting held 13 March 2007 be received.

CARRIED (13/0)

### 6.2 BRIEFINGS

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

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



**6.2.1 Agenda Briefing - February Ordinary Council Meeting Held: 20.2.2007**

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

**6.2.2 Capital Projects Workshop Meeting Held: 21.2.2007**

Officers of the City facilitated this Workshop, presented background on capital projects and answered questions on specific items. Notes from the Agenda Briefing are included as **Attachment 6.2.2.**

**6.2.3 Concept Forum - Civic Halls Study Meeting Held: 6.3.2007**

Ms Lisa Lough from CATALYSE presented the results of the City of South Perth Community Centre Feasibility Study. Officers of the City and presenter Lisa Whitehead gave an overview on the City's Civic Halls and answered questions on specific items. Notes from the Agenda Briefing are included as **Attachment 6.2.3.**

**COUNCIL DECISION ITEMS 6.2.1 TO 6.2.3 INCLUSIVE**

Moved Cr Ozsdolay, Sec Cr Trent

That the comments and attached Notes under Items 6.2.1 to 6.2.3 inclusive on Council Agenda Briefings held since the last Ordinary Meeting of Council on 27 February 2007 be noted.

CARRIED (13/0)

**7. PRESENTATIONS**

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

**7.1.1 Petition dated 22.2.2007 received from N. Worthington, 13/38 Walanna Drive, Karawara together with 30 signatures requesting a name change to the Walanna Service Road in Karawara.**

**The 'summary' text of the petition reads:**

*"Request to change Walanna Service Road in Karawara to **Walanna Close, Court, Road or Service Road** with adequate signage such as a lamp-post street sign and is mapped in the Metropolitan Street Directory so that it can be easily found by all users, particularly emergency services."*

**RECOMMENDATION**

That the Petition dated 22 February 2007 received from N Worthington, 13/38 Walanna Drive, Karawara together with 30 signatures requesting a name change to the Walanna Service Road in Karawara be received and forwarded to the Strategic and Regulatory Services Directorate for investigation.

**COUNCIL DECISION ITEM 7.1.1**

Moved Cr Cala, Sec Cr Trent

That the Petition dated 22 February 2007 received from N Worthington, 13/38 Walanna Drive, Karawara together with 30 signatures requesting a name change to the Walanna Service Road in Karawara be received and forwarded to the Strategic and Regulatory Services Directorate for investigation.

CARRIED (13/0)

## **7.2 PRESENTATIONS**

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

Nil

## **7.3 DEPUTATIONS**

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

### Opening of Deputations

The Mayor opened Deputations at 7.45pm and advised that speakers would be permitted 10 minutes each to address the Members.

#### **7.3.1. Mr Charles Pace of Pace Projects representing applicant Agenda Item 9.0.1**

Mr Pace spoke against the officer recommendation, circulated amended plans relating to the proposal and raised the following points:

- amended plans address setback / visual privacy issues
- part (a) of officer recommendation in relation to construction materials not supported
- adjoining neighbour has no objections to materials used
- suggested use of concrete tiles to match existing ground floor dwelling not considered practicable - new materials as proposed would be preferable

#### **7.3.2. Mr Barrie Drake, 2 Scenic Crescent, South Perth Agenda Item 9.0.2**

Mr Drake spoke against the officer recommendation, stated it was his third Deputation on this topic, referred to documentation previously circulated to Members and again raised the following points in relation to the building at No. 11 Heppingstone Street:

- does not comply with 'grant for Planning Consent'
- it is too high by over 3 metres
- its is too big by almost 100 sq.metres; and
- it is too close to all boundaries and specifically Lamb and Heppingstone Streets
- SAT found building 95 sq.metres over built
- property owners have committed a breach / offence
- seek Council support that the property owners be issued with an Order to bring building into line
- Councillors are responsible for the good governance of the City of South Perth.

#### **7.3.3. Cr James Best, 77 Dyson Street, Kensington Agenda Item 9.7.1(c)**

Cr Best, in relation to Agenda Item 9.7.1(c) 'Compliance Audit Return' and in particular to lodgement of his Primary Return asked Council to accept his mistake and apology in not lodging the Return within 3 months of becoming a Councillor. He advised that he had written to the Department of Local Government in relation to this matter and had received a reply from them suggesting that a personal reminder be put in place for future Returns.

**7.3.4. Cr Bill Gleeson, 95 Canning Hway, South Perth Agenda Item 11.1**

Cr Gleeson made the following statement in relation to Agenda Item 11.1: I unreservedly apologise for my inappropriate behaviour at the February 2007 Council meeting. I respect the processes and the Code of Conduct of the Council and for the future, reaffirm my promise to act in accordance with the Code of Conduct guidelines for behaviour. This public apology is sincerely given and I trust it will be received in the spirit in which it is given.

Close of Deputations

The Mayor closed Deputations at 8.05pm and thanked everyone for their comments.

**7.4 DELEGATE'S REPORTS**

Delegate's written reports to be submitted to Minute Secretary prior to **9 March 2007** for inclusion in the Council Agenda.

**7.4.1. Delegates Report - Technology Precinct Steering Committee Held 27 February 2006.**

A report from Mayor Collins summarising the first meeting of the Technology Precinct Steering Committee Meeting Held 27 February 2007 is at **Attachment 7.4.1.**

RECOMMENDATION

That the Delegate's Report in relation to the Technology Precinct Steering Committee held 27 February 2007 be received.

**COUNCIL DECISION ITEM 7.4.1**

Moved Cr Ozsdolay, Sec Cr Trent

That the Delegate's Report in relation to the Technology Precinct Steering Committee held 27 February 2007 be received.

CARRIED (13/0)

**8. ANNOUNCEMENTS FROM THE CHAIRPERSON**

**8.1 Method of Dealing with Agenda Business**

The Mayor advised the meeting of the en bloc method of dealing with the items on the Agenda. He then sought confirmation from the Chief Executive Officer that all the en bloc items had been discussed at the Agenda Briefing held on 20 March 2007.

The Chief Executive Officer confirmed that this was correct with the exception of the late *Confidential* Item 13.1.3, circulated after the Briefing and the issuing of the final Agenda.

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

Moved Cr Trent, Sec Cr Doherty

That the officer recommendations in relation to Agenda Items 9.0.3, 9.3.1, 9.3.3, 9.5.1, 9.5.2, 9.6.1, 9.6.2, 9.6.4, and 9.6.5 be carried en bloc.

CARRIED (13/0)

## 9. REPORTS

### 9.0 MATTERS REFERRED FROM PREVIOUS COUNCIL MEETINGS

**9.0.1 Proposed Additions and Alterations to Grouped Dwelling. Lot 54 (No. 137B) Lansdowne Road, Kensington. (Item 9.3.5 referred from February 2007 Council meeting)**

Location: Lot 54 (No. 137B) Lansdowne Road, Kensington  
 Applicant: Infinite Developments Pty Ltd for owner Ms E Carey  
 Lodgement Date: 20 November 2006  
 File Ref: 11.2006.554 LA5/137 11/3484  
 Date: 9 March 2007  
 Author: Ms Lisette Turkington, Planning Officer and  
 Mr Christian Buttle, Manager, Development Assessment  
 Reporting Officer: Steve Cope, Director, Strategic and Regulatory Services

#### Summary

To consider an application for planning approval for upper floor additions and alterations to an existing Grouped Dwelling at Lot 54 (No. 137B) Lansdowne Road, Kensington.

The officer report recommends that the application be refused for various reasons, including the incompatible design between the proposed additions and the existing dwelling.

#### Background

The application was originally presented for consideration at the February Council meeting. However, Council resolved to defer its consideration of the application at that time to allow an assessment of amended drawings to be considered by City officers.

At the February meeting, Council resolved that:

*“The application for planning approval for second storey additions / alterations to a Grouped Dwelling on Lot 54 (No. 137B) Lansdowne Road, Kensington, be deferred to allow time for officers to assess the revised plans submitted by the proponent and that a further report be presented to the next Ordinary Meeting of Council for consideration, unless the revised plans satisfactorily address the concerns which have been raised, in which case officers be authorised to grant planning approval under delegated authority.”*

Further comment in relation to the amended drawings can be found under the heading of consultation within this report.

The building licence for the existing Two Single Storey Grouped Dwellings was approved on 15 January 1959, and it should be noted at that time there was not an operative Town Planning Scheme in place. The dwellings were then strata titled on 27 June 1972.

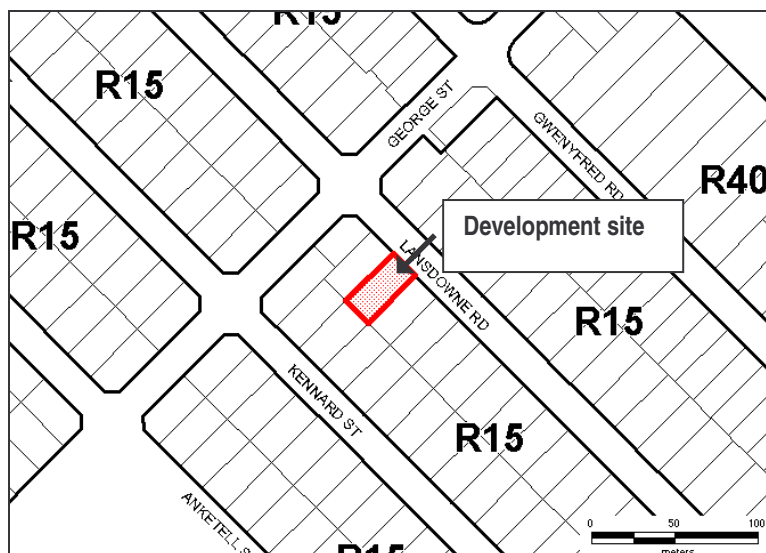
The development site details are as follows:

Zoning	Residential
Density coding	R15
Lot area	739 sq. metres
Building height limit	7.0 metres
Maximum plot ratio	Not applicable
Development potential	Two Grouped Dwellings (i.e. the existing development)

This report includes the following attachments:

- |   |  |
|---|--|
| <b>Confidential Attachment 9.0.1(a)</b> | Plans of the proposal (now superseded).                  |
| <b>Attachment 9.0.1 (b)</b>             | Letters of justification from Peter Webb and Associates. |
| <b>Confidential Attachment 9.0.1(c)</b> | Amended plans of the proposal.                           |

The location of the development site is shown below:



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

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

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

**Comment**

**(a) Description of the proposal**

The subject property is currently developed with two single storey Grouped Dwellings arranged in a side by side configuration.

The proposed additions to the left hand side dwelling at No. 137B incorporate minor ground floor works to accommodate a stairwell as well as an upper floor comprising an additional bedroom, ensuite and large activity room.

Whereas the existing dwelling has a predominantly tiled roof (with the exception of a small portion of metal roofing to the rear), the proposed additions incorporate metal roof sheeting.

**(b) Building design**

Given the incompatible roofing material, the proposed additions and alterations do not satisfy the provisions of Council Policy P370\_T General Design Guidelines for Residential Development which require additions and alterations to an existing building to be designed in such a way that they match that existing building.

Additionally, concern is held with respect to the compatibility of the design of the proposed upper floor roof in relation to the roof design of the existing building. The existing building incorporates a hipped roof while the proposed upper floor incorporates a gable roof design.

Further comment with respect to the design of the additions is made within the consultation section of this report.

**(c) Setbacks**

The proposed upper floor additions do not meet the Acceptable Development provisions of the R-Codes in relation to side setbacks as identified below:

- Upper floor left side of development:  
1.557 metre setback provided in lieu of prescribed 1.9 metre setback.
- Upper floor right side of development:  
Zero and 2 metre setback provided in lieu of prescribed 2.5 metre setback.

In addition to not meeting the Acceptable Development provisions of the R-Codes, the proposed setbacks are not seen to meet the associated Performance Criteria as the reduced setbacks do not assist in the protection of privacy between adjoining properties, do not assist with the protection of access to direct sun for adjoining properties and do not assist in ameliorating the impacts of building bulk on adjoining properties.

Having regard to the comments referred to above, the proposed setback variations are not supported.

**(d) Visual privacy**

Windows for the proposed upper floor Bedroom 4 are in conflict with the Residential Design Codes requirements for visual privacy. The openings will overlook the back garden of the adjoining grouped dwelling.

The upper floor Activity Room windows satisfy the provisions of the R-Codes with respect to visual privacy as the view from these windows will be over the roof and car parking area of the adjoining grouped dwelling and not over any 'sensitive' area.

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

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

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

Having regard to the comments referred to above, the proposed development is not seen to meet this overriding objective and other objectives of the Scheme.

In terms of the general objectives listed within Clause 1.6 of TPS6, the proposed development does not meet the following 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*

**(f) Other Matters to be Considered by Council: Clause 7.5 of the 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:

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

For reasons explained elsewhere in this report, it is considered that the proposal is not satisfactory in relation to these considerations.

**(g) Amended drawings**

Amended drawings were presented to the City shortly prior to the February Council meeting. As it was not possible to review these drawings prior to that meeting, Council resolved to defer its consideration of the application to give planning staff an opportunity to review the amended drawings. The amended drawings have been provided as **Confidential Attachment 9.0.1(c)** to this report and it is these drawings upon which the Council will now make its determination.

The amended drawings differ only very marginally from those which were previously presented to Council with the changes summarised as follows:

- Side Setback (LHS): The side setback to the left hand (south-eastern) property boundary has been increased from 1420mm to 1557mm.
- Side Setback (RHS): The side setback to the right hand (north-western) property boundary has been reduced from 2168mm to 2020mm.
- Ground Floor Plan: No change.
- Upper Floor Plan: No practicable change (width of rooms have changed marginally - Bed 4 has reduced from 4290mm to 4153mm, width of Activity has increased from 6152mm to 6153mm and width of stair has reduced from 2168mm to 2020mm).
- Elevations: Minor adjustments to the design of the roof, although the basic form and shape of the roof remains consistent with that which had originally been proposed.

Having regard to the modifications which have been summarised above, the concerns that were raised in relation to the previous design still hold good. The inconsistent roofing material (tiles to existing roof vs. colorbond metal to proposed additions) and design (hipped roof to existing dwelling vs. gable end to proposed additions) both remain. Each of these matters has been identified as an area of concern by the City's Design Advisory Consultants.

**Consultation**

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

The design of the proposal was considered by the City's Design Advisory Consultants at their meeting held during December 2006 and January 2007. The Advisory Architects did not support the proposal due to the incompatibility with both the existing dwelling and the streetscape. Their more specific comments are summarised below:

December 2006 DAC meeting

It was recommended that the design should be modified to achieve the following:

- The roof should be redesigned to achieve compatibility with the existing roof of the dwelling in relation to form, pitch, and material.
- The drawings need to show that the material of the proposed walls will be compatible with the existing walls. Further details of existing materials are required. It is noted that there are discrepancies on the submitted drawings between the elevation drawings and the perspective views.

Following this meeting the applicant attempted to make the requested changes. The changes were not considered to adequately resolve the concerns noted so the application was subsequently reconsidered at the following meeting.

January 2007 DAC meeting

Having noted the revisions to the drawings previously considered, the Advisory Architects were of the view the revisions did not adequately address their previous concerns. They considered the following further modifications should be made:

- Over the full extent of the existing and proposed roofing of the applicant's dwelling and also the adjoining Grouped Dwelling, a consistent roofing material should be used, being either all tiles or all Colorbond metal.
- The setback of Elevation 3 (south-east) needs to be increased to comply with the R-Codes. Furthermore, to provide visual relief to this long elevation, greater articulation should be introduced.
- On Elevation 3 the minimal tiled roof projection is considered unsatisfactory.
- The roof of the proposed additions as viewed on Elevation 4 should be changed to a hip to achieve compatibility with the existing roof over the ground storey.

Planning Officers support the concerns expressed by the Advisory Architects.

**(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 owner of the property at No 137A Lansdowne Road was invited to inspect the application and to submit comments during a 14-day period. During the advertising period, one submission was received which objected to the proposal. This submission has been summarised and responses provided to all comments below.

Submitter's Comment	Officer Response
Concern regarding incorrectly labelled strata boundaries and the possibility additions are located on common property.	The strata plan was requested from the applicant which identified that the additions are not located on common property or on the neighbour's property. The comment is <b>NOTED</b> .



The comments do not relate to the boundary wall which was advertised, however the neighbour did verbally confirm she has no objection to the two storey additions on the strata boundary.

#### **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 as follows: *To sustainably manage, enhance and maintain the City’s unique, natural and built environment.*

<b>OFFICER RECOMMENDATION ITEM 9.0.1</b>
--

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for additions and alterations to grouped dwellings on Lot 54 (No. 137B) Lansdowne Road **be refused**, for the following reasons.

- (a) the proposed additions / alterations are contrary to the provisions of Council Policy P370\_T General Guidelines for Residential Development, owing to their incompatible design and construction materials;
- (b) the proposed building setbacks do not comply with those prescribed within Clause 3.3.1 “Buildings Set Back from the Boundary” of the Residential Design Codes 2002; and
- (c) the proposed additions / alterations do not comply with the requirements contained within Clause 3.8.1 “Visual Privacy” of the Residential Design Codes 2002.

#### **Important Advice Note**

If you are aggrieved by this decision, you may lodge an appeal with the State Administrative Tribunal within 28 days of the Determination Date recorded on this Notice.

#### COMMENT ON DEPUTATION

The Mayor requested an officer comment on the Deputation.

The Director Strategic and Regulatory Services stated that he wished to raise just one point. He referred Members to page 15 of the Council Agenda and in particular the views of the DAC (Design Advisory Consultants) and the officers in respect to the roofing material which states: *Over the full extent of the existing and proposed roofing of the applicant’s dwelling and also the adjoining Grouped Dwelling, a consistent roofing material should be used, being either all tiles or all Colorbond metal.*

**Note:** Cr Wells left the Chamber at 8.10pm and returned at 8.13pm

**OFFICER RECOMMENDATION AND  
COUNCIL DECISION ITEM 9.0.1**

Moved Cr Cala, Sec Cr Maddaford

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for additions and alterations to grouped dwellings on Lot 54 (No. 137B) Lansdowne Road **be refused**, for the following reasons.

- (a) the proposed additions / alterations are contrary to the provisions of Council Policy P370\_T General Guidelines for Residential Development, owing to their incompatible design and construction materials;
- (b) the proposed building setbacks do not comply with those prescribed within Clause 3.3.1 "Buildings Set Back from the Boundary" of the Residential Design Codes 2002; and
- (c) the proposed additions / alterations do not comply with the requirements contained within Clause 3.8.1 "Visual Privacy" of the Residential Design Codes 2002.

**Important Advice Note**

If you are aggrieved by this decision, you may lodge an appeal with the State Administrative Tribunal within 28 days of the Determination Date recorded on this Notice.

CARRIED (9/4)

**Note:** Manager Human Resources arrived 8.00pm

**9.0.2 Assessment of Building No. 11 Heppingstone Street, South Perth against provisions of Town Planning Scheme No. 6. (Item 9.0.2 referred February 2007 Council Meeting.)**

Location: Lot 38 (No. 11) Heppingstone Street, South Perth  
Applicant: Council  
File Ref: HE5.11 11/5163  
Date: 14 March 2007  
Author / Reporting Officer: Cliff Frewing, Chief Executive Officer

**Summary**

To assess the building at No. 11 Heppingstone Street, South Perth (as built) under Town Planning Scheme No. 6 as if it were a new application.

**Background**

At the November 2006 meeting, Council resolved as follows:

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

At the December 2006 meeting, Council resolved as follows:

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

The matter was the subject of a further report to the February 2007 Council meeting. In that report it was explained that the City's Planning Officers did not have any additional information to provide beyond the information contained in the December 2006 Council report. This being the case, as also advised in the February report, the matter was referred to Kott Gunning Lawyers for an independent review. The City's instructions to Kott Gunning were conveyed by letter dated 19 January 2007. A final response from Kott Gunning had not been received at the time of reporting to the February meeting and is not available as at the present time, notwithstanding repeated requests from City officers. The numerous contacts with Kott Gunning are itemised in the City's further letter dated 9 March 2007 seeking an explanation for the delay (*Confidential Attachment 9.0.2(a)* refers). The new anticipated date of receipt of this advice is 23 March and a copy will be provided to Councillors when received.

At the February meeting, Council resolved as follows:

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

**Comment**

The operative density coding of the subject site under the current No. 6 Town Planning Scheme is R15. Under that coding, Table 1 of the No. 6 Scheme shows that Multiple Dwellings are an 'X' (prohibited) Use. The Residential Design Codes prescribe the site requirements for all residential development. However the R-Codes do not prescribe any requirements for Multiple Dwellings in areas coded R15 such as the subject site. Therefore there are no applicable site requirements in the R-Codes relating to the existing Multiple Dwelling development. For this reason, in the Table in the December Council report, "N/A" (not applicable) is correctly recorded against most of the site requirements. That is also the reason why the City's Planning officers were unable to provide any additional information in relation to the December 2006 Council resolution.

Due to the circumstances outlined above, the matter was referred to Kott Gunning for an independent review. Although a final report from Kott Gunning in relation to the December Council resolution had not been received in time for the February report, preliminary written advice has been provided by Mr Ernie Samec of Kott Gunning (*Confidential Attachment 9.0.2(b)* refers).

That advice has been presented in narrative form rather than by way of inserting information into the table provided by the Council. The lawyer's preliminary letter advises that he is not able to present a meaningful planning assessment in the requested table format, because the existing development, being Multiple Dwellings is an "X" (prohibited) Use under the current No. 6 Town Planning Scheme. The preliminary letter further advises that final advice will be provided.

**Consultation**

Matter referred to Kott Gunning for review.

**Policy and Legislative Implications**

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

**Financial Implications**

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.*

**OFFICER RECOMMENDATION ITEM 9.0.2**

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

COMMENT ON DEPUTATION

The Mayor requested an officer comment on the Deputation. The Director Strategic and Regulatory Services stated that this matter remains with the Minister.

**Note:** Cr Doherty left the Chamber at 8.20pm

**OFFICER RECOMMENDATION AND  
COUNCIL DECISION ITEM 9.0.2**

Moved Cr Gleeson, Sec Cr Ozsdolay

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

CARRIED (12/0)

**9.0.3 Request for more information. Review of Council Decision - Application for Amphibious Tours Coode Street Boat Ramp**

Location:	City of South Perth
Applicant:	Swan Duck Pty Ltd
File Ref:	GC/PR/9
Date:	14 March 2007
Author	Mark Taylor, Manager City Environment
Reporting Officer	Les Croxford, Acting Director Infrastructure Services

**Summary**

A request has been received from an applicant (*Swan Duck Pty Ltd*) to review the decision by Council in September 2006 to reject their application to commence an amphibious tours operation out of the Coode Street boat ramp. The reason given by Council for the rejection was because another application (*WA Duck Tours*) had already been approved by Council and the Swan River Trust.

Swan River Trust approval to commence operation expires in June 2008. Council has approved a 12 month trial period for *WA Duck Tours* and want to assess the effectiveness of that operation before considering any more applications. This effectively means that it could be June 2009 before Council will consider any other application.

*WA Duck Tours* has not yet commenced operation but have indicated it still remains their intention to commence before June 2008.

Council received a deputation from Swan Duck Pty Ltd and considered an officer's report at the February 2007 meeting and resolved to defer consideration until an outstanding issue was resolved.

This report provides clarification on the outstanding issue and recommends conditional approval of the *Swan Duck Pty Ltd* application.

### **Background**

At the September 2006 meeting, Council considered an application referred by the Swan River Trust for *Swan Duck Pty Ltd* to conduct an amphibious tour business on the river. The tour proposed to utilise the boat ramp at Coode Street within Sir James Mitchell Park as the entry and exit point. Council resolved the following in response to the application.

*That the Swan River Trust and the applicant Swan Duck Pty Ltd be advised that as the City of South Perth granted approval in March 2006 for the use of the Coode Street boat ramp to WA Duck Tours to operate an amphibious tour vehicle for a trial period of 12 months and as that approval is still current Council will not consider another application until the effectiveness of that trial can be assessed.*

*Swan Duck Pty Ltd* and the Swan River Trust were advised of Council's decision. A copy of the officer's report and Council decision is attached. **Attachment 9.0.3(a)** refers.

Subsequent to the advice, representatives from *Swan Duck Pty Ltd* contacted the City to discuss the reasons why their application was refused by Council. A letter was then received from them (**Attachment 9.0.3(b)** refers), summarising their position. A supporting letter was also received from Tourism Western Australia. (**Attachment 9.0.3(c)** refers)

The representatives of *Swan Duck Pty Ltd* stated that they were disappointed at not being present at the Council meeting to support their case to Council when another operator (*WA Duck Tours*), who had already been granted approval, took that opportunity to effectively promote his case instead.

The matter was then referred to the February 2007 meeting of Council. An officer's report was prepared and a representative from *Swan Duck Pty Ltd* made a deputation to Council. In response, Council resolved the following:

*That....*

- (a) *consideration of a request received from Swan Duck Pty Ltd to review the decision by Council in September 2006 to reject their application to commence an amphibious tours operation out of the Coode Street boat ramp be deferred; and*
- (b) *a further report be presented to Council no later than April 2007 addressing issues raised by Council and the Deputation at the February 2007 Council meeting.*

### **Comment**

In deferring a decision on this matter at the February meeting, Council indicated they were concerned about the legality of approving another operator. In response, the following comments are made.

There is no binding legal reason why more than one operator cannot be approved to use the Coode Street boat ramp. It should be noted that the City is essentially approving use of the Coode Street boat ramp and car park only by the operators. The Swan River Trust is responsible for approving the operation on the river and will therefore consider issues of environmental impact, congestion and duplication on the river. The Swan River Trust may choose to reject the application for these (and other reasons) despite approval for use of the Coode Street facility by the City.

The following points should be noted by Council in reviewing its September 2006 resolution on this matter:

- In March 2006, Council approved an application from *WA Duck Tours* for an amphibious vehicle tour operation using the Coode Street boat ramp for a twelve month trial period.
- The Swan River Trust subsequently approved the *WA Duck Tours* application in June 2006. The approval expires in June 2008.
- On refusing the *Swan Duck Pty Ltd* application, Council resolved that it would not consider another application until the effectiveness of the *WA Duck Tours* 12 month trial could be assessed.
- This could prohibit *Swan Duck Pty Ltd* from using the Coode Street boat ramp until June 2009 as *WA Duck Tours* has until June 2008 to commence business, under the current Swan River Trust approval, and an exclusive twelve month trial, under the current Council resolution.
- Neither the City nor the Swan River Trust has received notification of intent by *WA Duck Tours* to commence operation
- There has been no formal approach to the City by either operator to undertake any other business on City land.
- The Swan River Trust currently has the application by *Swan Duck Pty Ltd* on hold and will re-consider it if the City resolves to approve use of Coode Street boat ramp.

In view of this, Council has to decide whether they are prepared to permit another amphibious vehicle operator to use the Coode Street boat ramp and car park. This could mean that there are two amphibious vehicles using the ramp.

#### **Consultation**

This request for Council to review the application was referred to the Sir James Mitchell Park Community Advisory Group and discussed at the December 2006 meeting. The advisory group's consensus advice was as follows:

*The Sir James Mitchell Park Community Advisory Group supports Council's original resolution on this matter at the September 2006 meeting.*

The major reason for the group providing this advice is because there was already an approved application for amphibious tours on the Swan River.

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

The principal policy guiding the City over use of the Coode Street boat ramp is the Sir James Mitchell Park Foreshore Management Plan (April 2001). The following Actions contained within the plan provide guidance when considering this application:

- Action 2: Commercial developments and special events should only be permitted in suitable locations which are chosen after careful consideration of social, environmental and physical planning criteria, in the context of the City of South Perth Policy for Commercial Activity on Sir James Mitchell Park.
- Action 5: Ensure any new water based activity likely to increase crowding on the foreshore be consistent with the infrastructure required to support the activity.

**Appendix 1 "Commercial Activity on Sir James Mitchell Park"** of the Sir James Mitchell Park Management Plan has been utilised in assessing this proposal.

In Section 1. - **Policy Statement**, the following points are made:

*It is recognised that the area known as Sir James Mitchell Park has been created primarily as a regional passive recreation area, which contains significant environmental, conservation and public amenity areas. It is important that these values together with the integrity and amenity of the area are not compromised.*

*The City of South Perth recognises that limited commercial activity is necessary for the benefit of users however any such activity should be in harmony with the realised values of the parkland.*

In Section 3. - **Commercial Activities** it states:

*To ensure that a development is appropriate to the area preference will be given to developments which demonstrate a clear integration of water based and land-based activities and where the water based activity forms a significant part of the development.*

Under Section 3.3.9 - **Impacts**, development proposals should be considered under the following criteria:

**1. Impact on adjoining and adjacent residents**

The applicant has not submitted details about noise output of the vehicle. These have been requested from the applicant and his response is set out below. Approval should be conditional on the vehicle meeting noise regulations as set under the *Environmental Protection Act (1986)*.

*The manufacturer in the USA has never had to produce such figures as the machines are built on an existing truck chassis which would normally comply anyway. The engine is completely enclosed within the hull. Sound proofing materials built around the engine bay also enhance the noise reduction.*

**2. Environmental Impacts**

The major impact of this operation would be during its water-based activities. Assessment of this is therefore the provenance of the Swan River Trust and DPI.

**3. Social and Physical Environment**

The site is compatible with the proposed use except for size and weight concerns as detailed with the boat ramp concerns.

**4. Likely changes to foreshore**

Negligible, if utilising the provided ramp however there could be some erosion concern in the immediate vicinity of the ramp.

**5. Pollution and erosion**

The major pollution concerns are during the vehicle's water based activities. Erosion, both in the vicinity of the ramp and the adjacent foreshore, is an issue of concern for the City and one that will require ongoing monitoring should the application be approved.

**6. Public usage and likely impact on access**

The applicant's vehicle is large and will adversely impact access when it is in the vicinity of ramp, however due to the transient nature of the use; this is not considered to be a significant issue.

- 7. Protection of amenity values and without interruption to quiet enjoyment of the parkland by existing passive users**  
The boat ramp is currently open for this type of use. Whilst this vehicle will be the largest accessing the ramp, there should not be any additional adverse impacts.
- 8. Public amenities**  
Will have little or no impact on the public amenities along the foreshore.
- 9. Traffic and parking impact**  
This may present an issue as this application has the amphibious vehicle entering and exiting the river at Coode Street. Consequently, the vehicle may be parked at the adjacent car park in between tours. No advice about this appears in the application.
- 10. Visual amenities**  
The applicant's vehicle is large and could have an impact as it will be staying in the area during the day.
- 11. Complementary Activities**  
This proposal does not figure strongly in this aspect and has very limited benefits for South Perth. There may be an opportunity to provide added value to South Perth by proposing that one location (eg Old Mill) is included in their cruise back to the City with added incentives offered to consider such aspects.

The Legislative implication of this application is that it is within the Swan River Trust's Management Area and as such is subject to the requirements of the Swan River Trust Act (1988). Council's resolution on this issue will be the subject of consideration by the Swan River Trust Board and then approval or otherwise, with conditions, by the Minister for Environment.

#### **Financial Implications**

The direct financial implications are difficult to determine at this stage. However conditions of any approval would need to address the financial risks associated with:

- Any resultant soil erosion costs will need to be met by the applicant.
- Initial ramp maintenance and/or redevelopment costs to be met by applicant.

#### **Strategic Implications**

The assessment of this application relates to the City's Strategic Plan Goal 3, Environmental Management. Strategy 3.3 is of particular relevance:

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



**NOTE:**A written Submission from Mr John Roche, WA Duck Tours dated 26 March 2007 was circulated to Members for consideration prior to the commencement of the meeting.

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

That....

- (a) the Swan River Trust and the applicant be advised that the City of South Perth will grant approval for the use of the Coode Street boat ramp for *Swan Duck Pty Ltd* to operate an amphibious tour vehicle for a period of 12 months subject to the following conditions:
- (i) a detailed assessment be carried out by a suitably qualified Structural Marine Engineer, appointed by the City of South Perth, on the suitability of the boat ramp for this type of operation taking into account the load factors experienced on the ramp whilst the vehicle is exiting the water;
  - (ii) the applicant entering into a legal agreement with the City to:
    - (A) bear all costs associated with the assessment and any necessary upgrading of the ramp plus future remedial works to the ramp and its surrounds from use;
    - (B) apportion the ramp upgrade and maintenance costs if more than one operator is approved to use the ramp; and
  - (iii) the applicant being required to:
    - (A) observe, conform and perform in accordance with all State and Federal legislation including the Environmental Protection, Workers Compensation and Occupational Health, Safety and Welfare Acts; and
    - (B) hold a current public risk insurance policy covering both the applicant and the City against any claim against death or injury to persons or property.
- (b) *Swan Duck Pty Ltd and WA Duck Tours* be advised accordingly.

CARRIED EN BLOC RESOLUTION

**9.1 GOAL 1 : CUSTOMER FOCUS**  
Nil

**9.2 GOAL 2: COMMUNITY ENRICHMENT**  
Nil

**9.3 GOAL 3: ENVIRONMENTAL MANAGEMENT**

<b>9.3.1 Application for Retrospective Planning Approval for Sign. Lot 46 (Nos. 64-68) South Terrace cnr Coode Street, South Perth.</b>
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Location:	Lot 46 (Nos. 64-68) South Terrace cnr Coode Street
Applicant:	Laszlo Holdings Pty Ltd and Vendeuse Pty Ltd
File Ref:	11.2007.60 SO2:64 11/342
Date:	6 March 2007
Author:	Frank Polglaze, Planning Officer
Reporting Officer:	Steve Cope, Director Strategic and Regulatory Services

**Summary**

To consider an application for retrospective planning approval for a sign erected on the eastern wall of the Esze Berryman Real Estate offices on the corner of South Terrace and Coode Street, South Perth. It is recommended that the application be approved.

### **Background**

This report includes a photograph of the sign. **Attachment 9.3.1** refers.

The development site details are as follows:

Zoning:	Local Commercial
Density coding:	R 30
Lot area:	1376 sq. metres
Building height limit:	7.0 metres
Maximum plot ratio	0.50

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:

### **Matters Previously Considered by Council**

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

Council originally granted retrospective approval for a sign on the eastern wall of this building at its November 2003 meeting. That application was approved subject to the following condition and advice note:

#### Condition

The content of the sign remaining unchanged unless a future application for planning approval for alternative content is approved by the City.

#### Advice Note

The applicant be advised that any future application for different content within the sign must relate to the business conducted on the site. Any proposal for alternative content unrelated to that business will not be approved.

Notwithstanding the advice contained within the previous approval, the property owners recently removed the approved sign and replaced it with a new sign. These works were undertaken without the property owners first having applied for and obtained the planning approval of the City. The unauthorised works were brought to the notice of the City by a local resident.

The location of the development site is shown below:



**Comment**

**(a) Description of the proposal**

The sign which is the subject of the current application for planning approval advertises the businesses and services which are available within the building, these being Re/Max Realtors, Habitat Finance and Advance Settlements. The sign incorporates the words “Everything you need under one roof”.

The sign appears to be identical in size and shape to that which previously existed.

**(b) Scheme Objectives**

The proposal is seen to comply with all of the requirements of the No. 6 Town Planning Scheme (TPS6), and relevant Council Policies. Clause 7.12 of Town Planning Scheme No. 6 “Approval of Existing Development” permits the Council to grant approval for development already completed, where the Council is satisfied that the development complies with the provisions of the Scheme. The relevant scheme provisions for signs are contained within Clause 6.12(6) of TPS6, which states in part that:

*“When determining an application for planning approval for a sign, the Council shall examine the application in the light of the objectives of the Scheme and the precinct and with the particular regard to the character, amenity, historic or landscape significance and traffic safety, within the locality.”*

The sign is considered to be satisfactory when assessed against all of the matters referred to in Clause 6.12(6). In the opinion of Planning Services, the existing sign is satisfactory for the following reasons:

- (i) The sign does not face directly onto residential development and therefore does not affect the amenity of any residential properties.
- (ii) The size of the sign is in proportion to the scale and design of the wall to which it is attached.
- (iii) The sign is appropriate to character of the immediate area, which predominately consists of buildings with a non-residential land use.

(c) **Other Matters to be Considered by Council: Clause 7.5 of No. 6 TPS**

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

- (f) *Any planning policy, strategy or plan adopted by the Council under the provisions of Clause 9.6 of this Scheme;*
- (i) *The preservation of the amenity of the locality;*
- (j) *All aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*
- (w) *Any relevant submissions received on the application, including those received from any authority or committee consulted under Clause 7.4.*

The proposed sign is considered to be satisfactory in relation to the abovementioned matters.

**Consultation**

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Policy P104 "Neighbour and Community Consultation in Town Planning Processes". The owners of properties at Nos. 135, 135A, 137 and 140 Coode Street and Nos. 67, 70, 71, and 1-6/77 South Terrace were invited to inspect the application and to submit comments during a 14-day period. A total of 14 neighbour consultation notices were mailed to individual property owners and occupiers. No submissions were received during the advertising period.

**Policy and Legislative Implications**

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

**Financial Implications**

The issue has some impact on this particular area, to the extent of the payment of the required Planning Fee by the applicant.

**Strategic Implications**

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

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.3.1</b>
---

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for retrospective planning approval for a 'Sign' on Lot 46 (Nos. 64 -68) South Terrace cnr Coode Street, South Perth, **.be approved**, subject to the following condition and important note:

(a) **Specific Condition**

The content of the sign remaining unchanged unless a future application for planning approval for alternative content is approved by the City.

(b) **Important Footnote**

The applicant be advised that any future application for different content within the sign must relate to the business conducted on the site. Any proposal for alternative content unrelated to that business will not be approved.

CARRIED EN BLOC RESOLUTION

DECLARATION OF INTEREST : ITEM 9.3.2 : CR BEST

*I declare a Conflict of Interest regarding Item 9.3.2 "Proposal to offset the City's vehicle fleet Carbon Emissions" as I currently provide business consultancy services to Carbon Neutral and Men of the Trees through by company Best Business Communications Pty.Ltd. I intend to vacate the Chamber and not take part in discussions on this item."*

**Note:** Cr Best left the Chamber at 8.33pm

<b>9.3.2 Proposal to offset the City's Vehicle Fleet Carbon Emissions</b>
---

Location:	City of South Perth
Applicant:	Council
File Ref:	EM/103
Date:	6 March 2007
Author:	Wendy Patterson, City Sustainability Coordinator
Reporting Officer:	Les Croxford, Acting Director, Infrastructure Services

**Summary**

The City has committed to a corporate Greenhouse reduction target of 20% based on 1998 levels when it adopted Milestone two of the *Cities for Climate Protection<sup>TM</sup>* campaign. The City identifies itself as a leader in sustainability. The *Carbon Neutral* program run by Men of the Trees is a mechanism to offset carbon emissions and assist in achieving the greenhouse goal and mitigating climate change. It is recommended that the City join the Carbon Neutral program to offset vehicle fleet emissions.

**Background**

Australia is the largest Greenhouse gas emitter per capita (World Resources Institute, *Navigating the Numbers: Greenhouse Gas Data and International Climate Policy*, 2005) of the Annex 1 nations of the United Nations Framework Convention on Climate Change (UNFCCC). This data is from the year 2000, and Australia's contribution per capita was then 25.6 tonnes of CO<sub>2</sub> equivalent – twice that of the European Union of 25 nations – 10.5 tonnes. Under the same guidelines, the United States per capita emission was 24.5 tonnes.

The City is a participant in the *Cities for Climate Protection<sup>TM</sup>* (CCP) campaign, with a commitment to reduce greenhouse (CO<sub>2</sub>-equivalent) gas emissions of 20% by 2010 against the base year 1998 for corporate and community emissions. To reach this target, the City requires sustained and significant effort in its greenhouse gases emissions reduction programs.

The City's vehicle fleet emitted approximately 600 tonnes of greenhouse gases (carbon dioxide equivalent) in 2005/06. "The Australian transport sector accounted for around 80 million tonnes of Australia's net greenhouse gas emissions in 2004, representing 14% of Australia's total emissions. About 89% of these emissions came from road transport, including cars, trucks and buses" (Australian Greenhouse Office, website).

**Comment**

The effort to abate greenhouse gas emissions requires going beyond 'business as usual' and therefore it is expected that carbon emitting entities commit resources to abate the emissions generated. At no other time in our history has the topic of climate change and its causes been discussed and debated on an almost daily occurrence across the globe and in all forums.

One simple, quick and effective way of contributing to the City's efforts toward greenhouse (CO<sub>2</sub>-eq) gases reduction, is for the City to sign up for the *Carbon Neutral*<sup>TM</sup> program. This will mean that on an annual basis, the City contributes the dollar amount equivalent to offsetting the calculated carbon emission from its vehicle fleet. It must be said that the ongoing and long term effort required to reduce the City's greenhouse emissions from **all sources** will remain the focus of the *Cities for Climate Protection*<sup>TM</sup> campaign and the actions arising from the City's Sustainability Strategy.

The *Carbon Neutral*<sup>TM</sup> program was initiated by Men of the Trees in 2001 as a way to help the community and industry to take responsibility for the effect of greenhouse gas emissions on the environment. Since then, hundreds of thousands of trees have been planted in some of the most environmentally vulnerable areas of Australia.

The program offers government departments, private corporations and individuals the opportunity to offset the carbon dioxide produced by their daily activities. Carbon Neutral guarantee that:

- all trees planted for the carbon neutral program will be audited;
- the trees are grown specifically for the local environment; and
- there is follow up maintenance at all sites.

Among the Local Authorities who have signed up with the Carbon Neutral organisation are City of Perth, City of Belmont, and Town of Victoria Park.

It requires approximately 4.3 trees (grown for 30 years) to offset 1 tonne of carbon (Carbon Neutral program data).

To illustrate - the City's vehicle emissions in 2005/06 were calculated at 600 tonnes of greenhouse gases (CO<sub>2</sub>-eq). This equates to planting 2,580 trees to offset this amount of carbon generated from the fleet. To secure 2,580 trees at \$2.50 (fleet rate) per tree represents an investment of \$6,450 for a more sustainable future. Please note that this will be an ongoing requirement to mitigate against future emissions.

#### **Consultation**

Not applicable

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

Council has resolved to establish a goal to reduce corporate and community greenhouse emissions by 20% by 2010 based on 1998 baseline data under Milestone Two of the *Cities for Climate Protection*<sup>TM</sup> campaign.

#### **Financial Implications**

The City's sustainability budget can cover the offset for the 2006/07 emissions (\$6,450).

#### **Strategic Implications**

The City's Strategic Plan 2004/08 under Goal 3 *Environmental Management* has listed the following strategies:

- 3.2 *Implement the Cities for Climate Protection program which encourages communities to measure, monitor and reduce greenhouse emissions, which will contribute positively to a sustainable community.*
- 3.2 *Develop and implement a Sustainability Strategy and Management System to coordinate initiatives contained in associated Management Plans and to ensure the City's environment is managed in a sustainability way.*

The City's Sustainability Strategy (2006/08) vision of Global Contribution, states under the goal of **Oil Vulnerability**:

*"The City will encourage the transition from oil-based transport to alternative fuel systems, while supporting an increase in public transport, cycling and walking infrastructure"*.

Action 4.1 of this goal states:

*"Ensure the City's fleet program minimises fuel consumption per km and provides a greenhouse emissions offset option"*

Another goal under Global Contribution vision is, **Greenhouse and Climate Change**

*"The City contributes to reduced greenhouse emission targets"*.

Action 3.1 of this goal states:

*"Progress the City's Climate Protection Program, which encourages communities to measure, monitor and reduce greenhouse emissions, contributing positively to sustainability"*.

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

That....

- (a) the City of South Perth joins the *Carbon Neutral<sup>TM</sup>* program to offset carbon emissions from the City vehicle fleet; and
- (b) funding required to offset 2006/07 vehicle emissions be met from the existing Sustainability Budget.

MOTION

Cr Trent moved the officer recommendation. Sec Cr Maddaford

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Jamieson point of clarification - at the March Agenda Briefing I asked about details of the City's fleet?

Mayor Collins responded that this information had been circulated as part of the memo that accompanied the final Agenda.

AMENDMENT

Moved Cr Jamieson

That the officer recommendation be amended to include the following additional clauses:

- (c) the City of South Perth cease further acquisition of 6 cylinder vehicles in the Council fleet; and
- (d) officers with 6 cylinder vehicles be requested to voluntarily move to a 4 cylinder vehicle.

The Motion Lapsed for want of a Seconder.

LAPSED

**Note:** Cr Doherty returned to the Chamber at 8.34pm.

**OFFICER RECOMMENDATION AND  
COUNCIL DECISION ITEM 9.3.2**

The Mayor put the Motion

That....

- (a) the City of South Perth joins the *Carbon Neutral<sup>TM</sup>* program to offset carbon emissions from the City vehicle fleet; and
- (b) funding required to offset 2006/07 vehicle emissions be met from the existing Sustainability Budget.

CARRIED (11/1)

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

**Note:** Cr Best returned to the Chamber at 8.25pm

**9.3.3 Kensington Bushland Protection Study**

Location:	Kensington Bushland Precinct
Applicant:	Town of Victoria Park
Date:	8 March 2007
Author:	Mark Taylor, Manager City Environment
Reporting Officer:	Les Croxford, Acting Director Infrastructure Services

**Summary**

The Town of Victoria Park has approached the City of South Perth for comment on aspects of its bushland protection study for the Kensington bushland site and surrounds. In particular, the Town is keen to ascertain the City's position on the future of the section of Baron Hay Court adjacent to the Kensington Bushland. The City has already resolved that Baron Hay Court will not be re-opened to Kent Street. The Town has recommended that the road be removed and replaced with a shared pathway.

It is recommended that the City wait until the outcome of a study into the future of the adjacent Agriculture Department site before resolving further on this matter.

**Background**

The Town of Victoria Park (ToVP) has prepared a Bushland Protection Study for the Kensington bushland site which is located on the Town's border with the City of South Perth. **Attachment 9.3.3(a)** refers.

The ToVP has stated that the purpose of the study is to provide direction in respect to how the land surrounding the bushland can be used, developed and managed to ensure compatibility with and protection of the remnant bushland.

Land within the bushland protection study area includes:

- Kensington bushland
- Kent Street sand pit
- Harold Rossiter Park
- Kensington Policy and Citizens Youth Centre (PCYC)
- George Street Public Open Space
- Kensington Special School
- St John Ambulance/FESA/Kensington Police Station
- Kent Street Senior High School
- Department of Agriculture
- Baron-Hay Court Road Reserve



**Comment**

The report has made a number of recommendations. Of particular relevance to the City is the future of Baron-Hay Court between the current Agriculture Department land and the Kensington bushland site.

The Agriculture Department site has been proposed for future development into the Technology Park precinct. As part of this proposal it is planned to re-open Baron-Hay Court from Kent Street.

The ToVP's position is to close Baron-Hay Court to vehicle access from the Kensington bushland, remove the existing road and footpath and replace them with a shared path. The buffer along Baron-Hay Court between the bushland and the shared path is proposed to be expanded to a minimum of 10 metres and planted with native species.

The City of South Perth has the following position in regard to Baron-Hay Court, **Attachment 9.3.3(b)** refers. At the February 2004 meeting Council resolved the following:

*“That the Town of Victoria Park be advised that the City of South Perth will not support under any circumstances the proposal to reopen Baron-Hay Court either as a left only entry to the roundabout or any other proposed opening that has the affect of increasing vehicle traffic in Baron-Hay Court”.*

The City has been participating in a study to determine the future of the Agricultural Department site in Kensington. It was mooted several years ago that the Agricultural Department would be moved from this current site to a more convenient and accessible location(s). The future of the land was the subject of the study. There has been no firm resolution on a future direction, so it is recommended that whilst the City continues to support the closure of Baron-Hay Court at Kent Street, removal of the road may be premature.

**Consultation**

The Town of Victoria Park is seeking the City of South Perth's comment on this issue.

**Policy and Legislative Implications**

Baron-Hay Court is located on the boundary between the City of South Perth and the Town of Victoria Park. As such, maintenance of the road is the shared responsibility of the two Local Authorities.

**Financial Implications**

If Council resolves to remove the road and construct a shared path in the section of Baron Hay Court there will be a shared financial implication to the City of approximately \$100,000. This is the cost estimate to remove the road and replace it with a shared pathway. Reinstatement costs have not been considered in this estimate.

**Strategic Implications**

This item is consistent with Goal 3 *Environmental Management* of the City's Strategic Plan: *“To effectively manage, enhance and maintain the City's unique natural and built environment.”*

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

That the City of South Perth advise the Town of Victoria Park that it does not support the removal of Baron-Hay Court adjacent to the current Agriculture Department site until a study into the future of that site is completed.

CARRIED EN BLOC RESOLUTION

**9.4 GOAL 4: INFRASTRUCTURE**  
Nil

**9.5 GOAL 5: ORGANISATIONAL EFFECTIVENESS**

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

Location:	City of South Perth
Applicant:	Council
File Ref:	Not applicable
Date:	8 March 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 February 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 February 2007, fifty one (51) development applications were determined under delegated authority [**Attachment 9.5.1** refers].

**Policy and Legislative Implications**

The issue has no impact on this particular area.

**Financial Implications**

The issue has no impact on this particular area.

**Strategic Implications**

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

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.5.1</b>
---

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

CARRIED EN BLOC RESOLUTION

<b>9.5.2 Use of the Common Seal</b>
-------------------------------------

Location:	City of South Perth
Applicant:	Council
File Ref:	N/A
Date:	12 March 2007
Author:	Sean McLaughlin, Legal and Governance Officer
Reporting Officer:	Cliff Frewing, Chief Executive Officer

**Summary**

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

**Background**

At the October 2006 Ordinary Council Meeting the following resolution was adopted:

*That Council receive a monthly report as part of the Agenda, commencing at the November 2006 meeting, on the use of the Common Seal, listing seal number; date sealed; department; meeting date / item number and reason for use.*

**Comment**

Clause 19.1 of the City's Standing Orders Local Law 2002 provides that the CEO is responsible for the safe custody and proper use of the common seal.

In addition, clause 19.1 requires the CEO to record in a register:

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

**Register**

The extract from the Register for February 2007 appears below.

**February 2007**

Nature of document	Parties	Date Seal Affixed
CPV Hostel Residency Agreement	CoSP and Isabell Jane McCaul	2 February 2007
CPV Hostel Residency Agreement	CoSP and Rosie McKenney	7 February 2007
Healthway Sponsorship Agreement	CoSP & WA Health Promotion Foundation	19 February 2007
Authorisation Relating to Traffic Management for Events	CoSP & Commissioner of Main Roads	26 February 2007
Notification under section 70A <i>Transfer of Land Act</i>	CoSP & Philip Francis Hadden	28 February 2007

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

**Consultation**

Not applicable.

### **Policy and Legislative Implications**

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

### **Financial Implications**

Nil.

### **Strategic Implications**

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

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.5.2</b>
---

That the report on the use of the 'Common Seal' for the month of February 2007 be received.

CARRIED EN BLOC RESOLUTION

<b>9.5.3 Australian Mayors' Council on Climate Protection Initiative</b>
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Location:	City of South Perth
Applicant:	Council
File Ref:	PE/501 and GR/601
Date:	9 March 2007
Author & Reporting Officer	Cliff Frewing, Chief Executive Officer

### **Summary**

The Australian Mayors Council on Climate Protection Initiative Planning Group, is developing a strategy and work plan for consideration at the 'Accelerating Now' Conference to be held in Melbourne from 2-5 May 2007. The purpose of this report is to seek consent for the Mayor to attend the Accelerating Now Conference.

### **Background**

A copy of the program is at **Attachment 9.5.3.**

The Australasian Mayors Council on Climate Protection (AMCCP) is an initiative of ICLEI - Oceania, of which the City is a member. The role of the AMCCP is to build the capacity of the local government sector to undertake a non-partisan approach to action on climate protection and climate change.

### **Comment**

The Accelerating Now Conference will host an international gathering of leaders in local government, ICLEI Campaigns and sustainable development from the Oceania region.

As local governments around the world lead the charge towards sustainability, this event will focus on strengthening council's capacity for effective and lasting action.

The subject of climate protection is particularly relevant to the City. The City has completed five Milestones of the International Council of Local Environmental Initiatives (ICLEI) - Local Government for Sustainability CCP program. We are currently implementing the next stage, the Plus program. The Plus program constitutes advanced greenhouse reduction initiatives through a suite of CCP Plus actions - Organisational Reviews, a re-inventory of greenhouse gas emissions, and an Advancing Action Project.

The City has also been participating in the Australian Research Institute in Education for Sustainability (ARIES). The City has been the only Western Australian Council to participate in this nationwide project - Mentoring Local Government in Education for Sustainability. The aims of the ARIES project are to enhance education and learning strategies to achieve the City's sustainability program outcomes.

In addition, the issue of global warming is becoming an increasingly important issue and is particularly relevant to the City of South Perth because of its relationship with the Swan and Canning Rivers. For example, there is strong evidence to suggest that the river levels will rise in future years. In addition, it is predicted that there will be more storms and associated tidal surges, therefore flood events impacting on the City. This could also have an adverse effect on water quality in the Swan and Canning Rivers.

For these reasons it would be beneficial for the City to be represented at the conference in order to obtain the latest in authoritative advice and information and attendance is therefore recommended.

**Consultation**

Nil

**Policy and Legislative Implications**

This item is submitted in accordance with Policy P513.

**Financial Implications**

The total estimated costs of the Mayor's attendance at the LGMA National Congress and Business Expo and the Accelerating Now Conference is approximately \$2 215. A breakdown of the cost is as follows:

	Cost \$
Airfares (Economy)	\$585
Registration - Accelerating Now Conference	\$670
Accommodation (4 nights)	\$660
Expenses (Approximate Cost)	\$300
<b>TOTAL</b>	<b>\$2 215</b>

\* Funding is available in the 2006/07 Budget.

**Strategic Implications**

In line with Goal 5 - Organisational Effectiveness. *“To be a professional, effective and efficient organisation.”*

**OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.5.3**

Moved Cr Trent, Sec Cr Maddaford

That Council approves the attendance of Mayor John Collins, at the Accelerating Now Conference in Melbourne on 2-5 May 2007 at an estimated cost of \$2 215.

CARRIED (11/2)

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

<b>9.5.4 LGMA National Conference and Business Expo</b>
---

Location:	City of South Perth
Applicant:	Council
File Ref:	PE/501 and GR/601
Date:	12 March 2007
Author & Reporting Officer	Cliff Frewing, Chief Executive Officer

**Summary**

The LGMA National Congress and Business Expo will be held in Hobart from 29 April 2007 to 2 May 2007. The Mayor has approved for the CEO to attend the LGMA Conference in accordance with Council Policy and normal practice and the purpose of this report is to seek consent for the Deputy Mayor to also attend the conference.

**Background**

The program has been received and a copy is included with the Agenda as **Attachment 9.5.4**.

The Congress theme will revolve around the subject 'Power and the Passion - The Power to Make a difference' and the 'Passion to Lead'. The sessions include many interesting and diverse topics around the relevant themes of People, Process and Place.

The Concurrent Session program will draw on the extensive experiences of many Local Government practitioners and will impart best practice knowledge to delegates.

The Congress also provides the opportunity of meeting and sharing experiences with local government personnel - both appointed and elected from around Australia.

**Comment**

The 2007 LGMA National Congress offers the opportunity to learn, hear, participate and communicate with colleagues within Local Government from around the country.. The congress also provides the opportunity of meeting and sharing experiences with local government personnel from around Australia. Council Member attendance is proposed. In normal circumstances, it would be appropriate for the Mayor to attend this conference, however, on this occasion the Mayor has expressed an interest in attending the Australian Mayors' Council on Climate Protection held in Melbourne about the same time. A report on the mayor's attendance at this conference is the subject of a separate report.

The National LGMA Conference is one of the pre-eminent Local Government conferences held in Australia on an annual basis. It is of benefit to senior Local Government professionals and elected members and all topics are of relevance to Local Government.

The three themes of People, Process are particularly relevant to the City of South Perth.

***People***

Local Government faces challenges in attracting and retaining good people. Our people are under significant pressure to perform at a time when local government is confronted by acute skill shortages.

***Process***

The Process stream is about doing more with less. Against the backdrop of cost shifting and skill shortages councils are finding improved ways of doing business that will achieve better performance and better outcomes for the community.

**Place**

Local government has the power to create environments communities are proud of. These environments harness the natural attributes and resources and energy of residents.

**Consultation**

Nil

**Policy and Legislative Implications**

This item is submitted in accordance with Policy P513.

**Financial Implications**

The total estimated cost of the Deputy Mayor's attendance at the LGMA National Congress and Business Expo is approximately \$3 260. A breakdown of the cost is as follows:

	Cost \$
Airfares (Economy)	\$755
Registration - LGMA National Congress & Business Expo	\$1 380
Accommodation (5 nights)	\$825
Expenses (Approximate Cost)	\$300
<b>TOTAL</b>	<b>\$3 260</b>

\* Funding is available in the 2006/07 Budget.

**Strategic Implications**

In line with Goal 5 - Organisational Effectiveness. *"To be a professional, effective and efficient organisation."*

**OFFICER RECOMMENDATION ITEM 9.5.4**

That Council approves the attendance of Deputy Mayor Barry Maddaford, at the LGMA National Conference and Business Expo in Hobart from 29 April to 2 May 2007 inclusive at an estimated cost of \$3 260.

MOTION

Cr Trent moved the officer recommendation. Sec Cr Doherty

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Trent opening for the Motion

- benefits in Deputy Mayor attending this conference
- support the Motion

AMENDMENT

Moved Cr Jamieson, Sec Cr Best

That the officer recommendation be amended by the inclusion of the following additional part (b):

- (b) *Council revokes the decision by Mayor Collins to approve the CEO to attend the LGMA Conference.*

Cr Jamieson opening for the Amendment

- Mayor has approved - approval above board
- no problem with process
- problem is effect of this as we have problems here
- issues here - refer Confidential Items 13.1.1 and 13.1.2
- plenty of operational work for CEO to do here
- operational support / issues that need to be addressed
- dismayed if this went through - given circumstances that have occurred
- urge Councillors to support Amendment

Mayor Collins against the Amendment

- criticism of Mayor approving CEO attendance - CEO is able to approve himself
- there is no indication that the CEO has done anything to make me change my approval
- LGMA conference important - provides support to Councils throughout Australia
- take exception to criticism of Mayor for approving this legitimate event
- against the Amendment

Cr Ozsdolay against the Amendment

- Mr Frewing is our CEO - some Councillors are going out of their way to criticise him
- we should want him at this conference - he should be there
- to suggest we revoke the Mayor's approval is wrong
- not sure this Council has the authority to do this but why would we want to
- against the Amendment

Cr Jamieson closing for the Amendment

- process legitimate
- concern is the number of issues outstanding
- have a representative attending the conference in the Deputy Mayor
- understand conference is good value
- but under current circumstances should not be sending the CEO

The Mayor put the Amendment

LOST (3/10)

Cr Trent closing for the Motion

- urge Councillors to support the Motion

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.5.4</b>
---

The Mayor put the Motion

That Council approves the attendance of Deputy Mayor Barry Maddaford, at the LGMA National Conference and Business Expo in Hobart from 29 April to 2 May 2007 inclusive at an estimated cost of \$3 260.

CARRIED (12/1)

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



<b>9.5.5 Legal Services Tender</b>
------------------------------------

Location:	City of South Perth
Applicant:	Council
File Ref:	LS/101
Date:	14 March 2007
Author:	Sean McLaughlin, Legal and Governance Officer
Reporting Officer:	Cliff Frewing, Chief Executive Officer

### **Summary**

Council resolved in October 2006 to invite tenders for the provision of legal services to the City.

Public notice of tender was given on 27 January 2007 and the period for lodging tenders closed on 22 February 2007.

The Tender evaluation process has been completed and this report presents recommendations for Council consideration and decision.

### **Background**

The City last went to tender for the provision of legal services in late 2003. As a result of that tender the City selected four firms - Mullins Handcock; McLeods; Minter Ellison and Kott Gunning - to go on a panel from which it could request legal advice and representation as required.

The City entered into contractual arrangements with the four panel firms for a period of three years with fees fixed over that period. These contracts have now expired. Each contract provided for an extension of a further period of two years however Council decided in October 2006 to not extend but to go to tender.

Tenders were invited by public notice published in the *West Australian* newspaper on 27 January 2007 and the tender period closed on 22 February 2007.

### *Scope of Requirements*

The Request for Tender (RFT) specified that the City required the services of suitably qualified and experienced legal practitioners able to provide professional legal services in the following areas:

- Public/Administrative Law;
- Local Government;
- Town Planning, Environmental Planning;
- Building and Construction;
- Property;
- Employment/Industrial Relations; and
- Contracts and Agreements.

Significant emphasis was placed on ability and experience in providing services to local government, noting that the variety of legal work involved would mean that successful panel members must be able to provide high quality and specialised advice in not only the areas nominated but in related areas which may be affected by the activities of local government.

*Tender Assessment and Selection Criteria*

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

In addition to price and the standard compliance criteria, tenders were invited against the following qualitative criteria.

1. Demonstrated experience in supplying similar services to local government
2. Skills and experience of key personnel
3. Tenderer's resources
4. Demonstrated understanding of the required tasks

*Fee Structure*

The RFT required a fee structure based on the billable fee for each level of personnel that will provide legal services to the City. The fee structure must address the levels of staff within the organisation and provide a standard hourly fee for each level. The fee structure can be different for each year of the contract but must be fixed for the period quoted.

*Awarding of Contracts*

Contracts will be awarded to those firms (to form a panel of Legal Service Providers) which best demonstrate the ability to provide quality service at a competitive price ensuring at all times the most advantageous outcome to the City.

Any contracts resulting from the Tender will be for an initial period of three years with an option to extend for a further period of two years. The rates for the initial period of the contract will be fixed in accordance with the Tenderer's Offer.

**Comment**

At the close of the tender period, tenders had been received from the following firms:

Mullins Handcock;  
McLeods;  
Woodhouse Legal;  
Kott Gunning;  
Deacons;  
Hammond Worthington; and  
Jackson McDonald.

Each firm offered services across the range of the areas sought by the City in its RFT, except for Deacons which offered to provide legal services in the areas of employment law and industrial relations only. This is in accordance with the RFT which permitted tenderers to limit the range of services offered.

An Evaluation Panel was formed, constituted by the CEO, Director Strategic and Regulatory Services, the Legal and Governance Officer and the Tenders and Purchasing Officer, to assess the compliance criteria, the price schedules and the qualitative criteria for each tender received.

The first part of the assessment process concerned checking observance of the Compliance Criteria. The five top-ranked firms were each fully compliant; the two lower-ranked firms were not completely compliant with respect to quality assurance certification.

Consistently with the RFT and in accordance with the WALGA Tender Guide, a non-weighted price method was adopted. Where a non-weighted price method is used, the Evaluation Panel needs to consider the qualitative criteria ranking of each tenderer against the pricing schedule submitted by each tenderer. Once the tenders have been ranked, the panel is able to consider the cost affordability of the qualitative criteria ranking in order to determine the tenders which are most advantageous to the City.

Following the evaluation of the Qualitative Criteria, the tenderers were ranked by the Panel as follows:

McLeods	37
Jackson McDonald	32
Mullins Handcock	31
Deacons	30
Kott Gunning	29
Woodhouse Legal	24
Hammond Worthington	23

The top ranked firms were able to demonstrate that they could more than satisfactorily provide the high standard and range of professional services that the City sought to obtain. They have a depth of highly skilled, experienced and capable practitioners who have been providing like services to local governments for many years. They demonstrated that they had the organisational capacity to deliver timely advice, be accessible and responsive and could offer additional services such as seminars/workshops for officers and members and provide regular updates/bulletins on matters relevant to local government.

An assessment of the price schedules for each tender indicated that each of the top ranked firms offered fixed rates over the period of the proposed contract and each of their price schedules fell within a comparable range of hourly-rated fees across the levels of practitioner seniority.

On the basis of this assessment, the Evaluation Panel considers that the tenders from the five top-ranked firms would be most advantageous for the City to accept and should be invited to go on the City's Panel of Legal Service Providers:

- McLeods
- Jackson McDonald
- Mullins Handcock
- Kott Gunning
- Deacons.

**Note:** A copy of the Evaluation Panel's report is circulated separately as *Confidential Attachment 9.5.5*.

**Consultation**

WALGA's Tender Bureau Service was consulted at the conclusion of the evaluation process on the procedures undertaken in calling tenders to review this legal services tender.

**Policy and Legislative Implications**

The Tender process was conducted in accordance with the *Local Government Act* and the *Local Government (Functions & General) Regulations*.

**Financial Implications**

Consistent with the annual budget.

**Strategic Implications**

The content of this report is consistent with the Strategic Goals of Organisational Effectiveness and Financial Viability. *“To be a professional, effective and efficient organisation.”*

<b>OFFICER RECOMMENDATION ITEM 9.5.5</b>
--

That Council, in relation to Tender 6/2007 ‘Provision of Legal Services’ selects:

- McLeods
- Jackson McDonald
- Mullins Handcock
- Kott Gunning; and
- Deacons

as the successful tenderers for the provision of legal services to the City.

MOTION

Cr Trent moved the officer recommendation, Sec Cr Ozsdolay

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Trent opening for the Motion

- seeking legal representatives
- gone out to tender
- done tender assessment process
- support recommendation

Cr Ozsdolay for the Motion

- support officer recommendation
- thank officers for additional information re tender assessment
- support the Motion

Cr Cala point of clarification - are we limited to five firms - could we accept more?

Chief Executive Officer said the recommendation is to accept five firms out of the seven that have tendered but Council can accept more if it wishes.

FORESHADOWED MOTION

Cr Smith stated that if the Motion is Lost that he would be moving that seven firms be accepted as part of the legal services panel.

Cr Hearne point of clarification - should we include in the Motion that the City reserves the right to seek legal services outside of the nominated number of firms on the legal services panel?

Chief Executive Officer stated that there was no need to include this in the Motion but that it would not hurt to have it there.

AMENDMENT

Moved Cr Hearne, Sec Cr Best

That the officer recommendation be amended to include in the list of legal firms the addition of Woodhouse Legal and Hammond Worthington together and an additional part (b) as follows:

- (b) in special circumstances, the City reserves the right to seek legal services outside of the Legal Services Panel.

Cr Hearne opening for the Amendment

- happy to have seven firms - a lot of effort went into this exercise
- believe all companies listed are proficient
- sure all companies will exercise due diligence
- support having seven firms on the panel
- support amended Motion

Cr Best for the Amendment

- support the inclusion of all seven firms being included on the panel
- support the Amendment to the Motion

Cr Ozsdolay point of clarification - need to be comfortable with all seven tenderers being put forward.

Chief Executive Officer - referred to page 42 of the *confidential* attachment for this item and in particular the rankings which recommended two of the firms not be part of the panel.

Cr Ozsdolay point of clarification - is the panel comfortable with these two firms being on the panel?

Cr Hearne point of clarification - did the CEO say that they could be included on the panel?

Chief Executive Officer confirmed yes.

Cr Doherty point of clarification - wonder whether we need to include when commencement will occur - is it worthwhile including a date when the actual term of the agreement will commence?

Legal and Governance Officer confirmed that the proposed course of action is that the City will draw up a contract which would specify a start date. He said the start date could be determined by Council tonight. He also advised that there will always be a provision in the contract that the City can obtain legal advice elsewhere and outside of the nominated panel.

The Mayor put the Amendment.

CARRIED (12/1)

**COUNCIL DECISION ITEM 9.5.5**

The Mayor put the Amended Motion

That Council...

(a) in relation to Tender 6/2007 'Provision of Legal Services' selects:

- McLeods
- Jackson McDonald
- Mullins Handcock
- Kott Gunning
- Deacons
- Woodhouse Legal
- Hammond Worthington

as the successful tenderers for the provision of legal services to the City; and

(b) in special circumstances, the City reserves the right to seek legal services outside of the Legal Services Panel.

CARRIED (13/0)

Reason for Change

Council agreed to include all seven tenderers on the Legal Services Panel and to include that it reserves the right to seek legal services elsewhere if required.

**Note:** Cr Gleeson left the Chamber at 8.45pm

**9.6 GOAL 6: FINANCIAL VIABILITY**

**9.6.1 Monthly Financial Management Accounts - February 2007**

Location: City of South Perth  
Applicant: Council  
File Ref: FM/301  
Date: 10 March 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 and it measures actual financial performance against budget expectations.

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

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

The local government budget is a dynamic document and will necessarily be progressively amended throughout the year to take advantage of changed circumstances and new opportunities. This is consistent with principles of responsible financial cash management. Whilst the original adopted budget is relevant at July when rates are struck, it should, and indeed is required to, be regularly monitored and reviewed throughout the year. Thus the Adopted Budget evolves into the Amended Budget via the regular (quarterly) Budget Reviews.

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

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

#### **Comment**

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

- Balance Sheet – **Attachments 9.6.1(1)(A) and 9.6.1(1)(B)**
- Summary of Operating Revenue and Expenditure (for all departments except for Infrastructure Services) – **Attachment 9.6.1(2)**
- Summary of Operating Revenue and Expenditure for Infrastructure Services - **Attachment 9.6.1(3)**
- Summary of Capital Items – **Attachment 9.6.1(4)**
- Schedule of Significant Variances – **Attachment 9.6.1(5)**
- Reconciliation of Budget Movements - **Attachment 9.6.1(6)**

Operating Revenue to 28 February 2007 is \$28.54M which represents 101% of the Year to Date Budget of \$28.37M. Significant contributors to the favourable variance include better than anticipated investment revenue performance and a better than expected performance on parking management. Revenue from the Collier Park Hostel remains ahead of budget due to higher Commonwealth Subsidies from the increased RCS levels at present. Building and Planning Services revenues are also in advance of budget due to several large development

applications – particularly the Gracewood Homes project in Salter Point. An extensive review of all aged trust deposits by the Finance team has also yielded a significant unbudgeted revenue which is recorded in the Infrastructure Services area.

Comment on the specific items contributing to the variances may be found in the Schedule of Significant Variances. **Attachment 9.6.1(5)**. A number of apparent ‘unfavourable’ variances for the month are actually a reflection of the Q2 Budget Review adjustments - and examination of the actual year to date figures reveals that most areas are on or ahead of revenue budget expectations.

Operating Expenditure to 28 February 2007 is \$18.24M - which represents 97% of the Year to Date Budget of \$19.77M. Operating Expenditure is around 4% favourable in the Administration area - and 1% favourable in the Infrastructure Services area.

As previously noted, several staff positions that remain vacant due to either resignation or leave entitlements have contributed to the favourable variances in the Administration area - particularly in Community Services, Planning, Building Services & Human Resources with other extended vacancies in the Finance, Engineering Admin and Recreation areas. The City continues to try new strategies to attract staff - and in the interim is making use of temporary staff to ensure that we continue to deliver responsive and timely customer service in all facets of our activities. Overall, the salaries budget (including temporary staff where they are being used to cover vacancies) is now 6.8% under the budget allocation for the 210 FTE positions approved by Council in the budget process although temporary staff agencies are less timely in submitting their costs for payment than our own internal staff (so there may be some timing lag).

Reduced staffing levels have had some impact on maintenance programs for particular activities such as parks and environmental maintenance. With more reliable contractor availability for some infrastructure maintenance activities, variances are beginning to reverse. Allocations of overheads and charge out for plant items, which are affected by the reduced number of permanent staff direct labour hours and the increased use of temporary staff (that do not automatically attract on-costs and plant charge out to the particular jobs on which the staff are deployed), are receiving further corrective action. This issue will be closely monitored for the remainder of the year.

Comment on the specific items contributing to the operating expenditure variances may be found in the Schedule of Significant Variances. **Attachment 9.6.1(5)**. A number of the expenditure item variances were addressed in the Q2 Budget Review and this has created some unusual budget to actual comparisons for the month - although year to date numbers are in line with expectations.

Capital Revenue is disclosed as \$0.91M at 28 February against a budget of \$1.00M. Road grant revenue is now on budget after the Q2 Budget Adjustment for funds of almost \$320,000 received in advance from DoTARS for road works that have yet to be identified, designed or constructed - on the proviso that the road works are undertaken in the next 3 years. The unfavourable variance in capital revenues relating to the lower than anticipated turnover of units in the Collier Park Village continues - although a further two units were recently vacated and will shortly be refurbished and re-leased. It is unlikely that the full year budget for this item will be attained. However, the offsetting benefit from this is that capital expenditure on refurbishment of vacated units is also somewhat lower than budgeted.

Capital Expenditure at 28 February is \$4.34M against a year to date budget of \$6.67M. This represents 65% of the year to date budget. Excluding the UGP project, which is to be separately delivered by Western Power rather than through City resources (and will be the subject of a separate report on this agenda), the City has currently completed around 37% of the full year’s program - which was increased in December to include the additional funding for Como Beach.



The Executive Management Team is closely monitoring the progress of the City's departments in delivering the capital program throughout the year and a monthly strategic review of the delivery of the program is being conducted. The Director Financial & Information Services has presented a series of options to initiate corrective actions that can be implemented to address the current concerns with the capital program. These include adjusting the proposed program to a more realistically deliverable size and adjusting the timing of some proposed projects. These initiatives form the basis of Agenda Item 9.6.5 to be considered by Council in March.

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

Directorate	YTD Budget	YTD Actual	% YTD Budget	Total Budget
CEO / Financial & Info Services	1,257,500	1,173,958	93%	2,102,000
Corp & Community Services	353,150	204,946	58%	1,301,454
Strategic & Reg Services	98,100	22,790	23%	166,500
Infrastructure Services	4,948,925	2,926,540	59%	8,035,999
Underground Power	20,000	11,061	55%	4,820,000
<b>Total</b>	<b>6,677,675</b>	<b>4,339,295</b>	<b>65%</b>	<b>16,425,953</b>

Further comment on the variances relating to Capital Revenue and Capital Expenditure items may be found in **Attachment 9.6.1(5)** and in **Attachment 9.6.4**.

### Consultation

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

### Policy and Legislative Implications

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

### Financial Implications

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

### Strategic Implications

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

<p><b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.6.1</b></p>
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That ....

- (a) the monthly Balance Sheet and Financial Summaries provided as **Attachment 9.6.1(1-4)** be received;
- (b) the Schedule of Significant Variances provided as **Attachment 9.6.1(5)** be accepted as having discharged Council's statutory obligations under Local Government (Financial Management) Regulation 35; and
- (c) the Summary of Budget Movements and Budget Reconciliation Schedule for 2006/2007 provided as **Attachment 9.6.1(6)(A)** and **9.6.1(6)(B)** be received.

CARRIED EN BLOC RESOLUTION

**9.6.2 Monthly Statement of Funds, Investments and Debtors at 28 February 2007**

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	8 March 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 \$30.81M compare very favourably to \$27.56M 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 (almost 1.5% ahead of last year) with only the final rates instalment to be collected. Timely claims for pension / seniors rebates from the Office of State Revenue and the delayed outflow of capital expenditure (approximately \$2.3M) have also impacted our cash position favourably. The other very significant factor is the positive cash flow implications of the City changing the way in which it remits its ESL collections to FESA (now pre-determined quarterly remittances rather than the 'actual' monthly collections remittance approach used in previous years).

Our cash position is currently very positively impacted by this change as we have collected around the same amount of ESL - but have remitted around \$0.9M less at this stage. The situation will of course be somewhat less favourably impacted in the next few months as payments to FESA will then be much greater with little more cash flowing through from incoming collections.

Even after adjusting for the revised ESL cash flow impact compared to last year, the net position is still better relative to February 2006. Monies brought into the 2006/2007 year and our subsequent cash collections are 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 \$13.32M (compared to \$11.43M in 2005/2006). **Attachment 9.6.2(1)**.

**(b) Investments**

Total investment in short term money market instruments at month end is \$30.57M compared to \$27.71M last year. As discussed above, the difference relates to improved cash collections, delayed outflows for capital projects and the timing implications of the changed ESL remittance arrangements.

Funds held are responsibly spread across various institutions to diversify risk as shown in **Attachment 9.6.2(2)**. Interest revenues (received and accrued) for the year to date total \$1.26M, which is up from \$1.07M at the same time last year. This is primarily attributable to higher cash holdings and the slightly higher interest rates available at this time.

The average rate of return for the year to date is 6.22% with anticipated yield on investments yet to mature currently at 6.44% - reflecting astute selection of investments after carefully considering our cash flow management needs. The City actively manages its treasury funds to pursue responsible, low risk investment opportunities that generate interest revenue to supplement its rates income.

**(c) Major Debtor Classifications**

The level of outstanding rates relative to the equivalent time last year is shown in **Attachment 9.6.2(3)**. Rates collections to the end of February 2007 (after the due date for the third rates instalment) represent 91.1% of total rates levied compared to 89.6% at the equivalent stage of the previous year - with only the final instalment (due in mid March) remaining. This continues to be the City's best ever rates collection result to this stage of the year and it supports the rating strategy and the communication strategy used for the 2006/2007 rates issue.

It is important to recognise that despite the impressive collection of rates outstanding to date, Financial Services officers continue to initiate responsible collection actions including issuing reminder notices and taking other more serious and appropriate debt collection actions where necessary. These actions have complemented 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 had a very positive impact on initial rates collections.

General debtors stand at \$0.76M at 28 February 2007 compared to \$0.73M at the same time last year. Most debtor categories are in fact lower than at this time last year except for Parking Infringements which is slightly higher and GST Refundable from the ATO which is also higher. The outstanding amount for Pension Rebates is also higher than last year but this is considered a timing issue relating to when claims are lodged and processed at the Office of State Revenue.

### **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 DM603. 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 City's Strategic Plan – *'To provide responsible and sustainable management of the City's financial resources'*.

## **OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.6.2**

That the 28 February 2007 Statement of Funds, Investment and Debtors comprising:

- Summary of All Council Funds as per **Attachment 9.6.2(1)**
  - Summary of Cash Investments as per **Attachment 9.6.2(2)**
  - Statement of Major Debtor Categories as per **Attachment 9.6.2(3)**
- be received.

CARRIED EN BLOC RESOLUTION

### **9.6.3 Warrant of Payments Listing**

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	8 March 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 between 1 February 2007 and 28 February 2007 is presented for information to the March 2007 Council meeting.

### **Background**

Local Government Financial Management Regulation 11 requires a local government to develop procedures to ensure the proper approval and authorisation of accounts for payment. These controls relate to the organisational purchasing and invoice approval procedures documented in the City's Policy P605 - Purchasing and Invoice Approval.

They are supported by Delegation DM605 which sets the authorised purchasing approval limits for individual officers. These processes and their application are subjected to detailed scrutiny by the City's Auditors each year during the conduct of the Annual Audit. Once an invoice has been approved for payment by an authorised officer, payment to the relevant party must be made from either the Municipal Fund or the Trust Fund and the transaction recorded in the City's financial records.

#### **Comment**

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

#### **Consultation**

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

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

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

#### **Financial Implications**

Payment of authorised amounts within existing budget provisions.

#### **Strategic Implications**

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

#### **OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.6.3**

Moved Cr Doherty, Sec Cr Maddaford

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

CARRIED (11/1)

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

#### **9.6.4 Capital Projects Review to 28 February 2007**

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	12 March 2007
Author/Reporting Officer:	Michael J Kent, Director Financial and Information Services

#### **Summary**

A schedule of financial performance supplemented by relevant comments is provided in relation to approved capital projects to 28 February 2007. Officer comment is made only on the significant identified variances as at the reporting date.

### **Background**

A schedule reflecting the financial status of all approved capital projects is prepared on a bi-monthly basis in the month immediately following the reporting period - and then presented the next ordinary meeting of Council. The schedule is presented to Council Members to provide an opportunity for them to receive timely information on the progress of capital works projects and to allow them to seek clarification and updates on scheduled projects.

The Schedule of Capital Projects and attached comments on significant project line item variances provide a comparative review of the Budget versus Actual Expenditure and Revenues on all Capital Items. Although all projects are listed on the schedule, brief comment is only provided on the significant variances identified. This is to keep the report to a reasonable size and to emphasise the reporting by exception principle.

### **Comment**

Excellence in financial management and good governance require an open exchange of information between Council Members and the City's administration. An effective discharge of accountability to the community is also able to be effected by tabling this document and the relevant attachments to a meeting of Council.

Overall, expenditure on the Capital Program represents 65% of the year to date target (and 37% of the full year's budget - excluding the UGP program which is not delivered by the City).

The Executive Management Team is conscious of the challenge of delivering the remaining program and is closely monitoring and reviewing the Capital Program with operational managers on an ongoing basis. This has included seeking strategies and updates from each of them in relation to the responsible and timely expenditure of the capital funds within their individual areas of responsibility.

The Director of Financial & Information Services has conducted a review of the capital program and has identified a number of projects that realistically can not be delivered by the end of financial year for various reasons including their being tied to unsuccessful grant funding applications, resource constraints and ambitious scheduling. Details of those projects and a strategy to deal with the related funds is attached as Agenda Item 9.6.5.

Comments on the broad capital expenditure categories are provided in **Attachment 9.6.1(5)** and details on specific projects impacting on this situation are provided in **Attachment 9.6.4(1)** and **Attachment 9.6.4(2)** to this report. Comments on the relevant projects have been sourced from those managers with specific responsibility for the identified project lines and their responses have been summarised in the attached Schedule of Comments.

### **Consultation**

For all identified variances, comment has been sought from the responsible managers prior to the item being included in the Capital Projects Review.

### **Policy and Legislative Implications**

Consistent with relevant professional pronouncements but not directly impacted by any in-force policy of the City.

### **Financial Implications**

The tabling of this report involves the reporting of historical financial events only. Preparation of the report and schedule require the involvement of managerial staff across the organisation, hence there will necessarily be some commitment of resources towards the investigation of identified variances and preparation of the Schedule of Comments. This is consistent with responsible management practices.

### **Strategic Implications**

This report deals with matters of financial management which directly relate to the key result area of Financial Viability identified in the City's Strategic Plan Goal 6 –

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

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.6.4</b>
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That the Schedule of Capital Projects complemented by officer comments on identified significant variances to 28 February 2007, as per **Attachments 9.6.4(1)** and **9.6.4(2)**, be received.

CARRIED EN BLOC RESOLUTION

<b>9.6.5 2006/2007 Special Capital Expenditure Program Review</b>
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Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	13 March 2007
Author/Reporting Officer:	Michael J Kent, Director Financial and Information Services

### **Summary**

A critical review of the 2006/2007 Capital Expenditure Program has been conducted to identify projects that may be reasonably assumed to be unlikely to be completed by 30 June 2007. The purpose of this review is to recognise the circumstances that have led to these situations and to proactively respond in a manner that will see the projects re-scheduled to a time when they can realistically be delivered - or if they were dependent upon unsuccessful funding applications, to more appropriately scope the projects to fit within our available financial resources. The report recommends a suitable strategy to achieve these outcomes.

### **Background**

The City adopted a Capital Expenditure Program on 10 July 2006 of some \$13.8M (including \$4.8M for the Underground Power Project). Carry forward works from 2005/2006 added \$1.9M to the budget program and Budget Reviews for the Como Beach Project, Building Refurbishment and other capital works such as the Preston St Streetscape Project have added a further \$0.7M - to bring the 2006/2007 Capital Program to a total of \$16.4M.

Certain projects within the \$16.4M Capital Program were dependent upon funding applications or collaborations with other government agencies and accordingly could not be progressed independently by the City. Other projects have involved greater preliminary works / investigation or tender lead times than was initially estimated.

It is acknowledged that rather than leaving the projects in the capital program knowing that they are unlikely to be achieved, the City can adopt a more responsible and proactive stance by identifying these projects and developing a strategy to address the issues relating to them and to ensure that the associated funding is treated appropriately.

**Comment**

*Underground Power*

The Underground Power Project is a program that will be delivered by Western Power in accordance with that agency's own scheduling and works program. Commencement of the work is already substantially delayed and it is extremely unlikely that cash calls will be made on the City for its contribution towards the project before 30 June 2007. The City's contribution to the project is to be funded by levying an Underground Power Service Charge on the properties in the affected area. Given the delays in construction by Western Power, the final charges not having yet been determined and the fact that the City would not wish to compromise its own cash collections from the 2007/2008 rates strike (due in August 2007) by issuing third party invoices mid year - it is suggested that billing of the UGP Project should not occur until say October 2007.

Given this, it is recommended that the UGP Project Revenue (\$4.8M), the UGP Capital Expenditure Cost (\$4.8M) and the related cash flow impact and borrowings (\$3.0M to fund the instalment payment option) are all deferred into the 2007/2008 financial year. The impact on the City's Budget Position of this strategy is shown in Table 2.

*Lyall St Pump Station*

The City has also been advised that a contribution of \$150K to the Lyall St Pump Station works from Water Corporation will now not be realised as Water Corp have adopted a different strategy for this project. Accordingly the grant revenue should be removed from the current year budget and the scope of the City's works on this project also adjusted downwards by a similar amount.

*George Burnett Pavillion*

The City was to have expended up to \$122K on extensions / refurbishment of the George Burnett Pavillion - contingent upon the South Perth Rugby Club securing a CSRFF grant and sufficient funding of their own to complete the desired scope of works. Following advice from the club that they are now not planning to proceed with the project at this time, it is considered prudent to remove both the grant funding and the project expenditure from the Capital Program.

*Collier Park Golf Course*

Pending the decision on the future management / operating model for the Collier Park Golf Course by Council, it is considered prudent and responsible to progress only non discretionary capital expenditure at the course at this time. It is recommended that the remaining (discretionary) capital funding of \$150K be returned to the Collier Park Golf Course Reserve at this time - from where it can be drawn down when required in the future.

*Electronic Document Management System*

Capital expenditure of \$150K has also been provided from the Information Technology Reserve for an Electronic Document Management System (EDMS) in 2006/2007. However, before this purchase and implementation could be undertaken, it was necessary to complete the physical records environment (part of the building refurbishment) and complete the migration of all corporate records from the previous record system to a centralised, property-based system - a particularly onerous and resource hungry task that is now around 80% complete.

By the time that the creation of the new centralised record keeping system is completed and appropriate research is conducted to develop a detailed specification for such a system - and a tender process is carried out to select a suitable supplier, it will clearly be well into the 2007/2008 year. Accordingly, it is recommended that the majority of the EDMS funding (other than a notional amount already expended on environmental management for the records area) be returned to the Information Technology Reserve at this time.



**TABLE 1 - SUMMARY OF CHANGES TO CAPITAL PROGRAM**

Details	Amount \$
Adopted Capital Expenditure Program - As amended to 28 February 2007	16,425,953
Less:	
Underground Power Project - Deferred to 2007/2008	(4,800,000)
Reduce scope of Lyall St Pump Station Works	(150,000)
Reduce scope of works at George Burnett Pavilion (SP Rugby Club)	(122,000)
Collier Park Golf Course - Funds returned to the CPGC Reserve	(150,000)
EDMS Project - Funds returned to Information Technology Reserve	(140,000)
<b>Revised 2006/2007 Capital Program</b>	<b>\$11,063,953</b>

It has also been recognised that certain other existing capital projects funded in the current year will necessarily be carried forward into the 2007/2008 financial year. At this time, the following projects are identified as certain carry forward items:

Details	Amount \$
Civic Library / Halls Refurbishment (Part funding)	500,000
Waterford Shared Use Path (Relates to joint grant applic with City of Canning)	90,000
Daisy & Iris Lane Lighting (Relates to UGP Project now deferred)	20,000
James Millar Pavillion	35,000
<b>Identified Carry Forward Capital Works to Date</b>	<b>645,000</b>
(not a final or complete listing)	

The changes noted above would result in an expected Capital Program (delivered and invoiced by 30 June 2007) of approximately \$10.4M (which is the amount of capital works delivered and invoiced last year) - so it reflects a very reasonable and responsible target.

Importantly, none of the projects noted above are 'lost' to the program, rather they have their suggested timeframes or scope adjusted to a more realistic and practical target. This means that expectations that the projects will be delivered are not compromised - only the timing is adjusted in accordance with responsible project management practices.

#### **Consultation**

The proposed changes have been discussed with the responsible managers prior to the item being included in the Special 2006/2007 Capital Projects Review. It is proposed that the change to the largest and most public of the projects (the Underground Power Project) would be widely promoted to the community. Most of the other changes are administrative in nature.

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

Consistent with prudent professional practice - but not directly impacted by any in-force policy of the City.

#### **Financial Implications**

The tabling of this report involves an impact on the City's estimated Budget Closing Position. The specific impacts of each of the suggested budget revisions are detailed in the Table 2 below.

**TABLE 2 - BUDGET IMPACT OF CAPITAL PROGRAM REVISIONS**

Details	Amount \$
Projected 2006/2007 Budget Position as at 28 February 2007	59,658
Underground Power Project Revenue - Deferred to 2007/2008	(4,800,000)
Underground Power Project - Deferred to 2007/2008	4,800,000
Proposed Borrowings (related to UGP) - Deferred to 2007/2008	(3,000,000)
Anticipated increase in UGP Debtors - Deferred until 2007/2008	2,500,000
Contribution from Water Corp for Lyall St Pump Station - Eliminated	(150,000)
Reduce scope of Lyall St Pump Station Works	150,000
Contribution towards works at George Burnett Pavillion	(80,000)
Reduce scope of works at George Burnett Pavillion (SP Rugby Club)	122,000
Collier Park Golf Course - Funds not drawn down from the CPGC Reserve	(150,000)
Collier Park Golf Course - Capital Projects not proceeding at this time	150,000
EDMS Project - Funds returned to Information Technology Reserve	(140,000)
EDMS Project - Deferred to 2007/2008	140,000
Improvement in Accrual Position through better than expected cash collections	125,000
Anticipated Operational Savings for 2006/2007	300,000
<b>Revised 2006/2007 Budget Closing Position</b>	<b>\$26,658</b>

The anticipated improvement in the accrual movements position through effective cash collections and the anticipated operational savings reflect best professional estimates at this time. They will continue to be monitored and re-assessed each month for the remainder of the year - and may necessarily be adjusted again in the City's Q3 Budget Review should this be indicated through the ongoing review.

#### **Strategic Implications**

This report deals with matters of financial management which directly relate to the key result area of Financial Viability identified in the City's Strategic Plan Goal 6 –

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

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 9.6.5</b>
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That following this Special Review of the 2006/2007 Capital Program, the budget estimates for Capital Revenue and Capital Expenditure for the 2006/2007 Financial Year, (adopted by Council on 11 July 2006 - and as subsequently amended by resolutions of Council to date), be amended as per **Attachment 9.6.5** to the March 2007 Council Agenda.

CARRIED EN BLOC RESOLUTION

## **9.7 MATTERS REFERRED FROM AUDIT AND GOVERNANCE COMMITTEE MEETING**

<b>9.7.1 Recommendations from Audit and Governance Committee Meeting held 13 March 2007</b>
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Location:	City of South Perth
Applicant:	Council
File Ref:	GO/108
Date:	15 March 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 recommendations arising from the Audit and Governance Committee meeting held 13 March 2007 which require a Council decision.

### **Background**

The Committee was established by Council in recognition of the importance of its audit functions and to monitor and improve its corporate governance procedures. The Committee meets on a regular (usually quarterly) basis.

### **Comment**

The Minutes of the most recent Committee meeting held on 13 March 2007 are attached. **Attachment 9.7.1** refers.

The Committee does not have delegated authority to make decisions but may make recommendations to Council to enable it do so. There are a number of recommendations from the Committee which require Council's consideration and action. These are numbered and set out below with comments and recommended action.

**(a) Management Letter from City's Auditors** (*Item 4.1 Audit & Governance Committee*)

Officer Recommendation

That the updated status report on the actions noted in the October 2006 Management Letter submitted by the City's Auditors, Stanton Partners Chartered Accountants be received.

Comment

The actions taken by the City Administration in response to the minor improvement suggestions made in the Auditors' Management Letter accompanying the 2005/2006 Audit Report submitted by Stanton Partners Chartered Accountants was acknowledge by the Committee.

Committee Recommendation Item 4.1

That the updated status report on the actions noted in the October 2006 Management Letter submitted by the City's Auditors, Stanton Partners Chartered Accountants be received.

**(b) Appointment of Auditors** (*Item 4.2 Audit & Governance Committee*)

Officer Recommendation

That Barrett Partners DFK be appointed as the City's nominated auditor in accordance with Part 7 of the *Local Government Act* for the audit of the 2006/2007 to 2008/2009 financial statements.

**Comment**

The Committee supported the evaluation of the weighted criteria including both price and other qualitative factors of the ranking.

Committee Recommendation Item 4.2

That Barrett Partners DFK be appointed as the City's nominated auditor in accordance with Part 7 of the *Local Government Act* for the audit of the 2006/2007 to 2008/2009 financial statements.

(c) **Compliance Audit Return** (*Item 4.3 Audit & Governance Committee*)

Officer Recommendation

That the Committee review the Compliance Audit Return and recommend to Council that it resolve to adopt the Return so as to enable its submission to the Department of Local Government and Regional Development by 31 March 2007.

Comment

The Committee reviewed the Compliance Audit Return. The recommendation is self-explanatory and no further comment beyond that recorded in the Committee Minutes is considered necessary. **Attachment 9.7.1(c)** refers.

Committee Recommendation Item 4.3

That the Committee having reviewed the Compliance Audit Return, recommend to Council that it resolve to adopt the Return so as to enable its submission to the Department of Local Government and Regional Development by 31 March 2007.

(d) **Review of Council Delegations** (*Item 4.4 Audit & Governance Committee*)

Officer Recommendation

That ....

- (a) the following Delegations, as amended, **Attachment 4.4** refers, be adopted; (DC601, DC602, DC603, DC607, DC612, DC651, DC652 and DC653); and
- (b) the City's progress in undertaking the review of Policies and Delegations to date be acknowledged.

Comment

Modifications were made to the following Delegations:

**DC 652 "Write Off Debts"**

Inclusion of the following additional part (c):

*Council shall be informed of the details whenever this delegation is exercised.*

**DC653 "Granting Fee Concessions"**

Inclusion of the following additional part (3):

*Council shall be informed of the details whenever this delegation is exercised.*

Committee Recommendation Item 4.4

That ....

- (c) the following Delegations, as amended, Attachment 4.4 refers, be adopted; (DC601, DC602, DC603, DC607, DC612, DC651, DC652 and DC653); and
- (d) the City's progress in undertaking the review of Policies and Delegations to date be acknowledged.

**Note:** Delegations recommended for adoption are contained in **Attachment 9.7.1(d)** of the March Council Agenda.

(e) **Policy Review - Goal 6** (*Item 4.5 Audit & Governance Committee*)

Officer Recommendation

That ....

- (a) the following Policies, as per **Attachment 4.5** be adopted; (P511, P601, P602, P603, P604, P605, P607, P608, P610, P611, P612 and P613);
- (b) Council resolves to make a reimbursement of \$50.00 per instance with respect to each claim for travel expenses incurred by a Member in attending a Council Meeting where the Member permanently, or temporarily, resides outside the district or an adjoining district; and
- (c) the City's progress in undertaking the review of City Policies to date be acknowledged.

Comment

Policy P605 "Purchasing and Invoice Approval" has been modified to incorporate feedback from Councillors about relevant 'triple bottom line' considerations in purchasing decisions. The 'heading' of the relevant section has been changed to: **Value for Money, Social Impact and Sustainability**

Following discussion, Part (b) of the recommendation was modified to reflect *a maximum amount of up to 100km per meeting at the relevant rate of travel reimbursement.*

Committee Recommendation Item 4.5

That ....

- (a) the following Policies, as amended and per Attachment 4.5 be adopted; (P511, P601, P602, P603, P604, P605, P607, P608, P610, P611, P612 and P613);
- (b) Council resolves to make a reimbursement of a maximum amount of up to 100km per meeting at the relevant rate of travel reimbursement with respect to each claim for travel expenses incurred by a Member in attending a Council Meeting where the Member permanently, or temporarily, resides outside the district or an adjoining district; and
- (c) the City's progress in undertaking the review of City Policies to date be acknowledged.

**Note:** Policies recommended for adoption are contained in **Attachment 9.7.1(e)** of the March Council Agenda.

(f) **Policy P517 Audio Recording** (*Item 4.6 Audit & Governance Committee*)

Officer Recommendation

That the Committee recommend to Council that it adopt Policy P517 - Audio Recording of Council Meetings, as set out at **Attachment 4.6(a)**.

Comment

Following discussion in relation to the actual purpose of the propose report it was agreed the draft report be circulated to Members for comment.

Committee Recommendation Item 4.6

That the draft Policy P517 “Audio Recording of Council Meetings”, be circulated to all Council Members for their comment following which a further report on the outcome be presented to the next meeting of the Audit and Governance Committee.

**Consultation**

N/A

**Policy and Legislative Implications**

The report and recommendations are made in accordance with the requirements of the *Local Government Act 1995*.

**Financial Implications**

Nil.

**Strategic Implications**

The report and recommendations are consistent with the relevant Goal 5 - Organisational Effectiveness - City’s Strategic Plan: - *To be a professional, effective and efficient organisation.*

<b>OFFICER RECOMMENDATION ITEM 9.7.1</b>
--

That Council adopt the following recommendations from the Audit and Governance Committee meeting held 13 March 2007:

- (a) Management Letter from City’s Auditors (*Item 4.1 Audit & Governance Committee*)  
That the updated status report on the actions noted in the October 2006 Management Letter submitted by the City’s Auditors, Stanton Partners Chartered Accountants be received.
- (b) Appointment of Auditors (*Item 4.2 Audit and Governance Committee*)  
That Barrett Partners DFK be appointed as the City’s nominated auditor in accordance with Part 7 of the Local Government Act for the audit of the 2006/2007 to 2008/2009 financial statements.
- (c) Compliance Audit Return (*Item 4.3 Audit and Governance Committee*)  
That the Committee having reviewed the Compliance Audit Return, **Attachment 9.7.1(c)**, recommend to Council that it resolve to adopt the Return so as to enable its submission to the Department of Local Government and Regional Development by 31 March 2007.

- (d) Review of Council Delegations (Item 4.4 Audit and Governance Committee)  
That ....
- (e) the following Delegations, as amended, **Attachment 9.7.1(d)** refers, be adopted;  
(DC601, DC602, DC603, DC607, DC612, DC651, DC652 and DC653); and
  - (f) the City's progress in undertaking the review of Policies and Delegations to date be acknowledged.
- (e) Policy Review - Goal 6 (Item 4.5 Audit and Governance Committee)  
That ....
- (a) the following Policies, as amended and per **Attachment 9.7.1(e)**, be adopted;  
(P511, P601, P602, P603, P604, P605, P607, P608, P610, P611, P612 and P613);
  - (b) Council resolves to make a reimbursement of a maximum amount of up to 100km per meeting at the relevant rate of travel reimbursement with respect to each claim for travel expenses incurred by a Member in attending a Council Meeting where the Member permanently, or temporarily, resides outside the district or an adjoining district; and
  - (c) the City's progress in undertaking the review of City Policies to date be acknowledged.
- (f) Policy P517 Audio Recording (Item 4.6 Audit & Governance Committee)  
That the draft Policy P517 "Audio Recording of Council Meetings", be circulated to all Council Members for their comment following which a further report on the outcome be presented to the next meeting of the Audit and Governance Committee.

<b>OFFICER AND COMMITTEE RECOMMENDATION AND COUNCIL DECISION ITEM 9.7.1 PART(a)</b>
---

Moved Cr Maddaford, Sec Ozsdolay

That the updated status report on the actions noted in the October 2006 Management Letter submitted by the City's Auditors, Stanton Partners Chartered Accountants be received.

CARRIED (12/0)

DECLARATIONS OF INTEREST : ITEM 9.7.1 PART (b) : CR WELLS AND CEO

I wish to declare an interest in Agenda Item 9.7.1(b) "Appointment of Auditors" on the Agenda for the Council meeting scheduled for 27 March 2007. The auditor recommended for appointment in this report (*Report Item 4.2 of the Audit and Governance Committee meeting held 13 March 2007*) is Barrett and Partners. Barrett and Partners are also my accountants. I declare that I have had no involvement in the assessment of the tenders or the preparation of this report.

**Note:** Cr Wells and the Chief Executive Officer left the Chamber at 8.50pm

<b>OFFICER AND COMMITTEE RECOMMENDATION AND COUNCIL DECISION ITEM 9.7.1 PART(b)</b>
---

Moved Cr Trent, Sec Cr Maddaford

That Barrett Partners DFK be appointed as the City's nominated auditor in accordance with Part 7 of the Local Government Act for the audit of the 2006/2007 to 2008/2009 financial statements.

CARRIED (11/0)

**Note:** Cr Wells and the Chief Executive Officer returned to the Chamber at 8.52pm  
Cr Gleeson returned to the Chamber at 8.53pm

**OFFICER AND COMMITTEE RECOMMENDATION  
AND COUNCIL DECISION ITEM 9.7.1 PART(c)**

Moved Cr Maddaford, Sec Cr Trent

That following review by the Audit and Governance Committee Council resolves to adopt the Compliance Audit Return, **Attachment 9.7.1(c)**, so as to enable its submission to the Department of Local Government and Regional Development by 31 March 2007.

CARRIED (12/1)

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

**OFFICER AND COMMITTEE RECOMMENDATION  
AND COUNCIL DECISION ITEM 9.7.1 PART(d)**

Moved Cr Maddaford, Sec Cr Trent

That ....

- (a) the following Delegations, as amended, **Attachment 9.7.1(d)** refers, be adopted; (DC601, DC602, DC603, DC607, DC612, DC651, DC652 and DC653); and
- (b) the City's progress in undertaking the review of Policies and Delegations to date be acknowledged.

CARRIED (13/0)

MOTION : ITEM 9.7.1(e)

Cr Maddaford moved the officer / committee recommendation. Sec Cr Macpherson

Cr Jamieson point of clarification - refer to a memo circulated to Councillors prior to the meeting from the Director Financial and Information Services in particular in relation to revised policy P605 "Purchasing and Invoice Approval" - want to be sure we are discussing the **revised** policy and not the one original circulated?

Director Financial and Information Services confirmed that it was the revised policy being discussed for adoption.

Cr Jamieson point of clarification - part (b) of this recommendation was left as action for Chief Executive Officer to advise whether it should go into a policy rather than be part of the Motion of Council - would prefer to see it as part of a policy.

Chief Executive Officer said that it was his understanding that part (b) of the recommendation was amended to reflect discussion at the briefing session and that it might be easier to leave it where it is rather than be part of a policy.

AMENDMENT

Moved Cr Jamieson, Sec Cr Smith

That the distance of 100km per meeting, in part (b) of the recommendation for Item 9.7.1(e) be amended to 200km per meeting.

Cr Jamieson opening for the Amendment

- 200km per meeting more realistic
- covers Members travelling back for meetings from country areas
- support Amendment



DECLARATION OF FINANCIAL INTEREST : CR HEARNE

Cr Hearne declared a financial interest in Item 9.7.1(e) stating that he resides outside the area.

**Note:** Cr Hearne left the Chamber at 9.00pm

Cr Ozsdolay against the Amendment

- not about distance - about recognising the cost
- original recommendation was a \$50 maximum
- amending the recommendation to 100km was a closer way to get to \$50
- Councillors choose where they live
- do not believe 200 km reasonable

Cr Jamieson closing for the Amendment

- participation in democratic process
- would not like someone for eg to drive to Albany and back
- support democratic process
- support Amendment

The Mayor put the Amendment.

LOST (6/7)  
On the Casting Vote of the Mayor

Cr Maddaford closing for the Motion

- extensive discussion at Audit and Governance Committee meeting
- can't keep increasing mileage
- support Motion

<b>OFFICER AND COMMITTEE RECOMMENDATION AND COUNCIL DECISION ITEM 9.7.1 PART(e)</b>
---

The Mayor put the Motion

That ....

- (a) the following Policies, as amended, **Attachment 9.7.1(e)**, be adopted; (P511, P601, P602, P603, P604, P605, P607, P608, P610, P611, P612 and P613);
- (b) Council resolves to make a reimbursement of a maximum amount of up to 100km per meeting at the relevant rate of travel reimbursement with respect to each claim for travel expenses incurred by a Member in attending a Council Meeting where the Member permanently, or temporarily, resides outside the district or an adjoining district; and
- (c) the City's progress in undertaking the review of City Policies to date be acknowledged.

CARRIED (11/1)

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

**Note:** Cr Hearne returned to the Chamber at 9.05pm

<b>OFFICER AND COMMITTEE RECOMMENDATION AND COUNCIL DECISION ITEM 9.7.1 PART(f)</b>
---

Moved Cr Doherty, Sec Cr Maddaford

That the draft Policy P517 "Audio Recording of Council Meetings", be circulated to all Council Members for their comment following which a further report on the outcome be presented to the next meeting of the Audit and Governance Committee.

CARRIED (13/0)

## 10. APPLICATIONS FOR LEAVE OF ABSENCE

<b>10.1 Request for Leave of Absence - Cr Smith 23.4.2007 - 2.5.2007 inclusive</b>
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Moved Cr Trent, Sec Cr Ozsdolay

That Cr Smith be granted leave of absence from any meetings held between 23 April and 2 May 2007 inclusive.

CARRIED (13/0)

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

<b>11.1 Proposed Censure Motion .....Cr Smith 12.3.2007</b>
---

I hereby give notice that I intend to move the following motion at the Council Meeting to be held on 27 March 2007:

### MOTION

That....

- (a) I move a Censure Motion against Cr G W Gleeson for referring to "other Councillors" as "idiots" at the February 2007 Council meeting, a comment which was part of an article which appeared in the Southern Gazette newspaper 6 - 12 March 2007; and
- (b) if my Censure Motion is passed I call on Councillor Gleeson to resign forthwith.

### CEO COMMENT

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

It is not appropriate for the CEO to comment on this other than to acknowledge the receipt of an apology from Cr Gleeson dated 9 March 2007. It is further understood that Cr Gleeson has requested the opportunity to make a statement at the Council meeting on 27 March 2007.

### MOTION

Cr Smith moved his Motion Item 11.1 on the Agenda. Sec Cr Best

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

#### Cr Smith opening for the Motion

- aware that Cr Gleeson has submitted his apology
- congratulate Cr Gleeson on his apology
- under ordinary circumstance, if contained within Council Chamber fine
- issue reported on front page of Southern Gazette - has moved it from one arena to another, has moved it out into the public arena
- censure Motion by me is to force issue into public arena as Councillors are disgusted in being referred to as idiots
- just as the public saw us referred to as idiots the public should also see the public censure in the form of this censure motion
- in every action there is equal reaction

Cr Ozsdolay against the Motion

- thank Cr Gleeson for his apology
- when a person transgresses a reasonable person would expect acknowledgement and then accept an apology
- this is not enough for Cr Smith - he wants his pound of flesh
- Cr Smith however performs disgustingly at times in this Chamber

Cr Smith called point of order object to the word *disgustingly*

Mayor Collins said that he believed the word *disgustingly* was out of order. He further stated that you have heard statements tonight that this Council is rubbing up against each other which is not in the best interests of the community. Here we have a unconditional apology to this Council from a Councillor which is repairing damage and Council is going to debate a Censure Motion calling for the resignation of that Councillor. Cr Ozsdolay has pointed out some behavioural issues. This apology is a positive step forward towards repairing damage

Cr Ozsdolay cont'd

- I withdraw the word *disgustingly*
- behaviour displayed concerns me
- Cr Smith has been the architect of this
- unreasonable of Cr Smith to seek resignation of Cr Gleeson

Cr Jamieson point of order Motion about Cr Gleeson

Mayor Collins said that the issue is about behaviour and has not been restricted to Cr Gleeson, however Cr Gleeson has apologised. He stated that the Councillor was relating to circumstances.

Cr Ozsdolay cont'd

- on a number of occasions matters of Code of Conduct have occurred
- Cr Smith says *I don't care about the Code of Conduct*
- Cr Smith has stormed out of the Chamber at least on three occasions
- do not believe it reasonable to call for Cr Gleeson's resignation
- had a Motion from Cr Smith of no confidence in the Mayor - called with no notice
- some Councillors had known about it for a week - process not up front and honest
- have allowed many issues go whereas perhaps I should not have
- no issue of Cr Gleeson going to the press - the press were here at the time
- Cr Wells went to the press last year placing advertisements about the Mayor - also not appropriate behaviour - problem is in the Council
- acknowledge my own part in not calling points of order
- Cr Gleeson has acknowledged his fault and apologised
- important we accept this apology and use it as a catalyst to go forward
- do we accept apology and move on, or not accept it and put the boots in
- took an oath to help residents of the City - motion proposed will do more damage
- motion is wrong - urge you not to support it

Cr Wells point of clarification - the word *idiot* means mentally deficient - can I get a ruling as to whether there has been a breach of Standing Orders clause 8.4(b) where no member of Council is to use derogatory comments.

Chief Executive Officer read aloud clause 8.4(b) of Standing Orders Local Law as follows:

**8.4 Adverse Reflection**

- (b) No member of council is to use offensive or objectionable expressions in reference to any member, employee of council, or any other person.

Cr Wells point of clarification - what is the maximum penalty for breaching this clause? Chief Executive Officer stated that the Maximum penalty is \$1,000. Cr Wells asked what the minimum amount would be? Chief Executive Officer stated that the minimum would be zero.

MOTION

Moved Cr Trent, Sec Cr Macpherson - That the Motion be put.

LOST (5/8)

Cr Cala point of clarification - if the Motion is lost, can there be an alternative Motion?

Mayor Collins responded no.

Cr Maddaford for the Motion

- disappointed - accepted apology given
- would not expect Cr Ozsdolay to make a 'bun fight' out of this
- believe way Cr Ozsdolay has approached this is fuelling for a fight
- believe Cr Ozsdolay is out of order

Cr Macpherson against the Motion

- have sat on Council for a long time - witnessed inappropriate behaviour many times
- inappropriate behaviour has disturbed me considerably
- we have now received two apologies from Cr Gleeson
- one apology by letter to each Member and now a public apology, for which I thank him
- trust we can move on and not go over and over this
- this issue is of no benefit to the residents of the City of South Perth

Cr Cala against the Motion but for the 'spirit' of the Motion

- do not support Motion but do support the 'spirit' of the Motion
- statement made damaging
- accept Cr Gleeson's apology but would like Cr Gleeson to put an advertisement in the Southern Gazette newspaper
- believe apology needs to be advertised to the whole of South Perth - they have not heard the apology made tonight - needs to be advertised in the Gazette

Mayor Collins stated that as the press were in attendance that he believed the issue would be in the paper.

Cr Jamieson for the Motion

- appreciate the apology - concept good - a healthy thing
- received first apology via letter - read it as *not my fault*
- Cr Gleeson then phoned me - have since seen newspaper article and received a second apology read out tonight but looking for some passion
- struggling to feel passion - appreciate the thought but not strong enough
- support the Motion

Cr Smith closing for the Motion

- accept Cr Gleeson's apology - but does not go far enough
- issue has moved from one forum to another - I am addressing it in both forums
- if Cr Gleeson had put an apology in the paper it may have alleviated this
- commend the Motion

**COUNCIL DECISION ITEM 11.1**

The Mayor put the Motion

The Motion is Lost.

LOST (6/7)

MEETING ADJOURNED

Moved Cr Hearne, Sec Cr Macpherson

That the meeting be adjourned at 9.30pm to allow for a 10 minute break.

CARRIED (13/0)

MEETING RESUMED

Moved Cr Hearne, Sec Cr Trent

That the meeting be reconvened at 9.40pm.

**Note:** All those present before the adjournment returned to the Chamber, with the exception of Cr Smith who had declared an interest in the next item for discussion being Agenda Item 11.2.

CARRIED (12/0)

DECLARATION OF INTEREST

**Note:** Prior to the commencement of the meeting: *Cr Smith reported to Mayor Collins that he would be declaring an interest in Item 11.2 "Legal Fees" as he had sought legal advice and that in view of this he would be leaving the Chamber during the discussion on Item 11.2.*

**11.2 Dept of Local Government Inquiry - Legal Fees...Cr Smith 12.3.2007**

I hereby give notice that I intend to move the following motion at the Council Meeting to be held on 27 March 2007:

MOTION

That ...

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

CEO COMMENT

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

- (a) any application by a Council Member for legal representation should be made pursuant to Council's Legal Representation policy P519 in which a comprehensive process is detailed;
- (b) the policy was adopted by Council in October 2006 and is based on guidelines formulated by the Department of Local Government to ensure that when Council makes decisions in this area that it does so on a proper and lawful basis in accordance with the *Local Government Act*;
- (c) the Department of Local Government has conducted an Authorised Inquiry under Part 8 of the *Local Government Act*. Until the Report is published it is not known with certainty whether there will be any adverse findings, or who will be the subject of any adverse findings or its nature;
- (d) as far as the Administration is aware, it is unlikely that any legal action will arise from an Authorised Inquiry Report and as a consequence, it is not known why legal representation would be required;
- (e) no provision has been made in the Members Budget for legal assistance of this type. There is no reference in the Motion to the amount involved, whether it is the maximum amount contained in the policy or some other amount;
- (f) notwithstanding the above, the disclosure of interest provisions of the Act, require that any Councillor who considers that he or she may have been adversely commented upon in the Inquiry Report and who intends to seek assistance for legal advice would need to disclose that interest and not be present at, or participate in, the discussion of the Agenda item; and
- (g) if the Motion (or one similar to it) is proposed to be pursued, it is strongly recommended that appropriate legal advice be sought before such a decision is made after the Report is released.

ITEM 11.2

The Mayor called for a Mover for Cr Smith's Motion at Item 11.2 on the Agenda.

MOTION

Cr Best moved Cr Smith's Motion, Sec Cr Maddaford

STATEMENT CHIEF EXECUTIVE OFFICER

The CEO stated that he wished to draw Members' attention to clauses 3.6(e) and 3.6(f) of the Standing Orders Local Law.

The Mayor read aloud the following clauses from the Standing Orders:

- (e) *A motion of which notice has been given is to lapse unless:*
  - (i) *the member who gave notice thereof, or some other member authorised by him or her in writing moves the motion when called on; or*
  - (ii) *council on a motion agrees to defer consideration of the motion to a later stage or date.*
- (f) *If a notice of motion is given and lapses in the circumstances referred to in subclause (e)(i), notice of motion in the same terms or the same effect is not to be given again for at least 3 months from the date of such lapse.*

The Mayor said that for the sake of good governance requested that Cr Best obtain written authorisation from Cr Smith giving Cr Best authority to move Cr Smith's Motion as per Item 11.2 on the Agenda.

**Note:** Cr Best left the Chamber at 9.50pm and returned at 9.52pm with a written authorisation from Cr Smith.

MOTION

Moved Cr Best, Sec Cr Maddaford

That ....

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

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Best opening for the Motion

- each Councillor who gave evidence to the inquiry (still before DLG) has ‘an interest in common’ with other Councillors who also gave evidence
- within that ‘interest in common’ each Councillor has the right to natural justice and within that right, access to legal advice and representation
- this right has been confirmed by the Department - therefore the legal expenses of any Councillor who decides to hire a lawyer to provide them legal advice and representation should be paid by the City of South Perth so natural justice is provided and is seen to be done
- Councillors who have not applied for legal advice on this matter but have made submissions to the Inquiry should not be required to declare a conflict of interest in relation to this Motion.

Cr Maddaford for the Motion

- support the motion
- have been advised to seek legal advice and that such advice is not to be provided to anyone.

Cr Hearne point of clarification in relation to part (g) of the CEO comment for Item 11.2?

Chief Executive Officer referred to parts (a) to (f) of the CEO comments for this item and stated that Council has a Policy P519, based on guidelines formulated by the Department of Local Government and made well in advance of any issues arising. He said the Motion proposed has made no reference to the provisions of the policy but does refer to possible adverse findings that Councillors may or may not be aware of. If Council have received natural justice opportunities and if they come out I believe they would have a financial interest, otherwise the policy would remain in force and an application could be made under the clauses of that policy.

Cr Ozsdolay against the Motion

- in speaking against Motion, in no way not supporting ‘natural justice’
- not aware of any adverse findings - premature to move this Motion
- not in the interests of residents / ratepayers
- being asked to fund adverse findings - we do not know yet
- to support this motion is a poor use of City funds
- should not be issuing a ‘blank cheque’ to anyone on this Council to seek legal advice
- could potentially be funding someone to take action against the City
- took an oath to act for City of South Perth residents
- believe this Motion would expose residents to risk
- if adverse findings treat each application on its merit
- against the Motion

Cr Cala for the Motion

- as Councillors, have acted in good faith
- need some type of assurance of legal assistance if you make a mistake in that process
- will not get Councillors if no security and they make a mistake
- they need security if acting in good faith
- need to be in a secure position - not have the dread of loosing their house
- if we do not support each other we will not have any Councillors

Mayor against the Motion

- we have a process where Councillors can make application under policy
- perhaps Councillors are not aware of this - but there is a policy
- application should be made when the timing is correct then Council can make a decision on information supplied
- perhaps Councillors have missed this point - we do have a policy in place.

Cr Gleeson against the Motion

- Cr Smith's Motion is an interesting way of getting legal assistance
- motion says 'possible adverse findings against any Councillor of CoSP'
- I will not need any financial assistance

Mayor Collins reminded Members that the Inquiry Report is *Confidential*.

- given Councillors only received 'interim' findings should not be making decisions until we receive final report
- Cr Smith has put us in this 'envelope' and tends to put undue influence on to all of us
- I will not be requesting any legal aid but I am in the 'envelope'
- believe proper process is to await final report findings
- do not support Motion

Cr Jamieson for the Motion

- information is sparse because draft report is *Confidential*
- for bulk of Councillors possibility of adverse findings - this subject came to us twice
- here we are with possible adverse findings - difficult to accept
- we should be entitled to get legal advice to provide support to allow Councillors to do what they do in good faith
- support the Motion

Cr Macpherson against the Motion

- read this Motion and wondered why?
- have given some thought and believe that if impropriety is found it should not be rewarded by ratepayer funds
- in relation to Cr Cala's comments - do not believe it is reasonable to hide behind 'acted in good faith'
- we as Councillors are under scrutiny at all times
- do not support inappropriate behaviour being rewarded by ratepayer funds
- against Motion



Cr Hearne for the Motion

- basically Motion says *possible adverse findings could be made*
- 30 people could be interviewed - you have to be in a position to defend yourself
- Cr Smith's Motion says he wants to engage a lawyer to protect himself
- hear what CEO has said - we may have a vested interest in approving this
- Motion relates to Inquiry and relates to Cr Smith
- because of Confidentiality *we do not know*
- if advised to seek legal advice you would need to seek legal advice
- support the Motion

Cr Ozsdolay point of clarification - part (b) of recommendation ambiguous, seeks legal advice before an adverse finding?

Chief Executive Officer said that as per the CEO Comments in parts (a) to (g) at Item 11.2 seven serious concerns have been listed. Council does have a very comprehensive policy which is not referred to in the Motion. The fact that the Department may or may not find adverse findings it is unlikely that any legal action will arise from an Authorised Inquiry Report and as a consequence, it is not known why legal representation would be required. He further advised that Council should be aware of the circumstances before it moves a Motion of this type, eg what are the adverse findings, what is amount being sought etc. These are questions that need to be answered before any resolution of this type is passed which is why the policy exists.

Cr Hearne point of clarification can Cr Smith apply to Council under the terms of the policy when the terms of the Inquiry report are confidential? The Chief Executive Officer said, the simple answer is to wait until the report is finalised and Council could then consider it.

Cr Hearne point of clarification - if you read a report prepared by a third party and you disagree and you may not have the expertise to defend yourself - how do you proceed? How can policy P519 apply when we can not know the details - to wait for the report it may be too late.

Mayor Collins said make an application like everyone else and Council will decide. There is a procedure that you can apply but to give an open cheque book to someone is not the correct procedure - you could find it goes through to the Supreme Court. In the proper governance of the City we should not be giving an open cheque book. If there is going to be legal action it would have come out by now. The majority of Councillors will not be asking for legal advice which is available to all Councillors prepared to make an application.

Legal and Governance Officer - in response to Cr Hearne's question stated that whatever evidence has been given to the Inquiry by a Councillor, that stage is concluded. There is nothing a Councillor can do now following the close of the natural justice phase. When that period is closed the evidence is in and the only thing the rest of us will know is when the final report is published. If there is an adverse finding a Councillor may wish to make an application for legal representation at that stage. The City's legal representation policy is based on guidelines formulated by the Department of Local Government. The policy provides guidelines on whether, or how legal representation can be obtained - whereas in the Motion there are no checks or balances and no caps on the cost to the City as provided for in the policy. To vote for this Motion goes against Council's own legal representation policy.

Cr Best closing for the Motion

- support the Motion on principle
- Inquiry happened before I started as a Councillor
- to encourage people to join Council need to protect them to do the job
- because Inquiry is *confidential* believe Cr Smith has thought of Policy P519 and recognised that he is in a 'catch 22' position
- morally need to support this Motion

**COUNCIL DECISION ITEM 11.2 \* Revoked Item 6.1 Special Council Meeting 6.6.2007**

The Mayor put the Motion

That ....

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

CARRIED (7/5)

**NOTE:** CRS GLEESON, MACPHERSON, OZSDOLAY AND TRENT AND MAYOR COLLINS REQUESTED THEY BE RECORDED AS HAVING VOTED AGAINST THE MOTION

**Note:** Cr Smith returned to the Chamber at 10.25pm

**11.3 Certificate of Occupancy .....Cr Cala 12.3.2007**

I hereby give notice that I intend to move the following Motion at the Council Meeting to be held on 27 March 2007:

That a report be submitted to the next available Council meeting on the proposed adoption of the following procedure 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.

MEMBER COMMENT

Following Council's decision to improve procedures at the Planning Approval and Building Licence stage in February, 2007 this requirement adds yet another layer of protection and insurance to the City.

Multiple Dwellings are only identified in this Motion to require a Compliance Certificate, because they are generally of a size and height that will have the most impact on the City and its residents. To require all buildings to provide a Compliance Certificate is seen to be unnecessary and financially burdensome.

To place the onus on the building owners to engage a professional Building Surveyor or other suitably qualified professional, removes the task from the otherwise overstretched resources of the City. The cost is rightly borne by the owners, as they are presently required to pay for Planning and Building Licence fees in the normal course of undertaking a development.

CEO COMMENT

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

At a Councillors' Concept Forum briefing held during September 2006 regarding the City's obligations to inspect buildings for compliance with approved plans, it was noted that the proposed new Building Act proposes mandatory inspections for buildings under construction, and that the inspection reports would be submitted to local government by private accredited building professionals. The draft legislation proposes that once inspection certificates have been presented and accepted the local government would issue the Certificate of Occupation.

The present *Local Government Act* and Building Regulations 1989 specify the current legislative requirements for building inspections; the current legislation does not require inspections during construction.

It is noted that the power to regulate plot ratio, setbacks and height is derived from the Planning and Development Act whereas the power to require compliance with building criteria is derived from separate legislation. Accordingly, it will be necessary to determine whether the introduction of the proposed certification can legally be implemented under the present legislation.

It is considered advisable for the City to research and report back these matters.

MODIFIED NOTICE OF MOTION AND CEO COMMENTS : ITEM 11.3

**Note:** An amended Notice of Motion which includes an additional part (b) together with an additional CEO comment (last paragraph) on part (b) was circulated to Members prior to the commencement of the meeting.

<b>11.3 Certificate of Occupancy ...(Amended Motion Cr Cala 27.3.2007)</b>
--

I hereby give notice that I intend to move the following Motion at the Council Meeting to be held on 27 March 2007:

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.

MEMBER COMMENT

Following Councils decision to improve procedures at the Planning Approval and Building Licence stage in February, this requirement adds yet another layer of protection and insurance to the City.

Multiple Dwellings are only identified in this motion to require a compliance certificate, because they are generally of a size and height that will have the most impact on the City and its residents. To require all buildings to provide a compliance certificate is seen to be unnecessary and financially burdensome.

To place the onus on the Building Owners to engage a professional Building Surveyor or other suitably qualified professional, removes the task from the otherwise overstretched resources of the City. The cost is rightly borne by the Owners, as they are presently required to pay for Planning and Building Licence fees in the normal course of undertaking a development.

The objective of requiring an examination of our processes in the handling of Strata Certificates is to clarify the legal implications of a Strata Certificate being issued prior to that of a Certificate of Classification. There appears to be some anecdotal evidence of this occurring in recent years and Council needs to have a clear understanding of the legislative requirements.

COMMENT CEO

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

At a Councillors' Concept Forum briefing held during September 2006 regarding the City's obligations to inspect buildings for compliance with approved plans, it was noted that the proposed new Building Act proposes mandatory inspections for buildings under construction, and that the inspection reports would be submitted to local government by private accredited building professionals. The draft legislation proposes that once inspection certificates have been presented and accepted the local government would issue the Certificate of Occupation.

The present *Local Government Act* and Building Regulations 1989 specify the current legislative requirements for building inspections; the current legislation does not require inspections during construction.

It is noted that the power to regulate plot ratio, setbacks and height is derived from the Planning and Development Act whereas the power to require compliance with building criteria is derived from separate legislation. Accordingly, it will be necessary to determine whether the introduction of the proposed certification can legally be implemented under the present legislation.

It is considered advisable for the City to research and report back these matters.

The requirements for a Certificate of Classification and a Strata Certificate are derived from separate legislation. Consideration can be given to the priority sequence for issue of the respective certificates and, subject to the outcome of this investigation, to the means for implementation. This further issue will be addressed in the report requested."

MOTION

Cr Cala moved his Amended Motion at Item 11.3, Sec Cr Smith

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Cala opening for the Motion

- February meeting Council meeting resolved to improve Planning Approval/Building Licence procedures
- this Motion adds yet another layer of protection and insurance to the City.
- Multiple Dwellings are only identified in this motion to require a compliance certificate, Multiple Dwellings are generally of a size and height that will have the most impact on the City and its residents
- to require all buildings to provide a compliance certificate is seen to be unnecessary
- to place the onus on building owners to engage a surveyor removes task from overstretched resources of the City
- cost rightly borne by the owners
- objective of requiring examination of our processes in the handling of Strata Certificates is to clarify the legal implications of a Strata Certificate being issued prior to that of a Certificate of Classification - Council needs to have a clear understanding of the legislative requirements
- encourage Councillors support the Motion

Cr Smith for the Motion

- concur with Cr Cala's comments
- only a few developers have transgressed
- need to create a climate that we will direct officers to go on site at any time during construction to check things such as height, setbacks and plot ratio
- have to let developers know that we have a right to go in during construction at any time as part of the process
- better for us to find a problem early and issue a Stop Work Order
- support the Motion

**COUNCIL DECISION ITEM 11.3**

The Mayor put the Motion

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.

CARRIED (13/0)

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

Nil

**13. MEETING CLOSED TO PUBLIC**

**13.1 Matters for which the Meeting May be Closed.**

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

Moved Cr Doherty, Sec Cr Hearne

That the meeting be closed to the public at 10.30pm in accordance with the *Local Government Act Section 5.23(2)(a)* while items 13.1.1 and 13.1.2 are discussed as they relate to matters affecting an employee.

**Note:** The following staff and the remaining members of the public gallery left the Chamber at 10.30pm.

Mr R Burrows	Director Corporate and Community Services
Mr S Cope	Director Strategic and Regulatory Services
Mr M Kent	Director Financial and Information Services
Mr L Croxford	Acting Director Infrastructure Services
Mr C Buttle	Manager Development Assessment
Ms D Gray	Manager Financial Services
Ms R Mulcahy	City Communications Officer

**Note:** The Chamber doors were closed at 10.30pm

**Note:** Cr Wells left the Chamber at 10.30pm

**COUNCIL DECISION - LEGAL AND GOVERNANCE OFFICER**

Moved Cr Jamieson, Sec Cr Smith

That the Legal and Governance Officer, remain outside the Chamber while the *Confidential* discussion takes place on Items 13.1.1 and 13.1.2, and will be called if required.

CARRIED (7/5)

**NOTE:** CRS GLEESON, MACPHERSON, OZSDOLAY AND TRENT AND MAYOR COLLINS REQUESTED THEY BE RECORDED AS HAVING VOTED AGAINST THE MOTION.

**Note:** Cr Wells returned to the Chamber at 10.33pm.  
Legal and Governance Officer left the Chamber at 10.33pm

**13.1.1 Confidential Staff Matter - Notice of Motion Cr Smith 13.3.2007**

**Note:** *Confidential* Notice of Motion circulated separately.

MOTION

Moved Cr Smith, Sec Cr Jamieson

That the *Confidential* Motion, as circulated separately for Item 13.1.1 of the March 2007 Council Agenda, be adopted.

DIVISION

The Mayor put the Motion. Cr Macpherson called for a Division

Against the Motion

Cr Ozsdolay  
Cr Macpherson  
Cr Gleeson  
Cr Trent  
Mayor Collins

For the Motion

Cr Doherty  
Cr Smith  
Cr Maddaford  
Cr Wells  
Cr Cala  
Cr Best  
Cr Hearne  
Cr Jamieson

**COUNCIL DECISION ITEM 13.1.1**

That the *Confidential* Motion, as circulated separately for Item 13.1.1 of the March 2007 Council Agenda, be adopted.

CARRIED (8/5)

DECLARATION OF INTEREST : ITEM 13.1.2 : CEO

*I wish to declare an Interest in Item 13.1.2 Notice of Motion 'Confidential Staff Matter' on the Agenda for the Ordinary Council Meeting to be held 27 March 2007. As I am the subject of the item in question I will leave the Council Chamber while this matter is being debated.*

**Note:** Chief Executive Officer left the Chamber at 11.35pm

Cr Gleeson left the Chamber at 11.36pm

**13.1.2 Confidential Staff Matter - Notice of Motion Cr Best 13.3.2007**

**Note:** *Confidential* Notice of Motion circulated separately.

MOTION

Moved Cr Best,

That the Motion for *Confidential* Item 13.1.2 as circulated with the Agenda of the March 2007 Ordinary Council Meeting be adopted.

The Motion Lapsed for want of a Seconder.

LAPSED

**Note:** Cr Gleeson returned to the Chamber at 11.37pm

MOTION

Moved Cr Best, Sec Cr Smith

That the *Confidential* Motion for Item 13.1.2 as 'tabled' at the March 2007 Ordinary Council Meeting and as circulated to Members, be adopted.

MOTION

Cr Smith moved that the Motion be put.

**COUNCIL DECISION ITEM 13.1.2**

The Mayor put the Motion

That the *Confidential* Motion for Item 13.1.2 as 'tabled' at the March 2007 Ordinary Council Meeting and as circulated to Members, be adopted.

CARRIED (8/5)

**NOTE:** CRS GLEESON, MACPHERSON, OZSDOLAY, AND TRENT AND MAYOR COLLINS REQUESTED THEY BE RECORDED AS HAVING VOTED AGAINST THE MOTION

NOMINATION ITEM 13.1.2

The Mayor reported that part (a) of the *Confidential* Council resolution for Item 13.1.2 calls for the appointment of a Councillor.

The Mayor called for nominations.

Cr Smith nominated Cr Best.

Cr Best accepted nomination.

Cr Gleeson nominated Cr Ozsdolay

Cr Ozsdolay accepted nomination.

Cr Cala nominated Cr Doherty

Cr Doherty declined nomination.

AMENDMENT

Mayor Collins suggested that the two Councillors that had accepted nomination be put forward and that the Chief Executive Officer be given the opportunity to choose. Mover and Seconder concurred.

**COUNCIL DECISION ITEM 13.1.2 PART (a)**

The Mayor put the Motion

That in response to part (a) of the *Confidential* Council Resolution for Item 13.1.2 as adopted at the March 2007 Ordinary Council Meeting that Crs Best and Ozsdolay be the mediators. Also that Mr C Frewing, CEO, be requested to arrange a meeting ASAP with the mediators to discuss the matter.

**\*\* Note:** Amended April 2007 Council meeting

CARRIED (7/6)

**13.1.3 Application for Legal Representation *CONFIDENTIAL REPORT***

Location:

City of South Perth

File Ref:

GO/300

Date:

23 March 2007

Author:

Sean McLaughlin, Legal and Governance Officer

Reporting Officer:

Cliff Frewing, Chief Executive Officer



***Confidential***

The CEO has designated this report as ***Confidential*** under the *Local Government Act Section 5.23(b)* as it relates to the personal affairs of a person.

**Note:** *Confidential* Late Report Item 13.1.3 was circulated separately on 23 March 2007 after the close of the Agenda.

DECLARATION OF INTEREST : ITEM 13.1.3 : CR GLEESON

*As I am the subject of the report item in question I will leave the Council Chamber while this matter is being debated.*

**Note:** Cr Gleeson left the Chamber at 11.58pm

MOTION

Cr Ozsdolay moved recommendation (b) for approval of *Confidential* report Item 13.1.3.  
Sec Cr Macpherson

**Note:** Chief Executive Officer returned to the Chamber at 12.01am  
Legal and Governance Officer returned to the Chamber at 12.05am

The Mayor put the Motion.

LOST (4/8)

**COUNCIL DECISION ITEM 13.1.3**

Moved Cr Cala, Sec Cr Smith

That Council, having considered the application, ***Confidential Attachment 13.1.3(b)***, in accordance with Policy P519 has decided to refuse the application.

CARRIED (9/3)

**NOTE:** CRS MACPHERSON, OZSDOLAY AND TRENT REQUESTED THAT THEY BE RECORDED AS HAVING VOTED AGAINST THE MOTION

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

Moved Cr Trent, Sec Cr Smith

That the meeting be again open to the public at 12.12am.

CARRIED (12/0)

**Note:** Cr Gleeson returned to the Chamber at 12.13am

**13.2 Public Reading of Resolutions that may be made Public.**

For the benefit of the two members of the public that returned to the Council Chamber the Council Resolutions for Items 13.1.1 and 13.1.2 were read aloud by the Minute Secretary and the Council Resolution for Item 13.1.3 was read aloud by the Mayor.

**14. CLOSURE**

The Mayor closed the meeting at 12.18am 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 April 2007**

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