



**ORDINARY COUNCIL MEETING
A G E N D A
Table of Contents**

1.	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS.....	3
2.	DISCLAIMER	3
3.	ANNOUNCEMENTS FROM THE PRESIDING MEMBER	3
4.	ATTENDANCE.....	3
4.1	APOLOGIES	3
4.2	APPROVED LEAVE OF ABSENCE	3
5.	DECLARATION OF INTEREST	3
6.	PUBLIC QUESTION TIME.....	3
6.1	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE.....	3
6.1.1.	Mr Geoff Defrenne, 24 Kennard Street, Kensington	3
6.2	PUBLIC QUESTION TIME : 16.10.2007.....	4
7.	CONFIRMATION OF MINUTES / BRIEFINGS	4
7.1	MINUTES.....	4
7.1.1	Ordinary Council Meeting Held: 25.9.2007	4
7.1.2	Audit & Governance Committee Meeting Held: 3.10.2007	4
7.2	BRIEFINGS	4
7.2.1	Agenda Briefing - September Ordinary Council Meeting Held: 18.9.2007	4
7.2.2	Concept Forum: Bentley Technology Park Update and Network City - Canning	4
	Bridge/South Perth Precinct Update Meeting Held: 2.10.07	4
7.2.3	Concept Forum: Major Development Meeting Held: 3.10.07	5
8.	PRESENTATIONS.....	5
8.1	PETITIONS - A formal process where members of the community present a written request to the Council.....	5
8.2	PRESENTATIONS - Formal or Informal Occasions where Awards or Gifts may be Accepted by the	5
	Council on behalf of the Community.....	5
8.3	DEPUTATIONS - A formal process where members of the community may, with prior permission,	5
	address the Council on Agenda items where they have a direct interest in the Agenda item.	5
8.4	DELEGATES' REPORTS Delegate's written reports to be submitted to the Minute Secretary prior to	5
	5 October 2007 for inclusion in the Council Agenda.....	5
8.4.1	Delegates Report - Bentley Technology Precinct	5
9.	METHOD OF DEALING WITH AGENDA BUSINESS.....	6

AGENDA : ORDINARY COUNCIL MEETING : 16 OCTOBER 2007

10.	REPORTS	6
	10.0 MATTERS REFERRED FROM PREVIOUS COUNCIL MEETINGS	6
	10.0.1 Proposed Major Additions / Alterations to Village Green Shopping Centre (Waterford Plaza), Karawara (<i>Item 10.0.4 of August 2007 Ordinary Council Meeting</i>) ...	6
	10.0.2 Petition Requesting Proposed Partial Closure of Right-of-Way No. 133 contained within block bounded by Paterson Street, Edgecumbe Street, Gentilli Way and Lockhart Street, Como(<i>referred February 07 Council</i>).....	19
	10.0.3 Reconsideration of Conditions of Planning Approval re Change of Use from Single House to Consulting Rooms. Lot 2 (No. 383) Canning Highway, cnr Alston Avenue, Como (<i>Item 9.3.7 May 2007 Council Meeting</i>)	24
	10.0.4 Request for report on Item 15.1.1 August 2007 Council Meeting (<i>referred September 2007 Council Meeting</i>)	29
	10.2 GOAL 2: COMMUNITY ENRICHMENT	35
	10.2.1 Safer Australia Day Strategy 2008.....	35
	10.2.2 Community Partnerships 2007/2008.....	39
	10.2.3 Community Sport and Recreation Facility Funding Program (CSRFF) - Annual Grants Consideration.....	41
	10.3 GOAL 3: ENVIRONMENTAL MANAGEMENT.....	50
	10.3.1 Proposed Addition of Carport to Existing Single House. Lot 145 (No. 18) Seventh Avenue, Kensington.....	50
	10.3.2 Proposed Additions / Alterations to Single House. Lot 39 (No. 36) Sandgate Street, South Perth.....	54
	10.3.3 Proposed 2 x Two Storey Single Houses. Lot 270 (No. 188) Lockhart Street, Como ...	60
	10.3.4 Proposed Retaining Wall and Fence Addition to Educational Establishment (St Columba’s Primary School) South Perth	64
	10.4 GOAL 4: INFRASTRUCTURE	73
	10.4.1 Mends Street - Proposed Zebra Crossing	73
	10.5 GOAL 5: ORGANISATIONAL EFFECTIVENESS	76
	10.5.1 Use of the Common Seal	76
	10.5.2 Annual Report 2006/2007	77
	10.6 GOAL 6: FINANCIAL VIABILITY.....	79
	10.7 MATTERS REFERRED FROM AUDIT & GOVERNANCE COMMITTEE.....	79
	10.7.1 Audit and Governance Committee Recommendation - Meeting held 3 October 2007 ..	79
11.	APPLICATIONS FOR LEAVE OF ABSENCE	81
12.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....	81
	12.1 Proposed Review of Policy P519 “Legal Representation”- Cr Doherty 9.10.2007	81
13.	QUESTIONS FROM MEMBERS WITHOUT NOTICE	82
14.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING ...	82
15.	MEETING CLOSED TO PUBLIC.....	82
	15.1 Matters for which the Meeting May be Closed.....	82
	15.2 Public Reading of Resolutions that may be made Public.	82
16.	CLOSURE	82



**ORDINARY COUNCIL MEETING
AGENDA**

1. **DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**
2. **DISCLAIMER**
The Chairperson to read the City's Disclaimer
3. **ANNOUNCEMENTS FROM THE PRESIDING MEMBER**
4. **ATTENDANCE**
 - 4.1 **APOLOGIES**
 - 4.2 **APPROVED LEAVE OF ABSENCE**
5. **DECLARATION OF INTEREST**
6. **PUBLIC QUESTION TIME**
 - 6.1 **RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

At the Council meeting held 25 September 2007 the following questions were taken on notice:

6.1.1. Mr Geoff Defrenne, 24 Kennard Street, Kensington

Summary of Question

Last month I asked a series of questions, in response to the Director Planning and Community Services asking for guidance from the Council about the application of the Australian Standards in respect to parking, as per the Note in the Scheme. As the planning staff appear to have a different understanding as per the response, when did the Council come to that understanding and since when has it been applied?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 4 October 2007, a summary of which is as follows:

Provisions of the City of South Perth Town Planning Scheme No. 6 relating to car parking have been applied since the gazettal of the Scheme in 2003.

Summary of Question

Town Planning Scheme No. 6 was published in the Government Gazette on 29 April 2003.

1. Is the Scheme as published in the Government Gazette identical to that on the City's website in respect to wording?
2. What legal standing do the notes in the column of the Scheme have?
3. Has there been any Scheme Amendments adding Notes to the columns of the Scheme?
4. Has the Council or CEO authorised any Notes to be added to the columns of the Town Planning Scheme that have not been published in the Government Gazette?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 4 October 2007, a summary of which is as follows:

1. The version of the Town Planning Scheme No. 6 Text displayed on the City's web site is not the same as that published in the Government Gazette on 29 April 2003. The version displayed on the web site is a consolidated version which incorporates approved Scheme Amendment Nos. 2 and 6, and some additional reference notes in the 'Notes' column of the Scheme Text.
2. Clause 1.10(5) of TPS6 states that "*headings, notes, footnotes and instructions are not part of the Scheme.*" As such, they have no legal standing under the Scheme.
3. There have been no Scheme Amendments adding Notes to the 'Notes' column of the Scheme Text. As notes do not form a statutory part of the Scheme Text, a Scheme Amendment is not required. The sole purpose of the notes is to provide useful information related to operative Scheme provisions.
4. Neither the Council nor the CEO has authorised the addition of any Notes to the Scheme Text, as such authorisation is not required.

6.2 PUBLIC QUESTION TIME : 16.10.2007

7. CONFIRMATION OF MINUTES / BRIEFINGS

7.1 MINUTES

7.1.1 Ordinary Council Meeting Held: 25.9.2007

7.1.2 Audit & Governance Committee Meeting Held: 3.10.2007

7.2 BRIEFINGS

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

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

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

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

7.2.1 Agenda Briefing - September Ordinary Council Meeting Held: 18.9.2007

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

7.2.2 Concept Forum: Bentley Technology Park Update and Network City - Canning Bridge/South Perth Precinct Update Meeting Held: 2.10.07

Consultants presented updates on Bentley Technology Park and Network City Canning Bridge/South Perth Precincts. Notes from the Concept Briefing are included as **Attachment 7.2.2.**

7.2.3 Concept Forum: Major Development Meeting Held: 3.10.07

Representative presented an update on the 'Waterford Plaza' proposed development. Officers of the City responded to questions from Members. Notes from the Concept Briefing are included as **Attachment 7.2.3**.

8. PRESENTATIONS

8.1 PETITIONS -	A formal process where members of the community present a written request to the Council
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8.2 PRESENTATIONS -	Formal or Informal Occasions where Awards or Gifts may be Accepted by the Council on behalf of the Community.
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8.3 DEPUTATIONS -	A formal process where members of the community may, with prior permission , address the Council on Agenda items where they have a direct interest in the Agenda item.
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8.4 DELEGATES' REPORTS	Delegate's written reports to be submitted to the Minute Secretary prior to 5 October 2007 for inclusion in the Council Agenda.
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8.4.1 Delegates Report - Bentley Technology Precinct

Location:	City of South Perth
Applicant:	Council
File Ref:	LP/502
Date:	3 October 2007
Author:	Cliff Frewing, Chief Executive Officer

Summary

The Mayor John Collins, as Mayor of the City of South Perth, has been appointed by the Minister for Energy, Resources, Industry and Enterprise the Hon Francis Logan to represent the City on the Technology Precinct Steering Group. The Town of Victoria Park along with a number of other State Government Departments, Curtin University and other appropriate organisations are also represented on this Committee.

The first meeting of this revised Steering Group was held on Friday, 29 June 2007 with a further meeting being held on 31 August 2007. A copy of the Minutes of the meeting of 31 August is at **Attachment 8.4.1**. The Steering Group is an information sharing opportunity rather than a decision-making mechanism.

The review of the Bentley Technology Precinct is clearly of major interest to the City as the northern section of the precinct is within the City's boundaries and any major development or re-development of the southern part of the precinct as well as within the Curtin University precinct will have the capacity to effect the City of South Perth at least from a traffic management point of view.

Background

Over the past two years or so there has not been a lot of progress made in respect of considering the future direction of the Bentley Technology Precinct. Funds have now been secured in the State Budget to progress this matter and various consultants have been appointed to assist the Department of Industry and Resources which is the responsible State Government Department for progressing a review and development of land within the precinct.

Comment

The purpose of this report is to acquaint Council with the progress made by the Technology Precinct Steering Group and other initiatives occurring at officer level.

The main issues arising from the meeting held 31 August were basically covered by NS Projects at a Concept Forum held on 2 October 2007 at which the representatives brought Councillors up to date with current developments associated with the precinct and as a consequence considered that no further information is required to be provided.

Consultation

The Minister for Energy, Resources, Industry and Enterprise, the Chair of the Technology Precinct Steering Group and members of this group have been made aware that the City regards a high level of meaningful consultation as essential. Creating Communities has been appointed to advise the Department of Industry and Resources on the most suitable method of involving the community in meaningful consultation.

Policy and Legislative Implications

None at this time. A review of Town Planning Scheme provisions may be necessary at a later stage.

Financial Implications

None identified at this time.

Strategic Implications

Review of land uses and development within Bentley Technology Precinct regarded as significant to the City and will have long term strategic implications which may necessarily involve a review of the Town Planning Scheme and policy development.

OFFICER RECOMMENDATION ITEM 8.4.1

That the Minutes of the Bentley Technology Steering Group held on 31 August 2007 be received.

9. METHOD OF DEALING WITH AGENDA BUSINESS

10. R E P O R T S

10.0 MATTERS REFERRED FROM PREVIOUS COUNCIL MEETINGS

10.0.1 Proposed Major Additions / Alterations to Village Green Shopping Centre (Waterford Plaza), Karawara (Item 10.0.4 of August 2007 Ordinary Council Meeting)

Location:	Lots 102, 104, 105 and 180 (Nos. 33 - 39) Walanna Drive and Lot 802 (No. 230) Manning Road, Karawara
Applicant:	Greg Rowe & Associates on behalf of Midpoint Holdings P/L
Lodgement Date:	19 December 2006
File Ref:	WA1/37 & 11/1286 & 11.2006.613
Date:	27 September 2007
Authors:	Christian Buttle, Manager, Development Assessment, and Rajiv Kapur, Senior Planning Officer
Reporting Officer:	Steve Cope, Director Planning and Community Services

Summary

To consider amended drawings for a planning application for major additions and alterations to the Village Green Shopping Centre (which has recently been re-named the Waterford Plaza) in Karawara that was earlier refused by Council at its July 2007 Special Council meeting. The application is currently before the State Administrative Tribunal (SAT) for determination. The report recommends that the application be approved subject to compliance with the listed standard and specific conditions.

Background

Reports have most recently been considered at the May, July and August 2007 Council meetings. With a view to comply with the required number of car parking bays on site, the drawings referred to the August 2007 Council meeting incorporated a reduction in the proposed shop floor area, allocation of this portion of the site for the use of car parking, and an increase in the area of the roof deck car parking. At the August 2007 meeting, Council resolved as follows:

“That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, the State Administrative Tribunal be advised that:

- (a) Council does not support the revised drawings submitted for planning approval for major additions and alterations to the Waterford Plaza Shopping Centre on Lots 102, 104, 105 and 180 (Nos. 33 - 39) Walanna Drive and Lot 802 (No. 230) Manning Road, Karawara for the following reasons.*
 - (i) approval of the development would be contrary to the orderly and proper planning of the locality and would generate conflict with a number of matters identified in clause 1.6 (Scheme Objectives) and clause 7.5 (Matters to be Considered by Council) of Town Planning Scheme No. 6.*
 - (ii) having regard to the information accompanying the application and the provisions of the City of South Perth Town Planning Scheme No. 6 (TPS6), the development has been provided with an insufficient number of car parking bays. TPS6 prescribes a requirement for the provision of 1,195 car parking bays whereas the proposed development has been provided with only 816 car parking bays.*
 - (iii) a significant number of parking bays throughout the development, on each of the roof decks as well at the ground level do not comply with the minimum parking dimensions prescribed by the City of South Perth TPS6. All of these bays can be clearly identified when the City is provided with larger scale detailed drawings.*
 - (iv) table 3 of the City of South Perth Town Planning Scheme No. 6 prescribes a requirement for 10% of the site to be developed as landscaped area. Council is of the opinion that:*
 - (a) an insufficient level of ‘soft’ landscaping has been provided;*
 - (b) it is not appropriate to include the majority of hard paving on the site within the landscaping calculation;*
 - (c) insufficient shade tree planting has been provided within various portions of the car parking areas throughout the site;*
 - (d) landscaping should be provided in conjunction with each of the roof deck parking areas; and*
 - (e) a landscaping buffer of at least two metres in width, including trees, should be provided to the northern and eastern boundaries of the site and the northern roof deck.*
 - (v) it is not possible to determine compliance with the building height limits in accordance with Clause 6.2 of TPS6 as additional information with respect to the existing natural ground levels, proposed finished floor levels and proposed wall heights measured in brick courses is required to be shown on the drawings.*

- (b) Council would support an alternative design incorporating 825 car parking bays; and
- (c) Council received further revised drawings on 28 August 2007. Having regard to the available time, Council was not able to formulate a position with respect to these plans but would be willing to further consider these plans.”

Following the August Council meeting, the matter was considered further by the State Administrative Tribunal on 31 August 2007. At that time, officers of the City and the proponent discussed the further revised drawings received 28 August 2007 and the remaining areas of disagreement. **Attachment 10.0.1(b)** contains the orders made at the mediation held on 31 August 2007. These orders empower the Council to consider a revised proposal submitted to the City, and act as the decision making authority with respect to granting an approval or refusal, as the case may be, without having to leave the decision to the SAT.

Further amended drawings were subsequently received on 7, 10 and finally 14 September 2007. These further amended drawings now form the basis of the Council’s current consideration.

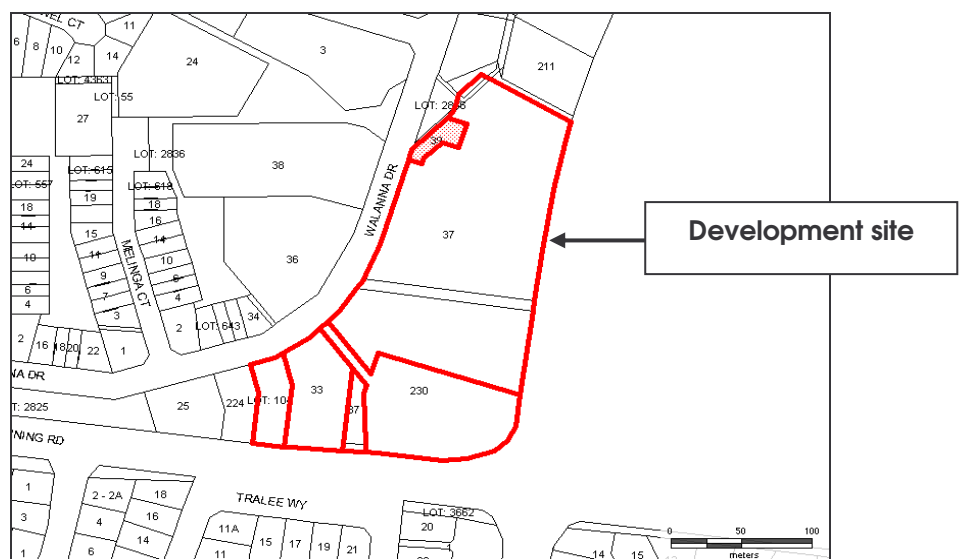
The development site details are as follows:

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

This report includes the following attachments:

- Confidential Attachment 10.0.1(a)** Plan and elevation drawings of the proposal
- Attachment 10.0.1(b)** Copy of Orders made by State Administrative Tribunal at mediation held 31 August 2007

The location of the development site is shown below:



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

1. Large scale development proposals

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

2. Matters previously considered by the Council

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

Separate to Council's consideration of this development application, the matter is also being considered by the State Administrative Tribunal (SAT), after the proponent lodged an application for review against a 'deemed' refusal of the development application (the application was 'deemed' to have been refused for the purposes of generating a right of review with SAT 90 days after the date of initial lodgement). City Officers attended a mediation session on 21 June 2007, at which time the SAT ordered that the application be considered further by Council at its meeting on 10 July 2007. Further mediation took place on 13 July 2007 and 31 August 2007 at which time the applicant was offered the opportunity to further amend the application for consideration by the City. If Council resolves to approve the application in accordance with the Officer recommendation, and if the applicant is willing to comply with the conditions of approval, the SAT proceedings could then be finalised without the need to proceed to a full hearing.

Comment

Detailed comments with respect to the nature of the proposed development and compliance with the provisions of Town Planning Scheme No. 6 (TPS6) were included in the report which was presented to the May meeting. Detailed further comments have not been made in this report with respect to the components of the development proposal which were previously accepted (i.e. in relation to matters such as plot ratio floor area, overall amount of retail floor area etc). With respect to the other components of the proposed development which were observed to be non-compliant and identified in the report to the August 2007 Council meeting, the following comments are made:

(a) Car Parking

Officers have previously indicated support for the "pooling" of floor space together and undertaking a "parking calculation at a ratio of 1 car parking bay per 20 sq.metres of gross floor area" (refer to agenda Item 9.3.9 - May 2007 Ordinary Council Meeting).

Although the size of the Tavern has increased significantly from that which Council has previously considered, and the Tavern component of the centre generates the most demanding car parking requirement of all of the proposed land uses (1 bay per 3 sq.metres of public floor space used as bars, lounges, dining and function areas, beer gardens, and areas used predominantly for games as opposed to 1 bay per 20 sq.metres of gross floor area for shops), Officers are still of the opinion that it is reasonable to carry through the 'flat' parking ratio of 1 bay per 20 sq.metres of gross floor area for the centre as a whole.

Using a ratio of 1 bay per 20 sq.metres of gross floor area, and having regard to the proposed gross floor area of 16,500 sq.metres, the development requires 825 car parking bays and 837 car parking bays have been provided. In addition to the 837 car parking bays, 18 motor cycle bays have also been provided.

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

- The bays on the site of the adjoining Chinese restaurant and “stacked” bays (presumably within the drive-thru areas of Chicken Treat and KFC) do not form part of the development site, and therefore have not been counted.
- The drawings show that shade sail structures are provided over all of the car parking bays on each of the roof decks. The drawings demonstrate that adequate provision has been made to ensure that the support columns of these shade structures do not obstruct with the bays or necessitate an increase in bay widths.
- Some car parking bays, designed to allow parallel parking, have been identified on the plans that do not comply with the minimum car parking bay dimensions prescribed by Clause 3.5.3 “Design of Parking Spaces” of the R-Codes and Clause 6.3 of TPS6.
- Some car parking bays require clearances from obstructions prescribed by Clause 6.3 of TPS6 due to the location of either a trolley area or a lift adjacent to their side.
- The car parking bays provided under the ramp leading to the roof deck car park will be required to comply with the requirements of Australian Standards AS 2890.1:2004 “Parking facilities - Off-street car parking” in terms of the minimum vertical or head-room clearance of 2.2 metres.
- The eastern wing of the southern roof deck area has not been provided with an alternative accessway to the exit ramp in case the sole accessway provided is blocked due to vehicle breakdown or any other obstruction.

Conditions of approval have been formulated to address components of the car parking layout which require modification, having regard to the abovementioned comments.

(b) Bicycle Parking

In accordance with the provisions of Table 6 “Car and Bicycle Parking” of TPS6, and on the basis of 1 bicycle parking bay per 200 sq. metres of gross floor area for a District Commercial Centre, the development requires 83 bicycle parking bays. The site plan drawing shows 40 bike racks. However, the applicant has noted on the drawings that 80 bike racks have been provided. Officers are of the opinion that 80 bicycle parking bays is adequate for the development, and conditions of approval have been formulated to address this matter.

(c) Landscaping

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

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

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

The applicant has included both 'soft' landscaped areas and all other paved areas (with the exception of vehicle access ways and parking areas) on the development site, resulting in a claimed landscaped area of 5,213 sq.metres of landscaped area (14% of site). This figure is comprised of 1,820 sq.metres of 'soft' landscaping (planted areas) (4.9% of site) and 3,393 sq.metres of paving (9.1% of site).

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

Having regard to the definition of landscaping within the R-Codes, the City's Officers have previously recommended that a larger portion of the site be developed as 'soft' landscaping, and that only very limited paved areas (such as the 'piazza' between the two malls) be accepted within the landscaping calculations. The City's calculations show that 2,892 sq.metres of the site (7.8 %) has been provided as landscaped area.

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

- Clause 6.3(12) of TPS6 requires that any continuous line of unroofed car parking be provided with reticulated planting areas, including shade trees approved by the Council, at the rate of 1 per 8 car parking bays. The proposal satisfies this scheme requirement.
- The northern car parking deck was previously situated with a zero setback to the northern property boundary. Officers were of the opinion that this deck should be set back from the northern property boundary by a landscaping strip (including trees) of at least 2 metres in width, to soften the impact of the parking deck. The applicant has now amended the drawings to set back this deck and allow some landscape screening to be incorporated to the northern side of the centre.
- No landscaping areas are provided in conjunction with either of the roof deck parking areas. After further consideration, City Officers are of the opinion that increased landscaping can be provided by alternative means, and that it is not necessary to pursue the provision of landscaping within the roof deck parking areas. It is also noted that shade structures have been provided within the roof deck parking areas.

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

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

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

In return for acceptance of the lesser amount of on site landscaped provision (2,892 sq.metres or 7.8% of site as opposed to 3,694 sq.metres or 10% of the site), it is appropriate that the applicant:

- Landscape and maintain the verges adjacent to the development site; and
- Landscape and maintain the strip of public open space between the shopping centre and the Jehovahs Witness Kingdom Hall. This strip of public open space runs to the north and north west of the shopping centre.

Conditions of approval have been formulated to address these matters.

(d) Trolley Bays

Areas set aside for the collection of shopping trolleys have been provided at regular intervals around the perimeter of the site as well as within each of the roof deck parking areas. TPS6 does not have any specific provisions with respect to the location and number of trolley collection points. However, it is noted that no trolley area has been provided for the eastern wing of the southern roof deck area. A condition of approval has been formulated to address this matter.

(e) Building Height

As reported at the August 2007 Council meeting, the following additional information was required to be shown on the drawings in order to assess compliance with Clause 6.2 “Building Height Limits” of TPS6:

- “(i) *Contour lines and natural ground levels are required to be shown on the plan drawing. This will assist in identifying the highest point of natural ground level under the building footprint at which the building height should be measured.*
- “(ii) *These natural ground levels are also required to be incorporated on the elevation drawings along with the proposed wall heights as measured in number of brick courses above the finished floor levels. This will assist in measuring the proposed building height in relation to that highest point of natural ground level.*”

The information provided on the drawings is still insufficient to carry out an assessment in this regard. The finished floor and roof top levels on the building have been marked on the plan and elevations, however, no reference natural ground levels have been provided from where these floor and roof heights should be measured and assessed. Building height is to be measured from the natural ground levels and not the finished floor levels. The applicant is required to demonstrate compliance with the permissible building height limit. A condition of approval has been formulated to address this matter.

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

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

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

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

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

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

- (a) *the objectives and provisions of this Scheme, including the objectives and provisions of a Precinct Plan and the Metropolitan Region Scheme;*
- (b) *the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment which has been granted consent for public submissions to be sought;*
 - (i) *the preservation of the amenity of the locality;*
 - (j) *all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*
 - (s) *whether the proposed access and egress to and from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvre and parking of vehicles on the site; and*
 - (v) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved.*

Consultation

No consultation has been undertaken with respect to these amended drawings being referred to the October 2007 Council meeting. However, as identified in the report presented to the May 2007 Council meeting, the following consultation was undertaken with respect to the proposed development:

(a) Referral to the City's Design Advisory Consultants (DAC)

No significant concerns were raised by the DAC.

(b) Neighbour Consultation

Extensive neighbour consultation resulted in two submissions, neither of which objected to the proposed development, but which made comment in relation to traffic management.

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

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 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 10.0.1

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

- (a) **Standard Conditions**
330 (80), 332 (20) (2) (2), 352, 470, 471, 550, 577, 664.

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

- (b) **Specific Conditions:**
- (i) In accordance with the requirements of clauses 6.14 (2) and (5) of Town Planning Scheme No. 6, a landscaping plan shall be submitted for approval by the City. No person shall occupy or use the land or any building the subject of this approval for the purpose for which this approval is given unless and until the City has approved the landscaping plan, and the landscaping has been completed in accordance with the plan approved by the City. The landscaping plan shall address the following requirements:

- (A) The existing landscaping shall be upgraded to a standard satisfactory to the City, in accordance with a landscaping plan approved by the City.
 - (B) All existing trees intended to be retained as indicated on the site plan shall be identified for retention on the working drawings and on the required landscaping plan and shall be protected prior to and during construction, and shall **not** be removed without the prior approval of the City.
 - (C) Planting strips, including shade trees approved by the City shall be provided within the car parking area at the rate of 1 per 8 parking bays. Details shall be included within a landscaping plan that shall be provided prior to the issue of a building licence.
 - (D) The amount of reticulated lawn within the verge areas adjacent to the site shall be reduced and alternative landscaping shall be introduced which complements that planted by the City on the Kent Street median island adjacent to Manning Road.
 - (E) Demonstrates that all proposed trees will be a minimum height of 3.0 metres at the time of planting, with a minimum bag size of 200 litres.
 - (F) Incorporates landscaping of the public open space reserve (lot 2836) to the north and north-east of the development site, up to the alignment of the 'crescent shaped' pedestrian path.
 - (G) Landscaping within the High Street and Plaza shall be generally consistent with that shown on the A4 drawings numbered 42049 with respect to:
 - (1) Street furniture (benches, bins, bollards) and lighting;
 - (2) Paving; and
 - (3) Tree planting.
- (ii) Every open space area or landscaped area, both within the development site, within the adjoining verge areas, and within the adjoining open space reserve (lot 2836) shall be maintained in good order and condition and in accordance with the landscaping plan approved by the Council. No person shall alter the landscaping depicted on the approved plan without first having applied for and obtained the written approval of the Council.
- (iii) The drawings shall demonstrate compliance with the following requirements with respect to car parking:
- (A) All standard parking bays shall have dimensions not less than 2.5 metres in width and 5.5 metres in length in accordance with the minimum dimensions specified in Schedule 5 of the City of South Perth Town Planning Scheme No. 6.
 - (B) Where a parking bay is situated adjacent to an area of landscaping, wall or column, the width of such bay shall be increased by 300 mm to 2.8 metres in width in accordance with the provisions of clause 6.3(8) of the City of South Perth Town Planning Scheme No. 6.
 - (C) Parallel parking bays shall have minimum dimensions of 3.0 metres in width and 6.0 metres in length in accordance with the minimum dimensions specified within Schedule 5 of the City of South Perth Town Planning Scheme No. 6.
 - (D) All disabled/easy access parking spaces shall have dimensions of not less than 3.8 metres in width and 5.5 metres in length.

- (iv) The car parking bays shall remain available for use at all times that the centre is open unless otherwise approved by the City.
- (v) None of the car parking bays shall be reserved exclusively for use by particular persons unless otherwise approved by the City. This condition does not restrict the operators of the centre from requesting staff to park in designated areas and the use of signage to encourage this practice.
- (vi) Revised drawings shall be submitted, and such drawings shall incorporate the following:
 - (A) Drawings to demonstrate compliance with the maximum permissible building height limit of 7.0 metres for the proposed buildings, measured in accordance with clause 6.2 of the City of South Perth Town Planning Scheme No. 6.
 - (B) Detailed drawings showing the design and location of the bicycle racks to accommodate the parking of 80 bicycles shall be provided, prior to the issue of a building licence.
 - (C) A minimum of twenty bicycle parking bays shall be designated for staff use and shall be situated within a building structure.
- (vii) The approval does not extend to signage. Separate applications shall be submitted and approved prior to the erection or installation of any signage.
- (viii) After completion of the approved development, hard standing areas approved for the purposes of car parking or vehicle access shall be maintained in good condition at all times, free of potholes and dust and shall be adequately drained.
- (ix) The applicant shall pay a contribution of \$60,000 to the City towards the cost of upgrading the Walanna Drive pedestrian underpass to a standard which meets disability access requirements in accordance with an improvement plan approved by the City. The required payment shall be made prior to the issue of a building licence.
- (x) The following requirements of the City's Infrastructure Services Directorate shall be met to the satisfaction of the City:

Manning Road

- All crossings to be constructed in concrete (commercial specification minimum thickness 150mm reinforced concrete on prepared base);
- Pathways to be continuous through the crossing;
- Property levels established by existing path. Crossing to match path level;
- Generally crossing to be level with verge;
- Crossing to Chinese Restaurant to be modified to accommodate left turning lane;
- Left turning lane designed/constructed in accordance with Austroads Guidelines to be extended to the Chinese Restaurant;
- Left turning lane to be constructed to same standard as Manning Road incorporating adequate surface drainage;
- Obsolete crossings are to be removed and openings re-kerbed and the verge reinstated as landscaping;
- Where the existing crossings to be removed extend into the slip road the road pavement is to be reconstructed to ensure continuity of longitudinal and transverse gradients commensurate with the slip road profile elsewhere.

Kent Street

- The proposed Kent Street opening is to be constructed in concrete (see Manning Road);
- The property level is established by the existing path and no modification to the path level will be accepted;
- A turning lane commensurate with the class of road and posted road speed will be constructed in Kent Street up to the new crossing;
- The turning lane will be designed to ensure all stormwater surface flow is collected and disposed into the road system;
- Median openings to be designed to the appropriate standard for the class of road and speed limit and will be constructed to the same standard as Kent Street at this location;
- Existing crossings no longer required for access to the shopping centre to be removed and pathway, kerbing and verge to be reinstated to an approved standard;
- Any median opening no longer required for access to the Centre is to be closed, the median kerbing reinstated to the former alignment of Kent Street and the median reinstated as turf or approved landscaping.

Internal Access

- As there are no median openings permitted on Manning Road both crossings will require adequate sign posting. The opening nearest Kent Street is to be sign posted NO ENTRY and the crossing nearest Chicken Treat to be LEFT TURN ONLY;
 - Internal speeds particularly leading to the up ramp at Kent Street to be limited by speed reducing measures or pavement texture. Similar attention will need to apply to the approaches to the down ramp off Walanna Drive.
 - Stormwater Drainage
 - Stormwater Drainage is to comply with City of South Perth Council Policy P415 and associated Management Practice;
 - A design detailing collection, storage and disposal is to be prepared by an Engineering Consultant specialising in stormwater disposal for approval of the City, prior to the issue of a building licence;
 - Any connection to the street system is to comply with the Management Practice and Private Drainage connection.
- (xi) Prior to the issue of a building licence, the owner shall submit a detailed "Service Vehicle, Trolley, and Traffic Management Plan" which addresses:
- (A) Vehicle movements associated with delivery and service vehicles (i.e. rubbish trucks);
 - (B) Trolley management; and
 - (C) Internal vehicle movements and associated on-site traffic calming measures

- (xii) As recommended by the Western Australian Planning Commission, the City of South Perth (which is responsible for local area traffic management on Kent Street and Manning Road) together with Main Roads Western Australia (responsible for traffic signals in Perth metro area) and the developer shall jointly review the overall operation of the Kent Street / Manning Road signalised intersection, in the light of the Riley Consulting Traffic Report findings and recommendations, to agree on a suitable traffic engineering (signal timing) course of action for maintaining an acceptable operational level of service for the intersection with the additional traffic resulting from the proposed Waterford Plaza shopping centre additions and improvements. During that review, the applicants shall arrange for their traffic engineering consultant to provide further advice.
- (xiii) This approval shall cease to be valid if all stages of the development are not substantially commenced within 24 months by the completion of the floor slabs.

(c) **Standard Important Footnotes**
645, 646, 646A, 647, 648, 649A, 651.

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

- (d) the applicant be advised that:
- In relation to the amalgamation condition, the City would be prepared to issue a clearance for the final approval of the amalgamation prior to the demolition of any existing building and prior to completion of any new works associated with preparation of the site for the proposed development.

10.0.2 Petition Requesting Proposed Partial Closure of Right-of-Way No. 133 contained within block bounded by Paterson Street, Edgumbe Street, Gentilli Way and Lockhart Street, Como(referred February 07 Council)

Location: Right-of-Way No. 133 bounded by Paterson Street, Edgumbe Street, Gentilli Way and Lockhart Street, Como.
Applicant: G Hurst and M Lee
File Ref: ROW 133
Date: 24 September 2007
Author: Stephanie Radosevich, Trainee Planning Officer and Christian Buttle, Manager, Development Assessment
Reporting Officer: Steve Cope, Director, Planning and Community Services

Summary

This report responds to a petition which was presented to Council in February 2007, requesting partial closure of Right-of-Way (ROW) No. 133 which is contained within the block bounded by Paterson Street, Edgumbe Street, Gentilli Way and Lockhart Street, Como. The report recommends that Council not support the proposed partial closure.

In considering this agenda item, Council should also be mindful of a separate agenda item relating to the proposed redevelopment of Lot 270 (No. 188) Lockhart Street, Como, which is situated within the street block which is the subject of the closure request. Of particular relevance is the applicant's intention to utilise the ROW for vehicular access.

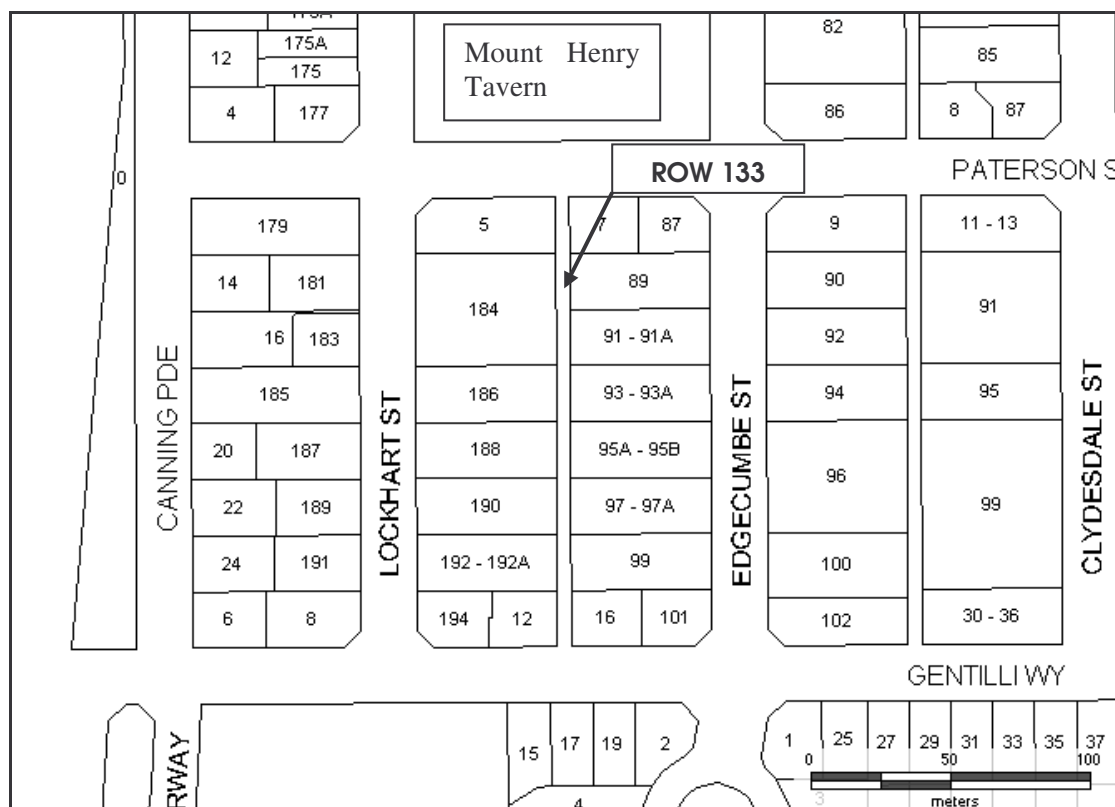
Background

This report includes the following attachments:

- Confidential Attachment 10.0.2(a):** Proposed closure plan.
Attachment 10.0.2(b): Request for partial closure of ROW No. 133.
Attachment 10.0.2(c): Letter from City to petitioners dated 15 March 2007.

(a) Location

The location of the ROW is shown below. The ROW is adjoined by residential properties. Twelve out of fifteen of the properties adjoining the ROW have been redeveloped to a higher density than originally existed, with seven of the fifteen properties supporting the closure request. Eight properties adjoin the portion of the ROW which is the subject of the closure request and seven of these properties have been redeveloped to a higher density. The remaining property (No. 188 Lockhart Street) is the subject of a current application for planning approval and most importantly intends to utilise the ROW for vehicular access.



(b) Condition and usage

ROW No. 133 is part of the ROW paving program. Infrastructure Services commenced an upgrade of the ROW in October 2006, which prompted requests from residents to cease construction and allow a partial closure request to be considered. On 18 October 2006, the Manager, Engineering Infrastructure agreed to cease construction (after bringing the laneway back to a trafficable condition) to allow such a request to be considered by Council.

(c) Previous requests

The City's records show that in the 1990's there were requests for closure of the ROW and separately, bollards in the laneway.

(d) Rights-of-Way 82 and 106

Separate to the petition requesting closure of ROW No. 133, the City has been processing the partial closure of ROW's 82 and 106 and recent advice from the Western Australian Planning Commission (WAPC) in relation to these laneways is relevant for Council's consideration of this closure request.

Council resolved to initiate the process toward the partial closure of ROW 82 at its meeting held in August 2004. After following prescribed procedures, the City received advice from the WAPC in August 2006 advising that it did not support the closure of this ROW for various reasons. The City subsequently sought review of this decision and has recently received further correspondence from the WAPC re-affirming the earlier decision.

Council resolved to initiate the process toward the partial closure of ROW 106 at its meeting held in November 2005. After following prescribed procedures, the City received advice from the WAPC in November 2006 advising that it did not support the closure of this ROW for various reasons. Once again, the City sought review of this decision and again has recently received correspondence from the WAPC re-affirming the earlier decision.

The City has written to the WAPC once more in an attempt to gain an indication of the position that would be taken to 'obsolete' ROW's for which the Council wished to pursue future closure action. However, having regard to the recent decisions referred to above, the WAPC seem to have established a firm position of opposition to further closure action.

Comment

Following Council's receipt of the petition which was presented to the February 2007 Council meeting, the City wrote to the petitioners by way of a letter dated 15 March 2007, **Attachment 10.0.2(c)** refers. This letter requested further information in support of the closure request and also made reference to the WAPC's opposition to the closure of ROW's 82 and 106 and the likely influence that any final decision with respect to these closure requests would have in relation to the request for partial closure of ROW 133. The City did not receive a response to this correspondence.

Also in March 2007, Mr John Tucker informed the City that he had recently purchased No. 188 Lockhart Street and that he strongly objected to any proposal to close the ROW to the rear of the property, in part due to his desire to utilise the ROW in conjunction with future redevelopment of the property.

In June 2007, the City received an application for planning approval for two Single Houses at No. 188 Lockhart Street, one of which incorporated vehicular access from the rear ROW. As this application for planning approval relies upon the use of the ROW, a decision was made to refer the proposal to a Council meeting for consideration, and a separate report has been included on the agenda for this purpose.

(a) Closure process

Should the Council agree to initiate this closure action, the procedures will be:

- (i) Obtain quote from Department for Planning and Infrastructure: DPI will determine the purchase price.
- (ii) Advertise to the adjoining land owners, utilities and Western Australian Planning Commission for comment.
- (iii) Council considers report on submissions and makes a recommendation to the Minister for Lands.
- (iv) Report for DPI / Minister for Lands prepared.

(b) Description of the proposal

The proposal requests the closure of the southern portion of ROW 133. If the closure process were to proceed, the general method of land re-allocation would be distribute half the width of the ROW to each of the respective adjoining properties (or alternatively, the full width of the ROW to one of the properties).

(c) **Western Australian Planning Commission (WAPC)**

The WAPC's recent stated opposition to ROW closure requests forwarded by the City can be summarised as follows:

- Closure is contrary to Commission policy;
- Partial closure results in insufficient turning space within the ROW which conflicts with Commission policy;
- Partial closure results in a 'dead-end lane' with possible entrapment concerns, contrary to the Commissions "Designing Out Crime Planning Guidelines"; and
- While it is noted that some ROW's in the locality have been closed or partly closed, this appears to have occurred prior to policies being put in place to seek a better planning outcome.

Consultation

The City has written to every property owner / occupier in the street block to advising of the referral of this matter to the October Council meeting.

Policy and Legislative Implications

This laneway, known to the City as Right-of-Way No. 133, is in fact a gazetted public road known as Public Road No. 9801 and not a 'Right-of-Way'. Therefore, any closure request is to be dealt with under Section 58 of the Land Administration Act 1997 which deals with public roads.

Right-of-Ways are ordinarily dealt with under section 52 of the Land Administration Act 1997. This section requires that the support of the Western Australian Planning Commission to be obtained.

Section 58 of the Land Administration Act and the associated Regulations does not stipulate an absolute requirement that support of the Western Australian Planning Commission be obtained, however, their position is likely to strongly influence any decision that is ultimately made by the Minister for Lands.

Financial Implications

The issue has some impact on this particular area:

- (a) the closure of this Right-of-Way will reduce maintenance costs to the City;
- (b) the City does not receive any fees or payments for its role in the closure process; and
- (c) the City does not receive any payment for the sale of the land (the Department for Planning and Infrastructure receives those monies and does not distribute them).

Strategic Implications

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

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

OFFICER RECOMMENDATION ITEM 10.0.2

That ...

- (a) the request for partial closure of Right-of-Way No. 133 not be supported, for the following reasons:
 - (i) having regard to the recent decisions with respect to Rights-of-Way 82 and 106, and moves to close the Right-of-Way (either partially or fully), are likely to be opposed by the Western Australian Planning Commission;
 - (ii) the request to partially close the Right-of-Way is contrary to the policy position of the Western Australian Planning Commission and practice in terms of ongoing use, upgrading and co-ordinated development of adjoining landholdings (Commission policies DC 1.7 “General Road Planning”, DC 2.2 “Residential Subdivision” and Planning Bulletin No. 33 “Rights-of-Way or Laneways in Established Areas - Guidelines” refer);
 - (iii) partial closure of the Right-of-Way would generate conflict with respect to the manoeuvrability and turning requirements identified in the Western Australian Planning Commission’s Policy DC 2.6 “The Design and Geometric Layout of Residential Roads;
 - (iv) partial closure of the Right-of-Way would be contrary to the principles identified in the Western Australian Planning Commission’s “Designing Out Crime Planning Guidelines” via the creation of an entrapment spot; and
 - (v) the proposed partial closure would detrimentally affect the redevelopment opportunities for No. 188 Lockhart Street; and
- (b) the petitioners’ be advised accordingly.

10.0.3 Reconsideration of Conditions of Planning Approval re Change of Use from Single House to Consulting Rooms. Lot 2 (No. 383) Canning Highway, cnr Alston Avenue, Como (Item 9.3.7 May 2007 Council Meeting)

Location: Lot 2 (No. 383) Canning Highway, cnr Alston Avenue, Como
 Applicant: Levitch Design
 Lodgement Date: 22 December 2006 (amended plan 24 January 2007)
 File Ref: 11.2007.1 - CA6/383
 Date: 27 September 2007
 Author: Matt Stuart, Planning Officer (previous report prepared by Simon Bain, Consultant Planner)
 Reporting Officer: Steve Cope, Director Planning and Community Services

Summary

This matter was previously presented to the May 2007 Council meeting, at which time planning approval was granted for a change of use from Single House to Consulting Rooms.

In the process of assessing the working drawings submitted for a building licence, an error in the original planning assessment has been detected which results in the need for Council to:

1. Delete one condition of planning approval; and
2. Accept a concession with respect to the number of parking bays.

Background

The development site details are as follows:

Zoning	Residential
Density coding	R40
Lot area	1,657 sq. metres
Building height limit	Existing single-storey Single House with loft
Development potential	Seven Grouped Dwellings
Plot ratio	Not applicable

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

1. Specified Uses (non-residential uses within the Residential Zone); and
2. Matters previously considered by Council.

The location of the development site is shown below:



Comment

(a) Description of the proposal

The subject property currently supports a Single House. The proposal is for a change of use to Consulting Rooms for a dental practice. The existing building will be retained and the rear extension and swimming pool removed.

The hours of operation are proposed to be 8:00 am to 8:00 pm Monday to Friday and 8:00 am to 6:00 pm on weekends. There will be two dental practitioners and two support staff. A total of 18 car bays are proposed on site, with one being disabled.

(b) Car parking

In the process of clearing planning conditions during the Building Licence assessment, anomalies have come to light with respect to the calculation of the gross floor area (GFA) of the building which affects the required number of parking bays for the development.

GFA was calculated at 223 sq.metres in lieu of the actual figure of 299 sq.metres as the original assessment excluded the floor area of the 'Attic' and 'Large Shed'. The consequence of this calculation is that the car parking requirement was identified as 16 bays in lieu of the actual requirement of 20 bays. As the application incorporates 18 bays, the proposal is 2 bays deficient of the parking requirement specified within Table 6 of Town Planning Scheme No. 6.

In considering the proposed development of the site, the 20 car bays required by the Scheme cannot be reasonably justified in this instance, as outlined below.

As the proposal involves two practitioners and two support staff, four car bays are required for staff. As there are four proposed 'Surgery' rooms with an associated waiting room, it is anticipated that the greatest number of customers frequenting the site at any one time would realistically be eight persons, thereby requiring eight car bays. Therefore, it is considered that the total number of people likely to be present on the site at any one time would be twelve people, with a similar number of vehicles, thereby requiring twelve car parking bays.

In addition, it is noted that the site is located on a prime public transport route, which is frequently serviced by buses, feeding to and from the Victoria Park Busport and the future Canning Bridge Train Station. Furthermore, this proposal includes two bicycle bays, as required by Table 6 of the Scheme. The result of these alternative transport options would only serve to (somewhat) reduce the number of car parking bays required to adequately service the site.

(c) Planning Approval Condition No. 15 to be Removed

A further consequence of the GFA measurement is that an inappropriate condition was imposed on the planning approval. Condition 15 of the planning approval is:

(15) The maximum gross floor area not exceeding 223 sq. metres.

As the existing structures alone are in excess of 223 sq.metres, this Planning condition cannot reasonably be cleared, resulting in the inability of the Building Licence application to proceed. Upon notification of this issue, the applicant has formally requested that the condition be removed. This condition was imposed on the original approval to act as a “safeguard” in ensuring that the floor area of the building did not increase above that shown on the planning drawings. It is appropriate that this condition now be deleted.

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

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

- (a) Maintain the City's predominantly residential character and amenity;*
- (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;*
- (g) Protect residential areas from the encroachment of inappropriate uses;*
- (i) Create a hierarchy of commercial centres according to their respective designated functions, so as to meet the various shopping and other commercial needs of the community;*
- (k) Recognise and preserve areas, buildings and sites of heritage value; and*
- (l) Recognise and facilitate the continued presence of significant regional land uses within the City and minimise the conflict between such land use and local precinct planning.*

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

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

- (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;*

- (o) *the cultural significance of any place or area affected by the development;*
- (s) *whether the proposed access and egress to and from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvre and parking of vehicles on the site;*
- (t) *the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) *whether adequate provision has been made for access by disabled persons.*
- (v) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved.*

(f) Conclusion

The understatement of GFA has resulted in:

1. The imposition of an inappropriate condition on the original approval; and
2. Actual car parking requirements being understated.

In considering these matters, it is now recommended that:

1. Condition 15 of planning approval, which limits the gross floor area of the building to 223 sq.metres be deleted; and
2. Council acknowledge and accept the provision of 18 car parking bays for the proposed development in lieu of the 20 bays prescribed by TPS6.

As described within the report, it is considered that 18 car parking bays will adequately cater for projected parking demand, and that the concession will not result in any adverse impact on adjoining residential neighbours.

Consultation

(a) Neighbour consultation

Neighbour Consultation was originally 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. 20-29 Alston Avenue, 236-238 Coode Street and 382, 387 and 388 Canning Highway were invited to inspect the application and to submit comments during a 14-day period. A total of 36 neighbour consultation notices were mailed to individual property owners and occupiers. In addition, signs were placed on site inviting comment from any other interested person. During the advertising period, one submission was received against the proposal.

Further neighbour consultation was not undertaken in conjunction with the preparation of this report.

(b) Other City Departments

As per previous report, comments received from other departments are supportive or without comment, pending an assessment at the Building Licence phase, or covered via a Planning approval 'Important Note'.

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 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 10.0.3

That Council...

- (a) agrees to delete Condition 15 from planning approval reference number 11.2007.1 for a Change of Use from Single House to Consulting Rooms on Lot 2 (No. 383) Canning Highway, Como, which limits the gross floor area of the building to 223 sq.metres; and
- (b) accepts the provision of 18 car parking bays for the proposed development in lieu of the 20 bays prescribed by the City of South Perth Town Planning Scheme No. 6.

10.0.4 Request for report on Item 15.1.1 August 2007 Council Meeting (referred September 2007 Council Meeting)

Location: City of South Perth
Applicant: Council
File Ref: GO/106
Date: 10 October 2007
Author/Reporting Officer: Cliff Frewing, Chief Executive Officer

Confidentiality

Agenda Item 15.1.5 was discussed as a *Confidential* item at the September meeting. However in consideration of the relevant provisions of the *Local Government Act* I do not believe that the matter should be regarded as a confidential item. The subject matter of the report does not fit readily within any of the exclusions listed in section 5.23 of the Act which would clearly warrant it being discussed in a meeting closed to members of the public.

Consistently with Regulation 14 of the Administration Regulations, the resolution made by Council at the September meeting is included in this report.

Summary

The purpose of this report is to respond to a Motion adopted at the September 2007 Council meeting.

Background

At the Council Meeting of 25 September 2007 a Notice of Motion moved by Cr Jamieson and seconded by Cr Best was adopted by Council at Item 15.1.5 as follows:

That with respect to Agenda Item 15.1.1 at the Council meeting held on 28 August 2007, this Council:

- (a) advises the CEO the report provided to Council was not up to an acceptable standard because it did not contain all facts and reference documents necessary for a complete understanding of the issues;*
- (b) advises the CEO that responses to questions during debate by the CEO or his officers was not up to an acceptable standard because of the difficulty obtaining the whole truth;*
- (c) advises the CEO it considers the conduct of the Legal and Governance Officer, was not appropriate, having had to be stopped twice by the Mayor and advised to 'simply answer the question'; and*
- (d) requests a report from the CEO for the October 2007 Council Meeting on the issues raised advising what he will do to prevent similar occurrences.*

Comment

Council resolved at its September 2007 meeting to request a report concerning issues related to Agenda Item 15.1.1 (Application for legal representation from Cr Smith) at the August 2007 Council meeting.

Sub-clause (d) of the resolution requested a report concerning the 'issues raised' relating to the matters set out in sub-clauses (a) to (c) of the resolution.

Sub-clause (a)

The August report to Council was not up to an acceptable standard because it did not contain all facts and reference documents necessary for a complete understanding of the issues.

A response has previously been provided to similar assertions made by Cr Jamieson (see emails dated 2 and 7 September 2007 - copies of which were attached to Agenda Item 15.1.5 of the September 2007 meeting). In essence the response by the CEO was as follows:

Having regard to the background of this matter, in particular the information contained in previous reports and the fact that full copies of legal advice received have previously been provided to all elected members, I cannot agree with your opinion of the report.

On the contrary, and having regard for the above, in my view the report properly and adequately addressed the key issues of the claim relevant to Council policy and the legislation. Having dealt with the policy implications thoroughly, the report then addressed whether or not the expenditure of funds could be legitimately made, having regard to the earlier legal advice received on the same subject and previously conveyed to elected members in its entirety. The legal principles that applied to the earlier advice would not [have] changed to any extent - if at all. The administration did not and does not see any need to seek further legal advice on this subject (although it has been sought in accordance with Council's resolution).

The earlier legal advice received was unequivocal and was referred to and summarised in the report. It had been provided to all elected members previously and as a consequence, there was no need to provide a further copy of the advice.

History of Council's consideration of the Legal Representation Policy

Council has considered the issues surrounding applications for legal representation on at least four occasions this year prior to the August 2007 meeting which is the subject of its September resolution. They are as follows:

- (i) Cr Gleeson's application for legal representation (Item 11.2), was made consistently with the Policy in advance of the legal proceedings to which his application related and was considered and refused by Council at its March 2007 meeting;
- (ii) Cr Smith's application for legal expenses (incurred between 13 and 23 March 2007) was made retrospectively and was first considered by Councillors on 27 March 2007 (Item 13.1.3). Council resolved at that meeting, against the advice of the Administration, to reimburse the legal expenses of any Councillor, including Cr Smith;
- (iii) Concerned about the implications of such an open-ended resolution, the Administration obtained legal advice from McLeods Lawyers which confirmed that the resolution was unlawful and should be revoked at the earliest opportunity - a copy of the McLeods advice was provided to all councillors on 5 April 2007 via a Bulletin item which summarised the advice.
- (iv) Notwithstanding the unequivocal and compelling nature of the McLeods advice, Cr Smith's application was the subject of further consideration by Council when a Notice of Motion from Cr Best was debated at the 26 June 2007 meeting (Item 12.3) in which Crs Best and Jamieson sought further legal advice on the same issue. The motion to seek further legal advice on the same issue was not supported by the Administration for the simple reason that the issues had not changed and the McLeods advice was comprehensive and relevant. **A further copy of the McLeods 5 April advice was provided to Councillors at the June 2007 meeting as an attachment to the CEO Comment for item 12.3.**

On each of these occasions, Council has had cause to consider the application of the City's Legal Representation Policy and the implications of Council declining to follow its own policy and declining to act in accordance with it.

Council has also been previously advised on each of these occasions about Council's statutory obligations under the *Legal Government Act* to expend the City's financial resources consistently with its general function to provide for the good government of the persons in its district.

Council's consideration of Cr Smith's application at the August 2007 meeting

The Officers' report to the August Council Meeting, which was comprehensive, lucid and unequivocal in its conclusions and its recommendation, carefully analysed Cr Smith's application to determine whether it could be approved in accordance with the City's Legal Representation Policy. In addition, anticipating the fact that Councillors may nonetheless wish to approve the application although it did not comply with the Policy, the Officers' report also canvassed the issue of whether Council could pay Cr Smith's legal expenses in those circumstances. The April advice from McLeods was not further copied to Councillors as it had been provided on two earlier occasions - the most recent occasion (26 June 2007) being only eight weeks previously.

Notwithstanding this comprehensive treatment of all relevant issues in the Officers' report, Council resolved to request further legal advice in relation to Item 15.1.5, which advice was duly obtained and provided to Council at its September meeting. **That advice from McLeods, dated 11 September 2007, confirmed the advice previously provided to Council in the Officers' report to the August meeting.**

In these circumstances, it is extremely difficult to see in what manner the August report was deficient, what issues were omitted or where it could have been expanded.

Sub-clause (b)

Council advises the CEO that responses to questions during debate by the CEO or his officers was not up to an acceptable standard because of the difficulty obtaining the whole truth.

I do not agree with the proposition contained in the resolution that either my or my officer's responses to questions during the course of the debate on this item were 'not up to an acceptable standard because of what is said to be the difficulty of obtaining the whole truth'.

It is clear from the recent history of this issue, outlined above, that all Councillors have had ample opportunity to inform themselves and become familiar with the relevant facts of the application and the legal principles relevant to a proper consideration of the matter in accordance with the City's Legal Representation Policy. These matters had been debated before, advice had been provided to Councillors previously in writing and in the course of Council meetings, and the conclusion has not changed - payment of Cr Smith's legal expenses is not legally permissible in the circumstances of his application.

I note that Council's consideration of this agenda item occupied approximately 45 minutes. This was by far the longest period of time spent by Council on a single item at the August meeting by a substantial margin. It commenced shortly after ten o'clock and concluded shortly before eleven o'clock. As noted above, this was the third occasion over a period of six months at which Council has considered the matter of Cr Smith's request for payment of his legal expenses.

It is worth noting that this one issue, Cr Smith's application for payment of his legal expenses, has occupied more Council time, and expense in obtaining legal advice, than any other agenda item so far this calendar year. During this period the issues have been repeatedly considered and thoroughly documented and advised upon - contrary to what is claimed in the resolution.

I recall that a large number of questions were asked and each question was responded to without equivocation. I do not recall that any question was not answered or that any question was not able to be satisfactorily answered. A number of questions sought clarification about aspects of the Officers' report and the legal advice referred to therein. I also note that a number of questions were repetitive and seemed to indicate that the questioner may have been struggling to comprehend the logic of the analysis set out in the Officers' report when it was repeated in the Officers' responses.

Given that there was no issue raised by any questioner which was not answered by reference to the Officers' report or by further explanation in response I have great difficulty in understanding the basis of the resolution that states the responses were not of an acceptable standard because of the difficulty of obtaining 'the whole truth'. The reference to 'the whole truth' in no way explains what the deficiency in 'acceptable standards' is said to be.

Sub-clause (c)

Council advises the CEO it considers the conduct of the Legal and Governance Officer was not appropriate, having had to be stopped twice by the Mayor and advised to 'simply answer the question'.

I do not consider that the statements contained in sub-clause (c) are factually correct.

At every Council Meeting I have attended, the Mayor as Presiding Member and person responsible for moving the debate along has had cause to request Members to get to the point or finish up or clarify a previous statement etc. The August meeting was no different in this regard with respect to Members or Officers.

I recall that a number of Councillors asked a number of questions some of which overlapped, some of which were repetitive and some of which were perhaps not as coherent as one may wish. I do not recall that any question went unanswered or that any question was not able to be answered. I do recall that some answers may not have been to the questioner's liking, but that is not the fault of the officer giving the answer - that is more a case of shooting the messenger.

I recall that Mr McLaughlin became a little exasperated towards the end of the session (the agenda item occupied almost 45 minutes of the Council meeting) possibly due to the fact that some questions had been asked a number of times previously by the same questioner, but I consider that this is understandable - especially given the lateness of the hour and considering that City officers have already put in a full working day before entering a further four or five hour stint in the Council Chamber.

All answers given by Mr McLaughlin were comprehensive and were consistent with the advice provided in the Officers' report. In retrospect, it can now be seen that Mr McLaughlin's answers on the key issues were confirmed by the McLeods advice of 11 September and were consistent with the McLeods advice of 3 April 2007 previously made available to Councillors.

Roles and responsibilities of Council and Councillors

In any event I do not consider that this is a matter in which individual Councillors or the Council have a role considering the limits of their statutory functions and authority.

It is clear that when allegations are made about the conduct of a staff member, the CEO is statutorily responsible for investigating those allegations as he is for the management of City employees generally. Although in my considered opinion there is no substance in the assertions made about Mr McLaughlin's conduct this is not a matter concerning which Council should be involved in any event.

This is a matter upon which advice has been provided to Council previously and upon which the Department of Local Government has written to Council, on 26 June 2007, in relation to a Notice of Motion for the June Council meeting (Item 12.4) that ***'appears to have Council assume a role in the investigation of a matter concerning a staff member'***. The letter, a copy of which was circulated to Members at the June 2007 Council Meeting, (**Attachment 10.0.4** refers) advised Council that:

"It is inappropriate for an Elected Member of Council to become involved in an administrative function of the local government. The management, supervision and dismissal of staff is the responsibility of the Chief Executive Officer as detailed in the *Local Government Act 1995* and in the recently published *Report of the Inquiry into the City of South Perth 2006*."

Role of Presiding Member under Standing Orders

In addition, as noted in the CEO Comment to the Notice of Motion, the Mayor, as Presiding Member under the City's Standing Orders, is responsible for the conduct of Council Meetings and of those persons who participate in them - this includes Councillors, Officers and members of the public alike. The more appropriate course of action would be for a Councillor who has a concern about conduct in a meeting, to bring that to the immediate attention of the Presiding Member to be dealt with on the spot.

Participation of Cr Smith

It is noted that Cr Smith was present for the debate during Item 15.1.5 and voted for the Motion. However Cr Smith was not present during Council's consideration of the subject matter of the Motion at the August Council Meeting because he disclosed a financial interest in the outcome of his application for legal expenses and left the meeting. Accordingly, he could not have an informed opinion about the various matters raised in the resolution. Cr Smith's participation in an item of Council business debating a Motion which is critical of conduct which he was not physically able to observe damages the credibility of Council's decision-making processes.

Department of Local Government Inquiry Report Recommendation R1- Mediation

This resolution sits uncomfortably with the commitment made by Councillors and City Officers to enter a process of professional mediation to, as the Department Inquiry Report described it, 'moderate the relationship conflicts between Elected Members and the Administration'. In my view, given the absence of any factual basis to the various parts of the resolution, there appears to me to be a hint of personal animosity involved. It would be far preferable for a Member who genuinely has a concern about the matters raised in the resolution to take it up with the professional mediator appointed by the City to conduct the mediation.

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.*

OFFICER RECOMMENDATION ITEM 10.0.4

That....

- (a) consideration be given to revoking Item 15.1.5 of the Minutes of the Council Meeting dated 25 September 2007 as follows:

That the Confidential Motion at Item 15.1.5, as amended, be adopted.

Note Confidential Motion 15.1.5 reads:

- (a) *advises the CEO the report provided to Council was not up to an acceptable standard because it did not contain all facts and reference documents necessary for a complete understanding of the issues;*
- (b) *advises the CEO that responses to questions during debate by the CEO or his officers was not up to an acceptable standard because of the difficulty obtaining the whole truth;*
- (c) *advises the CEO it considers the conduct of the Legal and Governance Officer, was not appropriate, having had to be stopped twice by the Mayor and advised to 'simply answer the question'; and*
- (d) *requests a report from the CEO for the October 2007 Council Meeting on the issues raised advising what he will do to prevent similar occurrences.*

**Support of a Minimum of One Third of the Members is Required*

- (b) the resolution made under Item No. 15.1.5 of the Minutes of the Council Minutes dated 25 September 2007 be revoked:

**An Absolute Majority is Required*

10.2 GOAL 2: COMMUNITY ENRICHMENT

10.2.1 Safer Australia Day Strategy 2008

Location:	City of South Perth
Applicant:	Council
File Ref:	RC/105
Date:	25 September 2007
Author	Sebastian Camillo Manager Environmental Health Services
Reporting Officer:	Steve Cope, Director Planning and Community Services

Summary

To consider the adoption of a strategy to manage the Australia Day Lotterywest Skyworks 2008 event within the City of South Perth and to approve the road closures applicable for the event.

Background

In February 2004, the Council supported a notice of motion put forward by Mayor Collins in respect of the organisation of future Skyworks events.

In July 2004, the Council adopted a Skyworks Strategy 2005 (the strategy) to address crowd control, traffic management, litter, anti-social behaviour and excessive alcohol consumption on the South Perth foreshore for the next skyworks event. These issues were identified in the post-2004 event review.

The strategy focused on the following areas:

- New Local Laws
- Increased Crowd Control Measures
- Revised Traffic Management and Road Closure Plans
- Initiatives to improve Public Transport and Waste Management
- Significant media and communications campaign.

The Strategy aims were to improve the experience of the event for the wider community by controlling liquor consumption, traffic and parking management, improving policing and reducing the number of attendees on the South Perth foreshore.

Comment

Following the Lotterywest Australia Day Celebrations in January 2005, the City conducted a “community consultation survey” to determine what the effects of the strategy had on the residents within South Perth.

There were 6,600 surveys sent out to each resident in South Perth. Additionally, the survey was made available at the City’s public facilities (ie Libraries and George Burnett Leisure Centre) and on the webpage to everyone that wanted to participate in the survey. The City advertised the survey to the broader community within the City Update and encouraged participation in it. At the conclusion of the survey period, there was a 15% return rate of the survey.

The survey results formed the basis in the development of an improved “Safer Australia Day Strategy 2006”. The Safer Australia Day Strategy 2006 focused on the areas of public transport, local laws, crowd control, traffic management and parking restrictions, road closures, litter management (including glass minimization), and media/communications.

The Safer Australia Day Strategy 2006 was a great improvement on the previous years original strategy and achieved the desired outcome.

It is proposed that the Safer Australia Day Strategy 2007 will be conducted along the same format and operations as last year's strategy. The strategy will consist as follows;

Safer Australia Day Strategy 2008

1. Public Transport

The City officers will again commence negotiations with a bus company for the provision of up to twelve buses to transport residents from Manning, Como, Karawara and Waterford to the foreshore and back. In previous years buses were provided by Southern Coast Bus Company and it is expected that they will again support the City in providing free public transport to the event.

2. Local Laws

The Special Events Local Law will provide City officers and other enforcement agencies with a range of new offences backed up with additional powers under the *Local Government Act (WA) 1995*.

The new offences include the possession of liquor (whether or not the liquor is in a sealed Container), possession or use of a large object ("large object" includes lounge chair, bed, refrigerator, spa/wading pool etc, and excludes shade shelters/umbrella's), possession or use of loud stereos (as determined by amplification outputs).

3. Crowd Control

The Western Australian Police Service (WAPS) and City's Rangers will commence patrolling the restricted areas and Sir James Mitchell Park (SJMP) from approximately 7.00 am on the morning of 26 January 2008. The rangers will focus on illegal parking and large objects being taken to the foreshore early.

Management of the crowd will also be assisted by the establishment of a 50 metre wide restriction zone on SJMP and Queen Street Jetty areas. This will provide access to the various Hazard Management Agencies (HMA's) including the Police Command Posts. These restriction zones will divide the large crowd into segments and assist with patrolling and rapid responses from the various HMA's.

St Johns Ambulance will be providing a primary treatment facility on the South Perth foreshore to administer minor medical procedures, to reduce the need for patient transfer to either Royal Perth Hospital or Queen Elizabeth Medical Centre.

4. Road Closures (Access Restricted Area)

The roads bounded by Labouchere Road to Angelo Street to Douglas Avenue to Mill Point Road to Ellam Street, will be closed from 8.00am to 10.00pm, allowing adequate time for people to attend the City's Australia Day Ceremony on the South Perth foreshore. The early closure is required to prevent people parking their vehicles in the access restricted areas and/or in car parks on the foreshore, congesting traffic and conflicting with pedestrian movement at the closure of the event. The road closures will be advertised in accordance with the requirements of the *Local Government Act 1995*.

The area will be restricted with no parking on the road or verge and have staffed road closures at each of the 23 intersections. Six intersections will be available into the access restricted area to residents, visitors and businesses. Permits to access the restricted area will again be issued to residents, their visitors (those who can be parked on site only) and businesses. Permits will also be provided to residents who do not have any physical onsite parking and they normally park their vehicles on the road or verge.

The Coode Street boat ramp will be closed to support the closure of the Perth Water to boats because of the fireworks. The Coode Street boat ramp area is used predominantly for disabled parking and also for Police, State Emergency Services and Ambulance parking.

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

The City will need to employ the services of security/traffic management officers to secure the road closures as mentioned in this report. Indicative costs for this service have been included in the 2007/2008 Skyworks budget.

5. Traffic Management (Parking Restricted Area)

The parking restricted area would extend from the access restricted area (as per item 4) to South Terrace, to Canning Highway and to Ellam Street and be effective from 8.30am to 10.00pm.

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

The Police Traffic Branch and Emergency Services support the exclusion of vehicles parking on the road verge on one side of the road within the parking restricted area which enables clear vision for pedestrians and access throughout the restricted area by authorised emergency vehicles. These restrictions contained in the Skyworks Strategy 2005 were successful in clearing the traffic and pedestrian congestion at the end of the event this year.

To accommodate families with insufficient on-site parking within the Parking and Access Restricted Areas, free secured parking locations will be provided by the City. This will address those situations where some families may have several cars in the household and require street or verge parking.

6. Waste Management

The event organisers will mini-skips for rubbish and recycling, which will be located at regular intervals along the foreshore. Bio-degradable rubbish/recycling collection bags will also be distributed among the crowd to contain rubbish/recyclables and for ease of the post event cleanup. Biodegradable litter bags are being sourced which will break down in the landfill once the rubbish has been disposed after the event.

7. Media and Communications

The Safer Australia Day Strategy 2008 provides for a significant number of new initiatives which when combined are designed to more effectively manage the event. Such a significant change will require an effective media and communications campaign. The City will undertake some of this campaign directly and work closely with the event organisers and their radio and TV media partners to ensure the various elements of the City's Strategy is effectively communicated.

Consultation

The Manager Environmental Health Services provided a debriefing in June on the Safer Australia Day Strategy 2007 and its effects on the Community. Following on from that debriefing in developing the amended Safer Australia Day Strategy 2007, consultation has occurred with officers of the following external organisations:

- City of Perth
- Town of Victoria Park
- Main Roads
- WA Police Service
- Racing Gaming & Liquor
- Advanced Traffic Management
- SWAN Transit
- Lotterywest
- State Emergency Service

Policy and Legislative Implications

Nil

Financial Implications

Funding has been allocated in the 2007/08 Budget for the implementation of this strategy.

Strategic Implications

The Safer Australia Day Strategy 2007 relates to Goal 2 of the City's Strategic Plan, Community Enrichment. In particular, reference is made to Strategic 2.7 which involves the development of strategic directions for events, arts, leisure and heritage that encourages a vibrant and participative community.

OFFICER RECOMMENDATION ITEM 10.2.1

That...

- (a) Council adopt the Safer Australia Day Strategy 2008 as detailed in report item 10.2.1 of the October 2007 Council Agenda; and
- (b) the Temporary Road Closures and Parking Restrictions, bounded by Labouchere Road to Angelo Street to Douglas Avenue to Mill Point Road to Ellam Street, will be closed from 8.00am to 10.00pm as described in the report, be approved.

10.2.2 Community Partnerships 2007/2008

Location:	Council
Applicant:	City of South Perth
File Ref:	GS/102
Date:	28 September 2007
Author:	Neil Kegie, Manager Community Culture & Recreation
Reporting Officer:	Steve Cope, Director Planning and Community Services

Summary

This report recommends that the City enter into a new Community Partnership with the RSPCA with a view to consolidating its support for the annual Million Paws Walk.

Background

The City recognises that effective community outcomes can best be achieved by working in partnership with organisations towards common goals. The City is committed to identifying partnering opportunities and developing Community Partnership Agreements that are aimed at delivering benefits to the City of South Perth Community.

The goals of the Community Partnerships program are to:

1. provide opportunities to develop partnerships between the City and the community;
2. enable groups and individuals to maximise their development opportunities;
3. provide an equitable means by which community groups can access funding;
4. provide a process for distributing funds to meet defined outcomes; and
5. involve stakeholders in a shared approach to the development of projects and services in the City.

Through a number of programs the City provides opportunities for organisations to enter into Community Partnerships so they may access financial and other forms of support from the City to assist in the delivery of programs and services. A significant difference between a Community Partnership and general funding assistance from the City is the increased level of commitment to working together towards common goals.

In 2003 the City established Community Partnership Agreements with Southcare Incorporated and Perth Zoo. In 2004 a Community Partnership was established with the South Perth Church of Christ and in 2006 a Community Partnership was established with Millennium Kids Incorporated. In addition to this proposed Community Partnership with the RSPCA officers are developing another Community Partnership with the South Perth Aboriginal Group *Moorditj Keila*. It is envisaged that this Partnership agreement will be presented for consideration by council in November 2007.

Comment

The RSPCA has been working for the welfare of animals in Australia since 1871. It is one of the most well known and respected charities in the country and the only national animal welfare charity. Recent research indicates that 98% of Australians recognise the name "RSPCA".

Over the past 12 years the profile of the RSPCA Million Paws Walk event has grown such that the *Million Paws Walk* is a household name. The event has also become synonymous with the City and Sir James Mitchell Park where it has taken place since its inception. *Million Paws Walk* has grown in scale, particularly in the past few years to a point where it

is now a significant regional community event. It has a festival-like atmosphere, with many participants dressing up for the occasion. Million Paws Walk treats the community to a fun, family day out, whilst raising funds for the valuable work of the RSPCA in Western Australia.

The City has supported Million Paws Walk in various ways since its inception including through the provision of logistical, promotional and staffing support, and the waiver of grounds hire fees. The development of a Community Partnership between the RSPCA and the City recognises the increasing importance and scale of the event and the contribution each party makes in order for it to succeed. **Attachment 10.2.2** is a draft of the partnership agreement which outlines this joint approach.

Consultation

Officers have developed the draft partnership agreement in collaboration with the RSPCA.

Policy and Legislative Implications

This report relates to Policy P202 *Funding Assistance* which states:

Level 1. Community Partnerships

The City may enter into Community Partnerships with identified organisations that provide a major benefit to the City of South Perth community.

Financial Implications

Support for Million Paws Walk as outlined in this report is 'in kind', consequently there is no requirement to allocate funds for this initiative.

Strategic Implications

This report relates to the following aspects of the City's Strategic Plan 2004 - 2008:

Goal 2: Community Enrichment - To foster a strong sense of community and a prosperous business environment

Strategy 2.2: Develop community partnerships that will be mutually beneficial with stakeholder groups including educational institutions, service clubs, the business community and other organisations

OFFICER RECOMMENDATION ITEM 10.2.2

That Council endorse a Community Partnership with the RSPCA relating to the Million Paws Walk, as outlined in **Attachment 10.2.2**

10.2.3 Community Sport and Recreation Facility Funding Program (CSRFF) - Annual Grants Consideration

Location:	City of South Perth
Applicant:	Council
File Ref:	GS/109
Date:	2 October 2007
Author:	Matthew Hunt, Recreation Development Coordinator
Reporting Officer:	Steve Cope, Director Planning and Community Services

Summary

To consider applications for the annual Community Sporting and Recreation Facilities Fund (CSRFF) Grants.

Background

The Department of Sport and Recreation (DSR) annually invites applications, on behalf of the Western Australian Government, from community groups and local governments to provide funding assistance to develop basic, sustainable infrastructure for sport and recreation. The program aims to increase participation in sport and recreation with an emphasis on physical activity, through rational development of good quality, well designed and well utilised facilities.

Two grant categories are available to applicants, with recent significant changes having been made to the minimum and maximum grant levels to the two categories:

- Annual Grants of \$2,500 - \$90,000 for projects requiring a less complex planning process. Grants given in this category must be claimed in the next financial year, ie: 2008/09.
- Forward Planning Grants of \$90,001 up to 3 x \$600,000 (\$1.8m) for more complex projects that require a planning period of between one and three years. Grants given in this category will be allocated to the first (2008/09), second (2009/10) or third (2010/11) year of the triennium.
- The type of projects which will be considered for funding include:
- Upgrade and additions to existing facilities where they will lead to an increase in physical activity or more rational use of facilities;
- Construction of new facilities to meet sport and recreation needs;
- New or replacement (not resurfacing) synthetic surfaces;
Where an application is made for a new or replacement synthetic surface, with the substructure typically having a life of 30 years, evidence of long term community planning for all nearby facilities is required.
- Floodlighting projects; and
- Resurfacing of synthetic playing pitches or courts. It is expected that Facility Managers will budget for these items as part of the ongoing operation of the facility, frequently over 7 to 10 years, and as such these will be considered a low priority for funding.

The maximum grant awarded by the Department of Sport and Recreation will be no greater than one-third of the total cost of the project. The CSRFF Grant must be at least matched by the applicants own cash contribution, with any remaining funds being sourced as required by the applicant. In some cases, funds provided by the Department do not equate to one-third of the project costs, and the applicants are advised that they are expected to fund any such shortfall.

There is no obligation on the part of a local government authority to make any contribution to a community project, but in the past the City has matched the contribution by the Department of Sport and Recreation of up to one-third of the total cost of successful projects.

As stated in the CSRFF guidelines and in accordance with the City's funding guidelines, annual grants for this round of applications must be claimed in the next financial year, in this case 2008/2009. It is also important to note that the City's inclusion of funds for consideration on the 2008/2009 Draft Budget does not guarantee funds should the club be successful in its application to the Department of Sport and Recreation.

Invitations were forwarded to all local sporting clubs, organisations and groups through a direct mail out and through promotion in the Southern Gazette to make submissions, in addition to Department of Sport and Recreation advertising in the West Australian on Wednesday 4 July 2007 that the Community Sporting and Recreation Facilities Fund (CSRFF) 2008/2009 Funding Round was open.

As a Local Government Authority the City is also eligible to apply through the program. An opportunity exists to resubmit an unsuccessful application submitted in 2006 to support the development and upgrade of the WCG Thomas Pavilion located on Richardson Park, Amherst Street South Perth.

Comment

One project is proposed by the City and three from external organisations. See summary below.

(i)	City of South Perth	
	CSRFF Grant sought	\$ 390,000
	City's contribution	\$ 780,000(In 2008/09 draft capital works budget)
	Estimated Total Project Cost	\$1,170,000
(ii)	Manning Rippers Football Club (MRFC)	
	CSRFF Grant Sought	\$25,500
	City's Contribution	\$25,500
	Club's Contribution	<u>\$25,500</u>
	Estimated Total Project Cost	\$76,500
(iii)	Manning Tennis Club (MTC)	
	CSRFF Grant Sought	\$ 11,310
	City's Contribution	\$ 11,310
	Club's Contribution	<u>\$ 11,310</u>
	Estimated Total Project Cost	\$ 33,930
(iv)	Como Croquet Club (CCC)	
	CSRFF Grant Sought	\$ unknown
	City's Contribution	\$ unknown
	Club's Contribution	<u>\$ unknown</u>
	Estimated Total Project Cost	\$ unknown

Assessment

A panel comprising the City’s Act- Manager, Community Culture and Recreation, the Manager, Parks and Environment, the City’s Sport and Recreation Club Development Officer and the Recreation Development Coordinator assessed and ranked the applications against the following criteria set by the Department of Sport and Recreation.

A	Well planned and needed by municipality
B	Well planned and needed by applicant
C	Needed by municipality, more planning required
D	Needed by applicant, more planning required
E	Idea has merit, more preliminary work required
F	Not recommended

These results are summarised below.

Applicant	Project	Ranking	Rating	City’s Contribution	Total project Cost
City of South Perth	Major upgrade of the WCG Thomas Pavilion located on Richardson Park	1	A	\$780,000	\$1,170,000
Manning Rippers Football Club	Installation of lighting towers	2	B	\$25,500	\$75,500
Manning Tennis Club	Installation of lighting towers on two unlit courts	3	B	\$11,310	\$33,930
Como Croquet Club	Installation of lighting towers	4	F	\$unknown	\$unknown

(i) City of South Perth (COSP)

The City applied unsuccessfully to the Department of Sport and Recreation for a CSRFF grant in 2006 for a project to upgrade the WCG Thomas Pavilion located on Richardson Park, South Perth. At the time the application was made the total project cost was forecast at approximately \$900,000. Despite consultation with the Department of Sport and Recreation during the development of the grant submission the City was informed subsequent to the refusal that further cost analysis by a quantity surveyor and a feasibility study that included a comparison with the cost of building a new facility would have strengthened the City’s case for funding. This additional work has been undertaken with the revised cost now \$1,170,000. The cost of replacing the facility is estimated at \$2,540,000.

The WCG Thomas Pavilion was built in 1966 and subsequently upgraded in 1989. Currently the South Perth Cricket Club, Wesley South Perth Hockey Club and South Perth Women’s Hockey Club operate from the pavilion which is utilised all year round. The support of the City is recognised by the user clubs as excellent with regard to maintenance of the grounds, however the pavilion presents as ‘tired’ with substantial amount of work required on the building itself.

A recent study undertaken on behalf of the City of 16 City owned community based sporting facilities identified the following points regarding the WCG Thomas Pavilion:

- Downstairs change rooms are in very poor condition
- In 2005 a ceiling collapsed in a change room shower
- Water damage is present in the ladies toilets
- Upstairs change room no. 1 is well used, however change room 2 is not used. Floor in this room requires resurfacing

- Inadequate storage (upstairs and downstairs)
- No outside cover for spectators
- Kitchen is in poor condition with electrical problems occurring
- Improvements are required to address accessibility issues and ensure the building complies with Australian Standards AS 1428.1-1993 (and supplements) for disabled person's access

The report recommended the following actions be undertaken;

- Renovation and upgrading of the toilet and change room facilities
- Renovation and upgrading of the kitchen
- Repair and upgrading of electrical and plumbing systems
- Increased internal and external storage areas
- Provision of a covered outdoor spectator area overlooking the grounds
- Improved layout of the downstairs administration and meeting facilities
- Improved access to comply with current Australian Standards for disabled persons access

With the abovementioned improvements, the building would be more multipurpose and better able to accommodate the needs of existing sporting club user groups, as well as a range of non - sporting groups and occasional private functions.

CSRFF Grant sought	\$390,000
City's contribution	\$780,000 (for inc.in the 07/08 draft capital works budget)
Total Project Cost	\$1,170,000

This project has been rated 'A-Well planned and needed by municipality'. In making this assessment the panel noted;

- The WCG Thomas Pavilion is a showcase facility for the City
- The upgrade project benefits the three user clubs with additional potential flow on effects for non sporting community groups
- Comprehensive consultation has been undertaken with the user clubs to ascertain and prioritise needs
- The proposed upgrade is consistent with the Sporting Facilities Needs Study undertaken on behalf of the City in March 2006

(ii) Manning Rippers Football Club (MRFC)

The project presented by the MRFC for the upgrade of existing and addition of new floodlighting to James miller will benefit the Club and its sport, as well as the City's community at large, by increasing the provision of floodlit playing fields for training, coaching, active and passive recreation, community safety and potentially fixtures usage, available all year around. The upgrade the lighting facilities at James Miller Oval is one which was presented to the City in 2005 and viewed as potentially being of benefit to the Club as well as the community at large, however an incomplete application was submitted to the City and, as such, an assessment of the project was not possible at that time.

Following internal development at the Club, two of the high priority items listed in the Club's own needs assessment was the installation of two new lighting towers and the upgrading of the existing two towers. This need had been identified through an increase in injuries of players at training sessions in recent years, the advent of a junior arm of the club and the current popularity of night junior games, an analysis of current lighting by the Club's sub tenants and recent initiatives by both the West Australian Football Commission and the Perth Football Club to improve the standard of floodlit facilities, and increase the number of identified facilities in both West Australian football competitions and more specifically the Perth Football District.

In addition to this, the project relates to providing lighting on parts of the Oval that will provide alternative options to the wider community regarding an extended use of the reserve and could increase community safety while in use at times when it would otherwise be too dark for active and or passive activity. The local School (Manning Primary School) in addition to numerous sporting bodies have also shown interest and support for this project.

The City Of South Perth “Future Directions and Needs Study for Sport and Recreational Clubs” identified the need for more efficient use of sporting facilities within the City and the upgrading of existing buildings to facilitate anticipated increased use. The study identified that the current facilities (the James Miller Pavilion) were of poor standard and looked at the possible redevelopment of the adjacent Manning Community Hall site. This redevelopment identified in the City’s 2007 Strategic Financial Plan, as the Manning Hub project would be complimented by an upgrade of the floodlighting, As a part of the upgrade, the proposed floodlighting will be located on the west side of the playing fields allowing for the recommended expansion and adjustment of the field (James Miller Oval) to link with the Manning Hall facility and provide the required lighting for safe broader community use.

The recently launched *WAFC* - Football Facilities Strategic Plan, jointly prepared by the WA Football Commission and the Department of Sport and Recreation, suggests that facility provision needs to meet the needs of all players, spectators, volunteers and supporters, and clearly depicts the core and optional lighting requirements for both training and playing areas. Identified in this application, due to the Clubs strategic goals and anticipated future growth, is a strong correlation and support for such a project.

It is recommended to Council that the City rate the application for funding as a medium to high priority and allocate supporting funds accordingly, to the extent of funding 1/3 of the cost of the suggested quote of three presented as part of the application.

Should the project proceed, strict conditions would apply, in addition to those that are standard for all projects involving the installation of reserve lighting and the upgrading of playing fields within the City. These conditions include the applicant’s requirement to:

- submit a confirmed electrical consultants report outlining that the power supply both on the grounds and at the facility can cater for maximum potential demand required;
- further detailed specifications of the project to the City and obtain appropriate approvals;
- confirmation of spill light analysis prior to design acceptance from the City
- liaise with the City at all stages of the project;
- forward a letter to all residents in streets adjacent (Jarmen and Duckett) to areas affected by the proposed lighting advising that as a part of the on-going development of the reserve, further floodlighting towers would be installed and that the towers would be positioned so that there is no light spillage on adjacent properties; and
- bear all pre-site requirements, installation, maintenance and operating costs with no cost to the City.

SRFF Grant Sought	\$25,500
City’s Contribution	\$25,500
Club’s Contribution	<u>\$25,500</u>
Estimated Total Project Cost	\$76,500

This project has been rated 'B -Well planned and needed by applicant'. In making this assessment the panel noted:

- The addition of project conditions required above including; Spill light assessment, community consultation with adjacent streets and power supply requirement capabilities confirmation
- The upgrade will assist broader community usage throughout the year
- The upgrade project benefits the club and will impact directly on growth and competency in competition and training, with additional potential flow on effects for non sporting community groups through lighting safety

(iii) Manning Tennis Club (MTC)

The project by MTC to install floodlights on two existing courts would benefit to the club and the wider community. The Club has presented an application that demonstrates a need for the Club to expand its floodlit synthetic-court capacity in order to keep up with its current increase in playing participants, and the demand on court space that it is both currently experiencing and foresees will continue.

The Club's application in 2004/2005 for the installation new and resurface existing courts at the site was questioned, as it was not seen as an appropriate time to consider such a project in light of an upcoming study to be conducted by the Department of Sport and Recreation and the sport's State Association, Tennis West, into the current and future direction of tennis and local clubs in the Perth metropolitan area. The study (now completed) provides some much needed direction to the City as to the strengths of the local clubs as perceived by their state association, trends in the sport relating to facility conditions, specifications, and upgrade proposals, as well as ideal numbers with regards to clubs servicing a local area.

As such, the Club's application provides direct correlation to the above study, with additional written support from the State Body quoting that "This proposal supports Tennis West's strategic direction to increase opportunity for people to play tennis during the evening.....the Club's strong community policy which encourages casual players, regular players and members". In addition to this, the City's "Future Directions and Needs Study" illustrates the suggestion for the development of additional playing surfaces through installation and lighting of courts. Specifically the study identifies that more floodlit courts at the site would accommodate the increasing demand for casual evening / night tennis. School competitions were also been terminated at the site due to a limited number of suitable courts at the time of the study.

The increasing trend and demand for easy access, causal, pay then play (so called 'Fast Food') sports within the community, linked to the increasing rates of obesity and sedentary lifestyles within the State, leans towards a greater need for increased provision of lit surfaces for teenage and greater community use as outlined within the application. The Clubs Forward Planning Committee and financial position have also improved with strategic plans outlined linking with supporting strategic directions form the City and State Sporting Association.

It is recommended to Council that the City rate the application for funding as a medium to high priority and allocate supporting funds accordingly, to the extent of funding 1/3 of the cost of the chosen quote presented as part of this submission.

Should the project proceed, strict conditions would apply, in addition to the standard for all projects involving the installation of reserve lighting and the upgrading of playing fields within the City. These conditions include the applicant's requirement to:

- submit further detailed specifications to the City;
- obtain appropriate approvals;
- liaise with the City at all stages of the project;
- forward a letter to all residents in streets adjacent (Elderfield Road) to areas affected by the proposed lighting advising that as a part of the on-going development of the reserve, further floodlighting towers would be installed and that the towers would be positioned so that there is no light spillage on adjacent properties; and
- bear all pre-site requirements, installation, maintenance and operating costs with no cost to the City.

CSRFF Grant Sought	\$ 11,310
City's Contribution	\$ 11,310
Club's Contribution	<u>\$ 11,310</u>
Total Project Cost	\$33,930

This project has been rated 'B - *Well planned and needed by applicant*'. In making this assessment the panel noted:

- The City can respond to the increasing demand for "Fast Food" sports for the youth of the community and time stressed working population.
- The proposed upgrade is consistent with the proposed Future directions and Needs Study undertaken on behalf of the City on the basis that the provision of additional lighting at the site would allow for greater usage by the broader community and cater for the casual and evening demands of the facility.

(iv) Como Croquet Club (CCC)

The proposed lighting project application from Como Croquet Club (CCC), would double the existing floodlighting on playing surfaces to an adequate standard, ultimately optimising night time and 'Golf Croquet' play at the Club. The project would appear beneficial to the Club which holds a high quality standing within the Sport with National and World ranking players.

The Club was unsuccessful in applying for funding in 2003/2004 through DSR due to an incomplete application without clearly responding to all questions 1 - 25 in part II of the application or providing adequate quotes for the proposed upgrades.

The Club have approached the City again in 2007 for a similar lighting project to the above to commence in 2008/09. Contact with the relevant City Officers was made by the Club with discussions and requirements outlined for a suitable application to be submitted.

On this occasion, the submitted application was not complete with specific expenditure forecasts unclear and actual amounts requested from the City and from DSR not outlined or justified. It is not recommended that the City endorse this application for the 2008/09 CSRFF funding round.

CSRFF Grant Sought	\$ unknown
City's Contribution	\$ unknown
Club's Contribution	<u>\$ unknown</u>
Estimated Total Project Cost	\$ unknown (GST inclusive)

- This project has been rated 'F - *not recommended*' on the basis that inadequate information was received by the Club upon which to assess the project

Consultation

Consultation has been undertaken with local sporting clubs by way of the City conducting a direct mail-out to local clubs informing them of the funding program, how to obtain guidelines and inviting applications; potential applicants liaising directly with appropriate City Officers; advertising in the local and state newspaper providing opening dates for the rounds and continued liaison with the Department of Sport and Recreation.

As part of the City's *Sporting Facilities Needs Study* (Connected Communities 2005), the City has also entered into extensive consultation with the 22 user clubs of 16 City owned facilities including all four (4) sporting pavilions and the tennis, bowling and croquet clubs. Information was gathered from clubs through site visits, focus groups, surveys and investigations into best practise provision. Information gathered during that study had assisted in informing the recommendations of this report.

Policy and Legislative Implications

This report relates to Policy P222 - Support and Community & Sporting Groups.

Financial Implications

A provisional amount of \$50,000 is incorporated into the indicative annual budgeting process to support CSRFF applications. The amount of \$36,810 as recommended in this report to support projects proposed by the Manning Rippers Football Club and Manning Tennis Club is within this forecasted estimate. The total project cost of \$1,170,000 for the W.C.G Thomas Pavilion upgrade is greater than the original forecast for this project of \$900,000 which was proposed in September 2006 when, at that stage the project was to have been undertaken in the 2007/08 financial year. The amended project cost which was determined following detailed consideration by a Construction Cost Consultant takes into account undertaking the project a further year out, in the 2008/09 financial year, and the current and forecast level of increase of building and construction costs. From this total project cost of \$1,170,000 the Department of Sport and Recreation may contribute up to one third or \$390,000 with the City to contribute the remaining two thirds or \$780,000 from the Capital Works budget. Given the level of volatility in the building and construction industry, postponement of this project would result in either additional significant increases in building costs or a reduction in the scope of the project.

Strategic Implications

This report is complimentary to Goal 2: Community Enrichment, Strategy 2.2:

'Develop community partnerships that will be mutually beneficial with stakeholder groups including educational institutions, service clubs, the business community and other organisations'.

as well as Goal 2: Community Enrichment, Strategy 2.7:

'Develop strategic direction for events, arts including public arts, leisure, recreation and heritage that encourages a vibrant and participative community. This includes initiatives relating to the George Burnett Leisure Centre, libraries, parks, river, Fiesta and other community programs'.

It is also complimentary to Goal 6: Financial Viability, Strategy 6.2: *'Maximise community benefit and value for money from City expenditures and the use of our assets'.*

OFFICER RECOMMENDATION ITEM 10.2.3

That...

- (a) the applications for funding for the Community Sporting Recreation Facilities Funding (CSRFF) be submitted to the Department of Sport and Recreation together with the comments from the officer report and the following ranking and ratings:

Applicant	Ranking	Rating
City of South Perth	1	A
Manning Rippers Football Club	2	B
Manning Tennis Club	3	B
Como Croquet Club	4	F

- (b) an amount of \$36,810.00 as the City's contributions for the CSRFF Grants, subject to these applications being successful with Department of Sport and Recreation, be included for consideration on the 2008/2009 Draft Budget as follows:
- Manning Rippers Football Club \$ 25,500.00
 - Manning Tennis Club \$ 11,310.00
- (c) the City not support the CSRFF submission from the Como Croquet Club for additional floodlighting at this stage, due to the lack of information supplied with the submission; and
- (d) an amount of \$780,000 as the City's contributions for the WCG Thomas Pavilion upgrade be included for consideration in the 2008/2009 Draft Capital Works Budget

10.3 GOAL 3: ENVIRONMENTAL MANAGEMENT

10.3.1 Proposed Addition of Carport to Existing Single House. Lot 145 (No. 18) Seventh Avenue, Kensington

Location: Lot 145 (No. 18) Seventh Avenue, Kensington
 Applicant: Mr R Kerrigan
 Lodgement Date: 27 August 2007
 File Ref: 11.2007.434 SE2/18
 Date: 24 September 2007
 Author: Owen Hightower, Planning Officer
 Reporting Officer: Steve Cope, Director, Planning and Community Services

Summary

This application for planning approval is for a carport located within the front setback area and with a reduced side setback. The proposed development conflicts with provisions of Council Policy P370_T “General Design Guidelines for Residential Development” and as such it is recommended the application be refused.

Background

The development site details are as follows:

Zoning	Residential
Density coding	R15
Lot area	782 sq. metres
Building height limit	7.0 metres
Development potential	Single House
Plot ratio	Not applicable

This report includes the following attachment:

Confidential Attachment 10.3.1 Plans of the proposed development.

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:

“The exercise of a discretionary power

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

Comment

(a) Description of the proposal

The application proposes the construction of a 6.8m x 6m carport within the front setback area. The carport is to be constructed of materials and colours consistent with the main dwelling. The applicant also intends to widen the existing dual crossover (between 18 & 20 Seventh Avenue) by 2.250m to a total width of 10.250m.

The carport incorporates a zero side setback adjacent to the adjoining property at No. 20 Seventh Avenue. The reduced side setback is seen to satisfy the relevant performance criteria provisions of the Residential Design Codes 2002, and no concern is held with respect to this component of the application.

(b) General Design Guidelines for Residential Development

Policy P370_T “General Design Guidelines for Residential Development” specifies that Council **will not permit** the siting of a carport within the front setback where there is sufficient space behind the front setback line to accommodate car parking unless the proposed location of the carport would be consistent with the established streetscape character (i.e. the existence of other carports within the front setback area within the ‘focus area’) **and** the design and construction of materials of the proposed carport are compatible with the existing dwelling.

With reference to the site plan, the subject property has ample space to locate a double carport / garage behind the main dwelling or alternatively a tandem carport / garage along the northern side of the dwelling, both behind the front setback line. Additionally, the outbuilding identified on the plan as ‘workshop / storage’ is shown on previous approved plans as a double garage. The dimensions of this outbuilding are compliant with the requirements under the Scheme with respect to double garages and as such could still be utilised for this purpose.

Within the ‘focus area’, there are no other properties having carports located within the front setback area and as such the proposal is considered not to satisfy the requirements of Policy P370_T.

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

Having regard to the preceding comments, in terms of the general objectives listed within Clause 1.6 of TPS6, the proposal is considered not to 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.*

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

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

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

Consultation

(a) Neighbour consultation

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Policy P104 “Neighbour and Community Consultation in Town Planning Processes”. The application was referred to the adjoining land owner. No comments were received in response to this consultation.

(d) Other City Departments

Comments have also been invited from the City Environment Department with respect to the proximity of the proposed crossover to the street tree located directly in front of the property. No concerns were raised in this respect.

Policy and Legislative Implications

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

Financial Implications

The issue has no impact in this area.

Strategic Implications

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

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

Conclusion

The proposed development conflicts with the provisions of Council Policy P370_T “General Design Guidelines for Residential Development”, as the siting of a carport within the street setback area is not consistent with other dwellings within the focus area, and approved car parking already exists behind the prescribed street setback line. As the proposed development is seen to adversely impact upon the visual amenity of the Seventh Avenue streetscape, it is recommended that the application be refused.

OFFICER RECOMMENDATION ITEM 10.3.1

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for a carport located within the street setback area with a reduced side setback on Lot 145 (No. 18) Seventh Avenue **be refused** for the following reasons:

- (a) the subject property has sufficient area and access to provide parking behind the front setback area and therefore the siting of a carport within the front setback area is inconsistent with the provisions contained within Clause 11(d) of Council Policy P370_T, "General Design Guidelines for Residential Development".
- (b) the proposal is inconsistent with the existing streetscape character of Seventh Avenue.
- (c) approval of the proposed development would be contrary to the orderly and proper planning of the locality.
- (d) having regard to the matters identified in reasons (a - c) above, the proposed development conflicts with the "Scheme Objectives" identified in Clause 1.6 of the City of South Perth Town Planning Scheme No. 6; and
- (e) having regard to the matters identified in reasons (a - c) above, the proposed development conflicts with the "Matters to be Considered by Council" in Clause 7.5 of the City of South Perth Town Planning Scheme No. 6.

10.3.2 Proposed Additions / Alterations to Single House. Lot 39 (No. 36) Sandgate Street, South Perth

Location: Lot 39 (No. 36) Sandgate Street, South Perth
 Applicant: T Bariss and J Vance
 Lodgement Date: 5 July 2007
 File Ref: 11.2007.321 SA3/36
 Date: 24 September 2007
 Author: John Devereux, Senior Planning Officer
 Reporting Officer: Steve Cope, Director, Planning and Community Services

Summary

This application for planning approval is for additions and alterations to an existing Single House on Lot 39 (No. 36) Sandgate Street, South Perth. The proposal conflicts with Council Policy P370_T “General Design Guidelines for Residential Development”, which requires:

1. Proposed development to demonstrate design compatibility with other neighbouring buildings within the focus area, so as not to distract from the streetscape; and
2. Additions and alterations to be designed so as to match the design and materials of the existing building.

Since the proposed development does not comply with the above requirements, the officer report recommends that these aspects of the proposal be not supported and the application be refused.

Background

The development site details are as follows:

Zoning	Residential
Density coding	R15
Lot area	1034 sq. metres
Building height limit	7.0 metres
Development potential	One Single House
Maximum plot ratio	Not Applicable

This report includes the following attachments:

- Confidential Attachment 10.3.2(a)** Plans of the proposal.
Confidential Attachment 10.3.2(b) Letter from the architect dated 18 June 2007.

The location of the development site is shown below:



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

1. The exercise of a discretionary power

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

- *Proposals 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.*

2. Amenity impact

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

Comment

(a) Description of the proposal

The existing dwelling is single storey and constructed from brick and tile. The proposal includes the addition of a carport and fence to the front of the existing dwelling and a two storey curved roof addition to the rear. The outbuilding shown in the south east corner of the plans does not form part of this application.

The proposal conflicts with Council's Policy P370_T "General Design Guidelines for Residential Development". This policy requires the proposed development to demonstrate design compatibility with other existing buildings within the same 'focus area', so as not to detract from the streetscape, and for additions and alterations to an existing dwelling to be designed in such a way that they match the design of the existing dwelling.

The following components of the proposed development do not satisfy policy requirements:

- (i) The design of the addition to the rear of the dwelling is not consistent with the design of the existing dwelling; and
- (ii) The proposed set back of the carport is not consistent with the streetscape.

The existing dwelling and the proposed additions will be roofed in the same materials, being corrugated steel, pre-finished in a terra cotta colour. The carport and fence, to the front, will be constructed of materials compatible with the existing dwelling. The two storey addition to the rear is proposed to be constructed predominately from pre-finished corrugated steel on the ground floor and pebble-dash stucco over fibre cement sheets to the first floor. The materials for the roof of the addition will match the existing building.

The proposal complies with the Town Planning Scheme No. 6 (**TPS6**), the Residential Design Codes (**R-Codes**) and relevant Council Policies with the exception of the variations discussed below.

(b) Boundary setback

Along the southern elevation, the proposed buildings are required by the acceptable development provisions of Clause 3.3.1 of the R-Codes, to be set back 1.5 metres from the adjoining boundary, with a minimum eave overhang set back of 0.75 metres.

From the southern boundary, the pillars of the carport are set back 0.3 metres, with the roof line being set back 0.1 metres. The portion of the building shown on the plan as extra parking and service yard, has columns set back 0.85 metres and a roof line set back 0.5 metres from the side boundary. The setback of the wall for the extension to the rear, ranges from 1.2 - 2.8 metres, with roof line set back ranging from 0.6 - 1.5 metres.

The application contains no details of the buildings compliance with the acceptable development provisions of Clause 3.3.1 of the R-Codes, or justification for compliance with the associated performance criteria. The applicant has provided written correspondence and signed copies of plans from the adjoining landowners indicating they have no objections to the proposed additions. As no justification has been given for assessment of the application in accordance with the performance criteria of Clause 3.3.1 of the R-Codes, the application must be assessed in accordance with the associated acceptable development criteria.

The proposed setbacks from the southern boundary do not meet the acceptable development criteria of Clause 3.3.1 and should therefore be refused.

(c) **Additions to dwelling**

The proposed addition to the rear of dwelling has a curved roof form, while the existing dwelling having a traditional hipped roof. It is proposed to re-roof the existing dwelling in order that the roofing materials both the existing and proposed components of the building will match each other. The roof, as viewed from the sides, will be a curved roof form, which will be most prominent on the northern elevation.

All additions to existing dwellings are required to meet with the requirements of Policy, P370_T “General Design Guidelines for Residential Development”, which requires that ‘additions and alterations to an existing building shall be designed in such a way that they match that existing building’.

The design of the proposed additions is not compatible with the design of the existing dwelling and therefore should be refused in accordance with the City’s Policy P370_T “General Design Guidelines for Residential Development”.

(d) **Carport**

The proposed carport fronts the street, with a 3.0 metre setback from the front property boundary. It is designed to match the existing dwelling in terms of design and construction materials. Carports which are proposed forward of an existing dwelling are required to satisfy the provisions of Policy P370_T “General Design Guidelines for Residential Development”. The policy sets out the following requirements: -

*In the case of existing dwellings which do have space behind the front setback line to accommodate car parking, the siting of carports within the front setback area will **not** be permitted **unless**:*

- (i) such siting is consistent with the established streetscape character attributable to the existence of other carports within the front setback area, in the section of the street in which the new carport is proposed to be located; and*
- (ii) the design and construction materials of the proposed carport are compatible with the existing dwelling.*

The proposal meets with the second requirement; however, in the context of the streetscape within the focus area, the proposed setback of the carport does not meet the requirements of the policy. It is noted that there are other carports within the focus area which are set back a lesser distance from the front property boundary than is proposed as part of this application. These other parking structures are, however, all situated parallel to the street, which allows for them to be screened with vegetative planting and additional parking bays to be contained on the respective properties.

It has also been a consistent practice of the City to require carports and garages to be set back a minimum of 4.5 metres when accessed directly from the street. It would be possible for the applicant to provide a 4.5 metre setback in this instance.

The carport addition is seen to be in conflict with the street set backs of the focus area and therefore should be refused in accordance with the City’s Policy P370_T “General Design Guidelines for Residential Development”.

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

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

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

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

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

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

Consultation

(a) 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". No comments were received in response to this notification, and it is recommended that the proposed setback variation adjacent to the southern property boundary be approved as proposed.

(b) Design Advisory Consultants' comments

The design of the proposal was considered by the City's Design Advisory Consultants at their meeting held on 23 July 2007. The comments made are summarised as follows:

- (i) The Architects supported the proposal and could identify no reason to recommend a refusal.*
- (ii) Only a very small portion of the proposed roof will be visible from the street, hence will not have a significant affect on the streetscape character.*

The Advisory Architects are not constrained to the extent that Council officers are when making recommendations on proposed development and will often consider matters such as the individual design of a proposal above and beyond matters such as the extent to which a design is compatible within its focus area, and the extent to which a design is seen to satisfy adopted policy provisions.

Contrary to the comments made by the Advisory Architects, the front elevation drawing clearly shows that the proposed additions will be highly visible from the street.

Policy and Legislative Implications

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

Financial Implications

The issue has no impact on this particular area.

Strategic Implications

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

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

OFFICER RECOMMENDATION ITEM 10.3.2

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for additions and alterations to an existing Single House on Lot 39 (No. 36) Sandgate Street, South Perth **be refused**, for the following reasons:

- (a) the proposal does not comply with objective (f) listed within Clause 1.6 “Scheme Objectives” of the City of South Perth Town Planning Scheme No. 6 (TPS6);
- (b) the proposal conflicts with matters (f), (i), (j) and (n) listed within Clause 7.5 “Matters to be Considered by Council” of TPS6;
- (c) the proposed setbacks of the addition from the south boundary, do not comply with Clause 3.3.1 of the Residential Design Codes 2002;
- (d) the design of the addition to the rear conflicts with the design of the existing dwelling and thus the City’s Policy 370_T “General Design Guidelines for Residential Development”; and
- (e) the proposed set back for the carport does not comply with the City’s Policy P370_T “General Design Guidelines for Residential Development”.

Standard Important Footnotes

- (a) If the applicant elects to submit a new application for planning approval within 6 months of the date of determination of this application, no new application fee will be payable.
- (b) If you are aggrieved by aspects of the decision where discretion has been exercised, you may lodge an appeal with the State Administrative Tribunal within 28 days of the Determination Date recorded on this Notice.
There are no rights of appeal in relation to aspects of the decision where the Council cannot exercise discretion.

<p>10.3.3 Proposed Two × Two Storey Single Houses. Lot 270 (No. 188) Lockhart Street, Como</p>

Location: Lot 270 (No. 188) Lockhart Street, Como
 Applicant: RJ Knott - PT Ker and Associates
 Lodgement Date: 7 June 2007
 File Ref: 11.2007.267 LO1/188
 Date: 24 September 2007
 Author: Andrew Carville, Planning Officer
 Reporting Officer: Steve Cope, Director Planning and Community Services

Summary

The application for planning approval relates to two, two storey Single Houses. The proposed design incorporates use of the rear Right-of-Way (ROW) 133 to provide vehicular access to the car parking bays for one of the two dwellings. A petition was brought to Council in February 2007 requesting partial closure of this ROW and the closure request is the subject of a separate report on the same agenda. As the Council decision with respect to the status of the ROW is critical to determining whether or not the ROW can be used for vehicular access, the application has been referred to a Council meeting for determination. The recommendation is for approval, subject to a number of standard and special conditions.

Background

This report includes the following attachment:

Confidential Attachment 10.3.3: Plans of the proposal.

The development site details are as follows:

Zoning	Residential
Density coding	R20
Lot area	1012 sq. metres
Building height limit	7.0 metres
Development potential	Two Single Houses or Two Grouped Dwellings

The location of the development site is shown below. The site is adjoined by residential dwellings to each side and ROW 133 to the rear.



Comment

(a) Description of the proposal

The proposal complies with all of the requirements of the No. 6 Town Planning Scheme (TPS6), the Residential Design Codes (R-Codes) and relevant Council Policies with the exception of the variations discussed below. It is recommended that Council discretion be exercised with respect to those variations.

(b) Setbacks

The application seeks Council discretion under the Performance Criteria set out in clause 3.3.1 of the R-Codes with respect to the following setback variations:

Boundary	Prescribed by Figure 3 of R-Codes	Proposed Setback
North - First floor, Bed 1 wall, Bed 3 wall, House 1	2.0 metres	1.565 metres

As the two portions of wall are not adjacent to any outdoor living areas for the neighbouring property, and there are no visual privacy issues, the wall poses no impact on the neighbouring property, and as such this minor variation is considered acceptable. Approval is recommended for this variation.

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

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

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

Objective (c) Facilitate a diversity of dwelling styles and densities in appropriate locations on the basis of achieving performance-based objectives which retain the desired streetscape character and, in the older areas of the district, the existing built form character;

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;

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

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

(a) *the objectives and provisions of this Scheme, including the objectives and provisions of a Precinct Plan and the Metropolitan Region Scheme;*

(c) *the provisions of the Residential Design Codes and any other approved Statement of Planning Policy of the Commission prepared under Section 5AA of the Act;*

(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;*

(s) *whether the proposed access and egress to and from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvre and parking of vehicles on the site;*

(x) *any other planning considerations which the Council considers relevant.*

(e) **Closure request - ROW 133**

ROW is situated to the rear of the development site and was the subject of a petition referred to the February 2007 Council meeting. A separate report will be considered at the October 2007 Council meeting with respect to this matter. It is critical that the ROW closure request be taken into account when determining this application, as one of the proposed dwellings uses the ROW for vehicular access. The report in relation to ROW 133 recommends that the Council not initiate closure action.

Policy and Legislative Implications

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

Financial Implications

The issue has no impact on this particular area.

Strategic Implications

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

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

OFFICER RECOMMENDATION ITEM 10.3.3

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for Two × Two Storey Single Houses on Lot 270 (No. 188) Lockhart Street, Como, **be approved**, subject to:

(a) **Standard Conditions**

361, 362, 377, 390, 393, 416, 427, 455 (side and rear), 456, 470, 471, 550, 578 (270), 625, 660.

Footnote	A full list of Standard Conditions and Important Notes is available for inspection at the Council Offices during normal business hours.
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(b) **Specific Condition**

In conjunction with the application for a building licence, provide detailed drawings of the privacy screen adjacent to the upper floor bedroom 3 window of house 1, demonstrating compliance with the visual privacy provisions contained within clause 3.8.1 of the R-Codes.

(c) **Standard Important Footnotes**

641 (subdivision), 646, 646A, 648, 649A, 651.

Footnote	A full list of Standard Conditions and Important Notes is available for inspection at the Council Offices during normal business hours.
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10.3.4 Proposed Retaining Wall and Fence Addition to Educational Establishment (St Columba's Primary School) South Perth

Location: Lot 101 (No. 2) Alexandra Street / (No. 30) York Street, South Perth.

Applicant: Shawmac Pty Ltd

Lodgement Date: 22 March 2007

File Ref: 11.2007.127 AL2/2 & YO1/30

Date: 27 September 2007

Author: Andrew Carville, Planning Officer, and Christian Buttle, Manager, Development Assessment

Reporting Officer: Steve Cope, Director Planning and Community Services

Summary

The application is to provide a retaining wall and fencing around the existing St Columba's Primary School oval, along Alexandra, Hopetoun and Forrest Streets, and to level the surface of the oval to provide for a larger usable playing area.

Council's discretion is sought in regard to the impact of the retaining wall on the amenity of the surrounding area, and the removal of a substantial number of mature trees in order for the retaining wall to be built. The Council also needs to determine issues relating to the advice from the Heritage Council of Western Australia. The recommendation is for approval, subject to certain standard and special conditions, relating particularly to the height of the wall and associated finished ground level of the proposed oval, and landscaping.

Background

This report includes the following attachments:

Attachment 10.3.4(a)	Plans of the proposal
Attachment 10.3.4(b)	Letter from Shawmac Engineers dated 19 March 2007.
Attachment 10.3.4(c)	Photo showing difference height difference between street and base of wall.
Attachment 10.3.4(d)	Photos showing surrounding fencing and streetscape.
Attachment 10.3.4(e)	Photos of tree canopy to be removed.
Attachment 10.3.4(f)	Photos of Wesley College and Penrhos College showing alternative designs.
Attachment 10.3.4(g)	Comments from the City Environment Department.
Attachment 10.3.4(h)	Original and existing contour lines showing previous site filling.
Attachment 10.3.4(i)	Advice from Heritage Council of Western Australia.

The development site details are as follows:

Zoning	Private Institution
Density coding	R15
Lot area	19,153 sq. metres
Building height limit	7.0 metres
Maximum plot ratio	0.6

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

1. Large scale development proposals

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

2. The exercise of a discretionary power

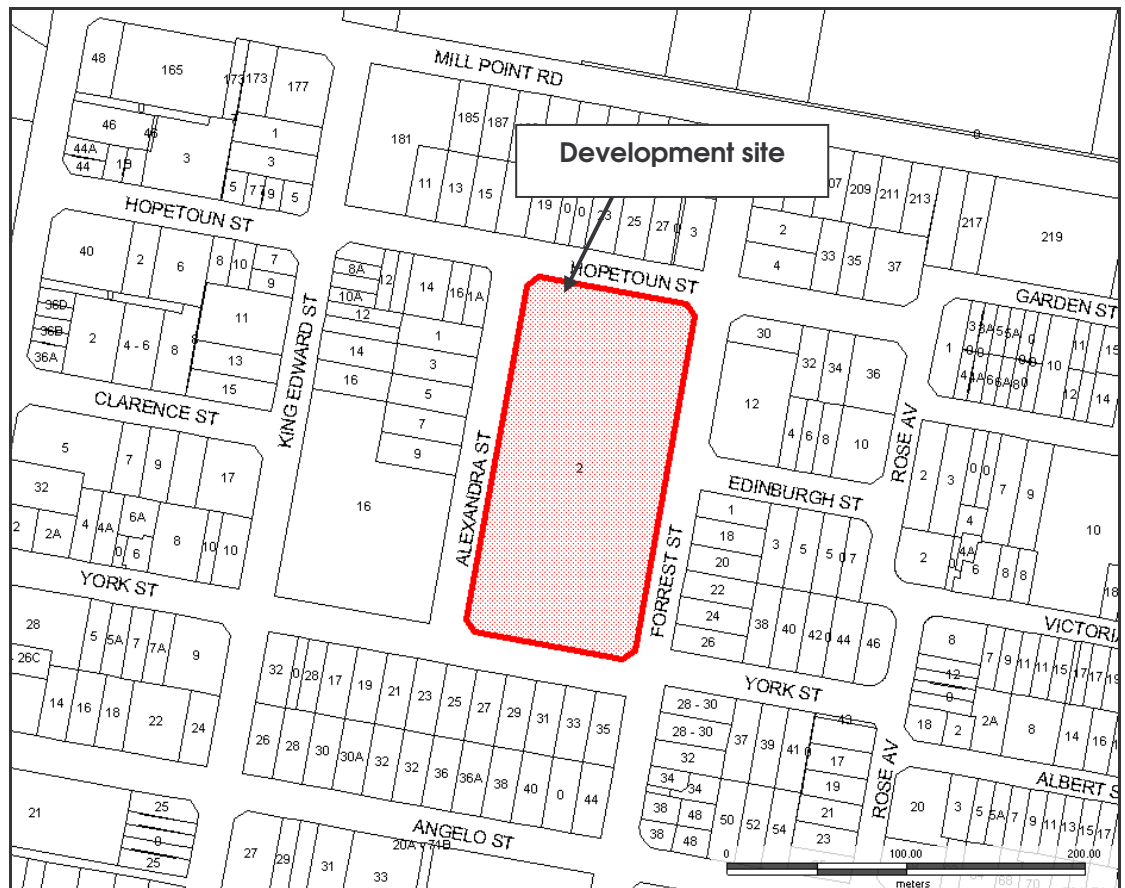
Proposals representing a significant departure from the Scheme incorporating the Residential Design Codes, relevant Planning Policies and Local Laws where it is proposed to grant planning approval.

3. Amenity impact

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

In relation to item 3 above, the extent of amenity impact arising from the proposal will be the height and appearance of the retaining wall along Alexandra, Hopetoun and Forrest Streets, and the significant change to the streetscape character by the removal of the mature trees and tree canopy around the site.

The location of the development site is shown below.



Comment

(a) **Description of the proposal**

The proposal comprises a retaining wall in two sections, with a lower section along the lot boundary, and a taller section set back from the lot boundary, with a 600mm garden bed between them. The maximum height of the retaining wall is 3.15 metres (at the corner of Hopetoun and Forrest Streets), and an open style 1.5 metre fence on top of the retaining wall, resulting in a wall and fence of 4.65 metres at its highest point. The base of the retaining wall is around 1.5 metres above street level, due to the existing grass embankment, adding further to the visual impression of the wall. The applicant's letter, **Attachment 10.3.4(b)**, describes the proposal in more detail.

(b) **Heritage Council of Western Australia**

The site is on the Heritage Council of Western Australia's Register of Significant Places. As such, it is protected by the Heritage of Western Australia Act 1990. Sections 11 and 78 of the Act require any proposed development on a site listed on the Register of Significant Places to be referred to the Heritage Council for comment. The City of South Perth is unable to make a determination without the advice of the HCWA.

In relation to the proposed development, the Heritage Council has concluded that "it is related to the amenity of the area rather than adversely impacting on significant heritage values", as outlined in the Statement of Significance.

The Heritage Council further suggests that the City of South Perth "discuss with the applicant possible modifications to the current proposal to minimise the impact of the boundary fence and maximise the retention of mature trees". During the meetings between the City and St Columba's Primary, the school has not been willing to alter the design in such a way to retain any of the trees originally proposed to be removed. The letter of advice from the Heritage Council is included as **Attachment 10.3.4(i)**.

(c) **Height**

The height of the wall along Hopetoun St varies from 2.65 metres at the corner of Alexandra Street, to between 1.65 and 2.15 metres for the length of Hopetoun Street, and up to 3.15 metres at the corner of Forrest Street. The visual impact of this wall is increased by the fact that the base of the wall is located half way up the existing grass bank. For the length along Hopetoun Street, the base of the wall is 1.5 metres above street level, making the top of the retaining wall effectively 3.15 to 3.65 metres above street level, with fencing on top of this. Where the wall reaches 3.15 metres in height at the Forrest Street corner, the base is 1.5 metres above street level, effectively making the top of the retaining wall 4.65 metres above street level, with 1.5m fencing on top of this. The impact of the existing grass bank is not demonstrated on the visual images presented by St Columba's Primary, which shows a generally level verge, and therefore not accurately demonstrating the visual impact of the proposed retaining wall. **Attachment 10.3.4(c)** shows the difference in levels between the street, and the back of the transformer wall, along which the retaining wall will run.

(d) **Retaining**

The provisions of Town Planning Scheme No. 6 which relate to retaining state that:

"The site shall not be filled to a level which, in the Council's opinion, would unreasonably adversely affect the amenity of the neighbouring properties in relation to visual impact and overshadowing".

Draft Council Policy "Fencing and Retaining Walls" proposes the following further requirements with respect to retaining walls:

“In deciding whether or not to approve the amount of filling and height of associated retaining walls proposed by an applicant, the City will have regard to the following:

- (a) The height of any retaining wall within 3.0 metres of a lot boundary should generally not exceed 1.0 metre as higher retaining walls have the potential to adversely impact on streetscape and neighbours’ amenity.*
- (b) Where an applicant seeks approval for a retaining wall higher than 1.0 metre within 3.0 metres of a lot boundary, cross-section drawings are to be submitted showing the existing and proposed finished ground levels on each side of the retaining wall, together with the heights of the proposed retaining wall and the free-standing fence above it. The drawings are to demonstrate that the proposal:
 - (i) will maintain a visually balanced streetscape; and*
 - (ii) will not have an adverse impact on the amenity of the adjoining property.”**

(e) Finished ground level

The existing oval at the school is the result of re-shaping of the natural topography to produce a level area for recreational use. **Attachment 10.3.4(h)** shows the original topography of the oval, and the current contours (overlaid on aerial photography), showing the area where the original site levels have been modified.

Having regard to the natural ground levels around the portion of the site which is intended to be developed for the expanded oval, and the general principle of establishing levels so as to ‘generally achieve equal cutting below and filling above the natural ground level at the perimeter of the site’ (Clause 6.10 of TPS6), an appropriate finished ground level is an RL of approximately 21.50. This compares to the proposed design level of 22.28 to the main playing area which slightly reduces to a level of 22.15 toward the perimeter of the site.

It is the view of the City’s Officers that it is appropriate for the proposed design level of 22.28 to be reduced to a level not exceeding 21.5. This would have the effect of reducing the height of the proposed wall by approximately 800mm. A condition of approval has been recommended to this effect.

Additionally, it is recommended that the width of the proposed 600mm offset between the lower and higher portions of the wall be increased to a minimum of 1000mm to provided greater opportunity for vegetative planting to soften the impact of the higher wall. Once again, a recommended condition of approval has been formulated to address this matter.

(f) Streetscape compatibility

The area surrounding the proposed retaining wall is residential in character. The sections of Alexandra and Hopetoun Streets which face the proposed retaining wall comprise residential dwellings, with generally no fencing, or traditional picket fencing. Along Forrest Street are examples of solid fences, which generally comply with R-Code requirements. **Attachment 10.3.4(d)** shows examples of the streetscape along Alexandra, Hopetoun and Forrest Streets.

(g) Tree canopy

The area around the corner of Alexandra and Hopetoun Streets has a mature tree canopy, which provides for a calming ambience, and habitat for birdlife. Although some of these trees are located within St Columba’s lot boundary, residents say they were planted as a celebration at the end of World War II, and have been mostly

maintained by the residents, particularly Mr and Mrs Hoyle, hence the naming of 'Hoyle's Corner'. These trees contribute significantly to the character of the area, and therefore their removal would adversely impact upon the amenity of the area. **Attachment 10.3.4(e)** shows the existing tree canopy which is proposed to be removed.

(h) Shade

The proposal intends to remove 16 mature trees, and provide a finished ground level above the shade provided by most of the street trees. The result is a raised sports oval with no provision for shade; a common concern for schools around Australia. No additional planting of shade trees around the perimeter of the school oval has been indicated on the plan. City Officers feel that it is appropriate to require the planting of native shade trees around the perimeter of site development site in order to reinstate the shade which will be lost by virtue of the proposed works. A condition of approval has been recommended to this effect.

(i) Other examples in South Perth

Several other school's in South Perth, including Wesley, Penrhos and Aquinas Colleges demonstrate sporting ovals alongside street fronts, with the retaining at the school side of the oval, rather than at the street side. **Attachment 10.3.4(f)** shows examples of the above Colleges with retaining walls at the school side of the oval, and the open streetscape that results.

A cross section of the St Columba's Primary School oval shows that it is possible to create a similar design to the examples shown by other schools in South Perth. Such a design solution has the following benefits:

- It becomes possible to retain vegetation;
- The risk of vandalism is reduced as the wall would be away from the public area;
- The streetscape impact of high retaining walls and associated fencing is ameliorated; and
- It offers the opportunity for tiered 'spectator' seating to be provided

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

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

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

However, the proposal is considered **not** to meet the following relevant general Scheme Objectives:

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

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.

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

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

- (f) *any planning policy, strategy or plan adopted by the Council under the provisions of Clause 9.6 of this Scheme;*
- (h) *the preservation of any object or place of heritage significance that has been entered in the Register within the meaning of the Heritage of Western Australia Act, 1990 (as amended), or which is included in the Heritage List under Clause 6.11, and the effect of the proposal on the character or appearance of that object or place;*
- (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;*
- (l) *the height and construction materials of retaining walls on or near lot boundaries, having regard to visual impact and overshadowing of lots adjoining the development site;*
- (m) *the need for new or replacement boundary fencing having regard to its appearance and the maintenance of visual privacy upon the occupiers of the development site and adjoining lots;*
- (o) *the cultural significance of any place or area affected by the development;*
- (q) *the topographic nature or geographic location of the land;*
- (r) *the likely effect of the proposal on the natural environment and any means that are proposed to protect or to mitigate impacts on the natural environment;*
- (v) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (w) *any relevant submissions received on the application, including those received from any authority or committee consulted under Clause 7.4.*

Consultation

(a) Neighbour consultation

The proposed development was advertised to the residents of Alexandra, Hopetoun and Forrest Streets who face the development site. The owners / occupiers of the highlighted properties on the following map were notified of the proposed development.

Two rounds of neighbour consultation were undertaken. An initial round based upon the original submission, and a second round based upon a slightly revised design proposal.



During the initial advertising period, 19 submissions were received, 0 in favour and 19 against the proposal. The comments objecting to the proposal can be categorised into the following general topics:

- Loss of tree canopy visible from the City;
- Loss of bird habitat;
- Loss of character and ambience;
- Likelihood of excessive vandalism;
- Excessive height, most notable at the street corners;
- Removal of prime mature trees with historical significance for some residents;
- Prison-like appearance;
- Impact on house prices; and
- Removal of 'Hoyle's Corner, significant to the surrounding residents.

At the time of the Special Elector's meeting on 4 September 2007, a revised design was in the process of being advertised again, to the same addresses as shown above. Comments were received from residents around South Perth, Manning, Kensington, Como, Manning, Salter Point and Waterford.

During the second advertising period, a further 25 objections were received, 68 letters of support were received, 35 of which were pre-prepared and signed by residents. A petition of signatures was also presented with around 350 signatures of support from residents around South Perth, as well as other suburbs, such as Willetton, Dalkeith and Lesmurdie. Two residents from Alexandra St have objected to the validity of the petition, as they believe that people were asked to sign under false information provided, regarding the impact on trees and compliance with Scheme requirements.

In taking into account the comments received from residents within a 200 metre radius of the proposed development - those who stand to be most affected by the development, there were 34 submissions objecting to the proposal, and 6 supporting.

(b) City Environment Department

The City Environment Department were invited to make comment on the proposed development's impact on street trees, and the loss to the area by removing the other mature trees. Even though the trees to be removed are within the lot boundary of St. Columba's Primary School, the absence of fencing enclosing these trees, and the topography of the land do lend to the perception that these trees are situated within the public realm. The City Environment Department have conducted an assessment of the trees which are proposed to be removed by using the City's Tree Amenity Valuation Formula. They have concluded that the combined amenity value of the trees is \$56,000. **Attachment 10.3.4(g)** shows the comments provided officers from the City Environment Department.

Having regard to the advice provided by the City Environment Department, a recommended condition of approval has been formulated which requires the provision of replacement landscaping:

- (i) Around the perimeter of the development site;
- (ii) Within the planter designed into the 'stepped' retaining wall; and
- (iii) Within the street verges (Alexandra, Hopetoun and Forrest) adjacent to the development site.

The condition recommends that the combined value of the landscaping works be at least 50% (ie \$28,000) of the amenity valuation of the trees which are proposed to be removed.

(c) Special Electors' Meeting

A Special Electors' Meeting was held on 4 September 2007. The meeting was requested by neighbouring residents who wished to have their concerns heard by the Council, regarding the proposed development.

During the meeting, the motion was moved and carried "that Council hears the support of the community, as advocated in tonight's Special Electors' Meeting and approves the application submitted by St Columba's School".

Officers' have been mindful of this motion in the preparation of this report and formulation of the recommendation.

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:

- (a) payment of the required Planning Fee by the applicant; and
- (b) the recommendation that an amount of \$56,000 be spent by the proponent on replacement landscaping, both on the development site and within the verges adjoining the development site.

Conclusion

In preparing the following recommendation, City Officers have tried to strike a balance between the desire of the school community to provide an improved amenity to the children attending the school with the legitimate amenity concerns raised by surrounding residents.

This results in a recommendation that the proposed development be approved, but which:

- Lowers the design height of the oval by approximately 800mm to reduce the adverse impact that retaining walls will have on the surrounding locality;
- Increases the width of the 'step' within the design of the retaining wall from 600mm to 1000mm in order to provide greater opportunity for vegetative softening of the higher wall; and
- Focuses on appropriate replacement landscaping, both on the development site, and within the adjoining verge areas, in order to ameliorate the impact of mature vegetation that will be lost as a result of the proposed works.

OFFICER RECOMMENDATION ITEM 10.3.4

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for a proposed retaining wall and fence addition to Lot 101 (No. 2) Alexandra Street / (No. 30) York Street **be approved**, subject to:

(a) **Standard Conditions**

470, 471, 506, 660.

(b) **Specific Conditions**

- (i) The design level of the oval and the associated height of the retaining wall shall be reduced to an RL not exceeding 21.5.
- (ii) The width of the 'garden bed' between the lower and higher portions of wall shall be increased in width to a minimum of 1000mm.
- (iii) The point at which the retaining wall is 'stepped' (between the lower and higher walls) shall be the mid point between the level of the adjacent verge, and the overall height of retaining wall, as far as is practicable.
- (iv) The design of the stairway for access to Hopetoun Street shall be modified so as to provide a set of steps to the western side of the lower landing in addition to proposed set of steps to the eastern side of the lower landing.
- (v) The retaining wall shall be treated with a graffiti protection coating, and the City shall be provided with certification that such treatment has been undertaken.
- (vi) A landscaping plan shall be submitted for approval by the City. No person shall occupy or use the portion of the land the subject of this approval for the purpose for which this approval is given unless and until:
 - (1) the City has approved a landscaping plan; and
 - (2) the landscaping has been completed in accordance with the plan approved by the City.
- (vii) The landscaping plan shall incorporate / address the following requirements:
 - (1) Planting of advanced native tree specimens (4 - 6 metres in height) at regular intervals around the perimeter of the development site;
 - (2) Appropriate planting within the 'stepped' portion the retaining wall in order to provide visual softening of the proposed wall. Such planting to be subsequently maintained in good order and condition in accordance with the provisions of clause 6.14(6) of the City of South Perth Town Planning Scheme No. 6;
 - (3) Planting of advanced native tree specimens (4 - 6 metres in height) at regular intervals within the verge areas adjacent to the development site;
 - (4) Retention of existing mature trees if possible;
 - (5) Demonstrate that the landscaping plan incorporates at least \$28,000 worth of landscaping (i.e. trees and shrubs and excluding any labour component).

(c) **Standard Advice Notes**

645, 646, 647, 648, 651.

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

10.4 GOAL 4: INFRASTRUCTURE

10.4.1 Mends Street - Proposed Zebra Crossing

Location:	City of South Perth
Applicant:	Council
File Ref:	ME7
Date:	27 September 2007
Author:	Trevor Quinn, Traffic and Design Engineer
Reporting Officer:	Les Croxford, Acting Director Infrastructure Services

Summary

This report provides information on the progress of the submission to Main Roads Western Australia (MRWA) for the installation of a Pedestrian Crossing in Mends Street and seeks the consideration of funds allocation for these works in the 2008/2009 Budget year.

Background

At February 2007 meeting of Council it was resolved (Item 11.2) that *“The Chief Executive Officer write to The Commissioner for MRWA to request that a marked pedestrian crossing be installed in Mends Street to link the Mill Stream Shopping Mall.”*

Conditional approval has now been obtained for the “zebra crossing” in Mends Street linking to the Mill Stream Shopping Mall. To fund the works required by Main Roads in the conditional approval, a funding allocation for the project from the 2007/8 Capital Works Program is required.

Additional pedestrian and traffic counts were undertaken on 9 March 2007 to provide the updated Traffic Warrants to MRWA to substantiate the request for a “Zebra Crossing” in Mends Street. These pedestrian/vehicle conflict warrants and a formal request for the marked crossing were forwarded to the Commissioner of Main Roads on the 23 March.

In the subsequent letter dated 10 April 2007, MRWA offered to *“ provide technical assistance in regard to determining the most appropriate treatment to improve pedestrian safety along Mends Street”* This reply also stated *“ Main Roads does not support the use of brick paved treatments such as those on Mends Street, as experience suggests that they are confusing to motorists and pedestrians. In view of this Main Roads would strongly recommend that removing the brick paved treatments be considered by Council as an integral part of any overall strategy to improve pedestrian safety along Mends Street”*

A meeting was arranged with MRWA on 17 April 2007 to discuss these comments and to assist in the formulation of the design submission.

On 24 May 2007 the City forwarded an appropriately considered design to MRWA for the proposed Zebra Crossing in Mends Street for their review / approvals.

A reply was received dated 11 June 2007 stating that *“Main Roads has reviewed the drawing submitted and found that it does not conform to current guidelines and practice”*. Changes were made to the drawing by Main Roads to reflect their current requirements and the City requested to resubmit the plan with the necessary amendments.

The letter also stated:

“Main Roads also recommends the City consider reviewing and/or incorporating the following design features:

- *the installation of nibs to locate the pedestrian crossing ahead signs would enable these signs to be placed in a more conspicuous location closer to the vehicle travel lanes;*
- *the installation of a zebra crossing will require road lighting meeting Australian Standard 1158.4 Supplementary Lighting at Pedestrian Crossings. The lighting must be in place prior to the signs and pavement markings being installed;*
- *removal of the existing brick paving crossing points on Mends Street.*

On 28 June 2007 The City resubmitted amended drawings as shown on **Attachment 10.4.1** which did not include advanced nibs as the City believed that the proposed advanced sign locations would be protected by existing steel bollards but did include for the new lighting and removal of brick paved areas as requested by Main Roads.

Main Roads approved this submission on 20 July 2007 *“subject to removal of the existing brick paving and compliance with lighting requirements for a Zebra Crossing”*.

Comment

Main Roads have now indicated that while it is not their policy to have adjacent brick paved sections in the street and they would continue to strongly recommend the removal of such paving, the proposal for the pedestrian crossing could go ahead with only the paving at the designated crossing point being removed. The City is of the opinion that the paved sections other than the designated crossing at the Mill Stream Mall cannot be confused by pedestrians as a crossing point as there are no openings through the kerb and each fall within a marked parking bay. The use of paved sections in a pedestrian precinct is widespread throughout the metropolitan area as a streetscape feature/traffic “calming” measure. The City is simply retaining a pavement design that has been in existence for some 14 years and with the exception of the “designated crossing point” has never been an issue. The City retains the option that should the other paved sections become an issue in the future they may be removed if necessary.

Construction drawings and estimates have now been prepared to reflect the approved design in preparation for construction works. The total construction estimate which includes for the lighting to meet AS 1158.4 is \$30,000.

Consultation

No formal Public Consultation has been undertaken.

It is intended to inform all business owners in Mends Street of the proposal should Council wish to proceed with this project.

Policy and Legislative Implications

There are no Policy or Legislative implications

Financial Implications

A budget allocation of \$30,000 is required. It is proposed that funds be included in the draft 2008/2009 Capital Works program submission and considered by Council as part of the normal budget process.

Strategic Implications

This report is consistent with Goal 4 Infrastructure of the City's Strategic Plan 2004 - 2008

“To Sustainably manage, enhance and maintain the City's Infrastructure Assets”

OFFICER RECOMMENDATION ITEM 10.4.1

That...

- (a) Council approve the design submitted to and approved by Main Roads Western Australia as detailed on **Attachment 10.4.1** together with the current construction estimate of \$30,000 to undertake these works; and
- (b) the Director Infrastructure Services be instructed to include this project in Draft Capital Works Program 2008/2009 for consideration by Council as part of the 2008/2009 Budget process.

10.5 GOAL 5: ORGANISATIONAL EFFECTIVENESS

10.5.1 Use of the Common Seal

Location: City of South Perth
 Applicant: Council
 File Ref: N/A
 Date: 2 October 2007
 Author: Sean McLaughlin, Legal and Governance Officer
 Reporting Officer: Cliff Frewing, Chief Executive Officer

Summary

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

Background

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

Comment

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

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

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

Register

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

September 2007

Nature of document	Parties	Date Seal Affixed
CPV Hostel Residency Agreement	CoSP & Helen Gregory	3 September 2007
Deed of variation SEMRC Establishment Agreement	CoSP & Cities of Armadale & Gosnells	4 September 2007

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

Consultation

Not applicable.

Policy and Legislative Implications

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

Financial Implications

Nil.

Strategic Implications

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

OFFICER RECOMMENDATION ITEM 10.5.1

That the report on the use of the ‘Common Seal’ for the month of September 2007 be received.

10.5.2 Annual Report 2006/2007

Location:	City of South Perth
Applicant:	Council
File Ref:	KM/302
Date:	3 October 2007
Author:	Kay Russell
Reporting Officer	Cliff Frewing, Chief Executive Officer

Summary

The purpose of this report is to present for adoption, the Annual Financial Statements as at 30 June 2007, and the Annual Report for the City of South Perth for the year ended 30 June 2007 and to set a date for the Annual Electors' Meeting.

Background

Section 5.53 of the *Local Government Act* requires that the Annual Report be adopted by Council. A draft copy of the 2006/07 Annual Report was circulated to Members via Bulletin No. 34 on 7 September 2007. No comments were received in relation to the draft document.

The Audit Report relating to the 2006/07 Financial Statements was considered and approved by the Audit and Governance Committee on 3 October 2007.

Comment

The Annual Report incorporating the Financial Statements is contained on the October Agenda as **Attachment 10.5.2**. Following adoption at the Council meeting, Public Notice is required to be given that the document is available for inspection. An Annual Meeting of Electors is also required to be held within 56 days after receiving the Annual Report.

The 2006/2007 Annual Report incorporating the financial statements for the year, contains all of the necessary statutory requirements and has been designed with commercial principles in mind, ie it contains the full set of financial statements. Copies of the Annual Report will be produced and will be made available prior to the Annual Electors Meeting.

The audit for the 2006/2007 financial year has been completed and the Auditors' Statement is contained in the report that was considered by the Audit and Governance Committee Meeting held on 3 October 2007. The recommendation to Council from that Committee Meeting is contained at Item 10.7.1 of the October Council Agenda.

It is proposed that pages **three to fourteen** of the 2006/2007 Annual Report will be summarised in a *report to the community*, to be printed in a newsletter style and format and distributed to the City's 20,000 households following the Annual Electors Meeting.

It is suggested that the Annual Meeting of Electors be set on a date determined by the Mayor and Chief Executive Officer. The date set will allow time for the Annual Report to be printed and to be available for inspection during the statutory advertising period (minimum 14 days).

Consultation

A Public Notice will be placed in the City Update regular column featured in the Southern Gazette newspaper advising of the availability of the Annual Report for public inspection together with details of the proposed Annual Electors Meeting. A suitable notice will also be placed on the City Noticeboard and will be displayed at the City Libraries as well as appearing on the City website. In addition, 20,000 copies of the Community Annual Report will be distributed to residences throughout the City.

Policy and Legislative Implications

Adoption of the Annual Report and holding of Annual Electors' Meeting required by the *Local Government Act*.

Financial Implications

Nil

Strategic Implications

Action required in accordance with the *Local Government Act*. The recommendation of this report is consistent with Goal 5 "Organisational Effectiveness" identified within the Council's Strategic Plan. Goal 5 is expressed in the following terms:

To be a professional, effective and efficient organisation.

OFFICER RECOMMENDATION ITEM 10.5.2

That....

- (a) the City of South Perth Annual Report incorporating the financial statements for the year ended 30 June 2007 be adopted; and

** An Absolute Majority is Required*

- (b) the Annual Meeting of Electors be held on a date to be determined by the Mayor and Chief Executive Officer.

10.6 GOAL 6: FINANCIAL VIABILITY

Nil

10.7 MATTERS REFERRED FROM AUDIT & GOVERNANCE COMMITTEE

10.7.1 Audit and Governance Committee Recommendation - Meeting held 3 October 2007

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

Summary

The purpose of this report is to enable Council to consider a recommendation arising from the Audit and Governance Committee meeting held 3 October 2007.

Background

The Committee was established by Council in recognition of the importance of its audit functions and to monitor and improve the City's corporate governance procedures.

Comment

The Minutes of the Committee meeting held on 3 October 2007 are attached. **Attachment 10.7.1** refers.

A comprehensive discussion of the minor matters noted by auditors and the City's responses is provided in **Attachment 10.7.1**. The City's auditors have agreed with the City's responses and the actions proposed to address these matters. The actions have in fact already been implemented at the date of this report.

The Audit and Governance Committee does not have delegated authority but may make recommendations to Council. The recommendation from the Committee requiring Council's consideration is set out below:

- (a) **Audit Report and Audit Management Letter - 2006/2007 Financial Statements**
(Item 4.1 Audit & Governance Committee Meeting 3.10..2007)

Officer Recommendation

That

- (a) the Audit Report for the 2006/2007 financial year as submitted by the City's Auditors, Macri Partners, Certified Practicing Accountants, **Attachment 4.1(b)** be received ;
- (b) the Management Letter for the 2006/2007 financial year as submitted by the City's Auditors, Macri Partners, Certified Practicing Accountants **Confidential Attachment 4.1(a)** be received; and
- (c) the proposed actions in response to the matters noted in the Management Letter be noted and endorsed.

Comment

Following discussion and questions raised by Members the Director Information and Financial Services provided an explanation between an *Attestation Audit* and a *Systems Audit*. He stated that the purpose of the City's Annual Audit is to audit the annual financial statements to ensure that they truly and fairly represent the City's financial position and results of its operations.

During that audit, the auditors give consideration to the integrity of the City's financial systems and the internal controls within them. This determines the extent of testing that they do in order to reach an informed assessment about the financial statements. Once every four years the City engages auditors to undertake a comprehensive review of all systems and the controls in place. This exercise is due to be conducted within the next 12 months and following its conclusion the auditors' results from that audit would then be presented to Council.

Consultation

N/A

Policy and Legislative Implications

Audit Report required to be considered by the Audit and Governance Committee and Council.

Financial Implications

No specific funding is contained in the budget for this audit assignment. A budget adjustment may be required at a later time when costs of the assignment are known.

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.*

OFFICER AND COMMITTEE RECOMMENDATION ITEM 10.7.1

That Council endorses recommendation 4.1 from the Audit and Governance Committee meeting held 3 October 2007.

11. APPLICATIONS FOR LEAVE OF ABSENCE

12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12.1 Proposed Review of Policy P519 “Legal Representation”- Cr Doherty 9.10.2007

I hereby give notice that I intend to move the following Motion at the Council Meeting to be held on 16 October 2007.

MOTION

That....

- (a) a review of Policy P519 “Legal Representation” is undertaken by the Council Officers as soon as possible;
- (b) the review to include, but not limited to the following:
 - (i) Inclusion of Departmental and Panel Inquiries in the context of the Policy, and contained within the definitions;
 - (ii) A broader Policy than is currently in place;
 - (iii) Clear delineation between “legal advice” and “legal representation;”
 - (iv) Specific reference to a limit on the amount of financial assistance requested with provision for a further application to Council if further assistance required;
 - (v) Examination of other Council’s Legal Representation Policies as part of the review process, with particular reference to the City of Cockburn’s policy;
 - (vi) Reconsideration of the current area “Payment Criteria” particularly the use of the word “will” and replacing it with the word “may;”
 - (vii) Scope for inclusion of retrospectivity in relation to financial assistance with a time associated with same; and
 - (viii) Reference to a legally binding agreement being drawn up regarding the financial assistance being granted, which covers items such as pro-rata payments and conditions of repayment to the City in the event of adverse findings against the recipient; and
- (c) a draft of the proposed modified Policy P519 “Legal Representation” be presented to the Audit and Governance Committee for consideration before the end of February 2008.

COMMENTS:

Since March of this year there have been requests for financial assistance in respect to legal services from Councillors related to the Inquiry into the City of South Perth 2006. The current Legal Representation Policy P519 while it was reviewed in October 2006 was essentially based on the Department of Local Government and Regional Development’s model policy for *Legal Representation for Council Members and Employees April 2006*. This Policy has been shown to be particularly narrow in its scope and is particularly unclear regarding the provision for “legal advice” as separate from “legal representation.”

In an environment of increasing litigation and the emphasis of the Department on compliance – Councillors and employees require legal advice from time to time. Just as local government has a duty of care to their employees to provide a safe working environment; Councillors need to enjoy similar rights. Accordingly, it is appropriate and prudent for the City to review Policy P519 to provide legal advice and/or legal representation in a wider range of situations that face Councillors. In particular given we are about to embark on a new Council cycle it is important to take on board the lessons learnt from our experiences over the past 12 months in an updated Policy.

COMMENT CEO

In accordance with Clause 5.3(4)(d) of Standing Orders Local Law 2007 the Chief Executive Officer comments as follows:

Policy P519 was last reviewed in October 2006 and given the exposure the Policy has received since the last review date and the legal advice obtained in relation to it, a further review of the policy is considered appropriate.

13. QUESTIONS FROM MEMBERS WITHOUT NOTICE

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

15. MEETING CLOSED TO PUBLIC

15.1 Matters for which the Meeting May be Closed.

15.2 Public Reading of Resolutions that may be made Public.

16. CLOSURE