

MINUTES

Table of Contents

1.	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS (7.03pm).....	4
2.	DISCLAIMER	4
3.	ANNOUNCEMENTS FROM THE PRESIDING MEMBER	4
4.	ATTENDANCE.....	4
4.1	APOLOGIES	5
4.2	APPROVED LEAVE OF ABSENCE	5
5.	DECLARATION OF INTEREST	5
6.	PUBLIC QUESTION TIME.....	5
6.1	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE.....	5
6.1.1.	Mr Geoff Defrenne, 24 Kennard Street, Kensington	5
6.1.2.	Mr Barrie Drake, 2 Scenic Crescent, South Perth.....	5
6.1.3	Mr Geoff Defrenne, 24 Kennard Street, Kensington	6
6.2	PUBLIC QUESTION TIME : 25.9.2007 (7.09pm).....	6
6.2.1.	Mr Geoff Defrenne, 24 Kennard Street, Kensington	6
7.	CONFIRMATION OF MINUTES / BRIEFINGS (7.15pm)	8
7.1	MINUTES	8
7.1.1	Ordinary Council Meeting Held: 28.8.07	8
7.1.2	Special Electors Meeting Held: 4.9.2007 (<i>Item 10.1.1 refers</i>).....	8
7.2	BRIEFINGS	8
7.2.1	Agenda Briefing - August Ordinary Council Meeting Held: 21 August 2007	8
7.2.2	Training Forum CoSP Inquiry Recommendation 2, Meeting Held: 22.8.2007	8
7.2.3	Code of Conduct Forum - CoSP Inquiry Recommendation 3, Meeting Held: 29.8.2007	9
7.2.4	DoLG New Official Conduct Rules - CoSP Inquiry Recommendation- Training.....	9
	Meeting Held: 3.9.2007	9
8.	PRESENTATIONS (7.20pm)	9
8.1	PETITIONS - A formal process where members of the community present a written request	9
	to the Council.....	9
8.1.1	Petition dated 9 September 2007 from Ms Catherine Li and 29 Signatures requesting	9
	Council “Stop the Commercial Panel Beating Business in a Residential Area”.....	9
8.1.2	Petition dated 19 September 2007 received from Mr Chris Lamb, Principal,.....	9
	St Columba’s Primary School together with approximately 370 Signatures	9
	supporting the application by the school to redevelop the school grounds.....	10
8.2	PRESENTATIONS - Formal or Informal Occasions where Awards or Gifts may be	10
	Accepted by the Council on behalf of the Community.....	10
8.3	DEPUTATIONS - A formal process where members of the community may, with prior	10
	permission, address the Council on Agenda items where they have a direct interest in the Agenda item. ...	10
8.4	DELEGATES’ REPORTS Delegate’s written reports to be submitted to the Minute Secretary	10
	prior to 7 September 2007 for inclusion in the Council Agenda.	10

9.	METHOD OF DEALING WITH AGENDA BUSINESS (7.22pm).....	10
10.	R E P O R T S.....	11
	<i>10.0 MATTERS REFERRED FROM PREVIOUS COUNCIL MEETINGS</i>	11
	10.0.1 Planning Policy P397 “‘Battle-Axe’ Residential Development: Matching Materials and Colours not required”(Item 10.3.6 July 2007 Council Meeting).....	11
	10.0.2 Proposed Cat Local Law (Item 14 referred June 07 Council Meeting) 7.26pm	12
	<i>10.1 GOAL 1 : CUSTOMER FOCUS</i>	21
	10.1.1 Minutes Special Electors Meeting 4 September 2007	21
	<i>10.2 GOAL 2: COMMUNITY ENRICHMENT</i>	22
	<i>10.3 GOAL 3: ENVIRONMENTAL MANAGEMENT</i>	22
	10.3.1 Proposed two-storey extensions/refurbishment to South Perth Hospital. 7.43pm	23
	10.3.2 Modifications to Approved Drawings for Multiple Dwellings Under Construction on Lot 1 (No. 17) South Perth Esplanade, South Perth.....	44
	<i>10.4 GOAL 4: INFRASTRUCTURE</i>	51
	10.4.1 Roof Preservation - Civic Centre Building	51
	<i>10.5 GOAL 5: ORGANISATIONAL EFFECTIVENESS</i>	53
	10.5.1 Applications for Planning Approval Determined Under Delegated Authority.....	53
	10.5.2 Amendment to Parking Local Law 2003 (7.45pm)	54
	10.5.3 Financial Interest Returns 2006 - 2007	56
	<i>10.6 GOAL 6: FINANCIAL VIABILITY</i>	57
	10.6.1 Monthly Financial Management Accounts - August 2007	57
	10.6.2 Monthly Statement of Funds, Investments and Debtors at 31 August 2007.....	60
	10.6.3 Warrant of Payments Listing	62
11.	APPLICATIONS FOR LEAVE OF ABSENCE	64
	11.1 Request for Leave of Absence : Cr Trent 30.11.07 - 5.12.07 (7.51pm)	64
12.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	64
	12.1 Community Visioning - Cr Doherty 3.9.2007	64
	12.2 Use of Temporary Staff : Cr Jamieson 13.9.2007.....	66
13.	QUESTIONS FROM MEMBERS WITHOUT NOTICE	72
	13.1.RESPONSE TO PREVIOUS QUESTIONS FROM MEMBERS WITHOUT NOTICE.....	72
	13.1.1 Cleanaway Pick ups - Time/Noise Issue : Cr Jamieson	72
	13.2 QUESTIONS FROM MEMBERS WITHOUT NOTICE 25.9.2007	72
	13.2.1 Cleanaway Pick ups - Time/Noise Issue : Cr Jamieson	72
14.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING ...	72
	STATEMENT BY THE MAYOR - CHANGE TO ORDER OF BUSINESS (8.31pm).....	73
	15.1.3 Application for Payment of Legal Cost (Item 15.1.1 referred August 2007 Meeting).....	73
	15.1.4 Application for Legal Representation	78

MINUTES : ORDINARY COUNCIL MEETING : 25 SEPTEMBER 2007

15. MEETING CLOSED TO PUBLIC.....82

15.1 Matters for which the Meeting May be Closed. (9.18pm).....82

15.1.1 Recommendations from CEO Evaluation Committee Meeting (9.25pm)83

15.1.2 Moylan Proceedings - Legal Costs (9.40PM).....84

15.1.5 Notice of Motion from Cr Jamieson with respect to Agenda Item 15.1.1 of the
Council Meeting held 28 August 2007 : 19.9.200784

15.2 Public Reading of Resolutions that may be made Public.85

16. CLOSURE85



**Minutes of the Ordinary Meeting of the City of South Perth Council
held in the Council Chamber, Sandgate Street, South Perth
Tuesday 25 September 2007 commencing at 7.03pm**

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS (7.03pm)

The Mayor opened the meeting at 7.03pm, welcomed everyone in attendance. He then stated that as part of the ongoing monitoring program an officer from the Department of Local Government was in attendance in the public gallery.

2. DISCLAIMER

The Mayor read aloud the City's Disclaimer.

3. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

3.1 The Mayor reported that the meeting is being audio recorded in accordance with Council Policy P517 "Audio Recording of Council Meetings" and Clause 6.1.6 of the Standing Orders Local Law which states: "*A person is not to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council without the permission of the Presiding Member*" and stated that as Presiding Member he gave his permission for the Administration to record proceedings of the Council meeting.

4. ATTENDANCE

Present

Mayor J Collins, JP (Chairman)

Councillors:

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

Officers:

Mr G Flood	Acting Chief Executive Officer
Mr S Cope	Director Planning and Community Services (until 9.24pm)
Mr M Kent	Director Financial and Information Services (until 9.24pm)
Mr L Croxford	Acting Director Infrastructure Services (until 9.24pm)
Mr S Camillo	Manager Environmental Health Services (until 8.09pm)
Ms D Gray	Manager Financial Services (until 9.24pm)
Mr C Buttle	Manager Development Assessment (until 9.24pm)
Mr R Bercov	Strategic Urban Planning Adviser (until 9.24pm)
Mr S McLaughlin	Legal and Governance Officer (until 9.24pm)
Ms R Mulcahy	City Communications Officer (until 9.24pm)
Mrs K Russell	Minute Secretary

Gallery

Approximately 13 members of the public and 1 member of the press

4.1 APOLOGIES

Mr C Frewing Chief Executive Officer - annual leave

4.2 APPROVED LEAVE OF ABSENCE

Nil

5. DECLARATION OF INTEREST

The Mayor reported that written Declarations of Interest had been received from himself in relation to Item 10.3.1, from Cr Smith in relation to Item 15.1.3 and from Crs Jamieson and Best in relation to Item 15.1.4. He then read aloud the Declarations, as detailed in the Minutes before Items 10.3.1, 15.1.3 and 15.1.4 respectively.

Cr Trent indicated that he wished to make a declaration in relation to Agenda Item 10.3.1. He stated that: *“As a member of the community of South Perth I am a member of the South Perth Hospital and while I believe the interest is trivial and in common with others wish to have it recorded. I will remain in the Council Chamber during the discussion and vote on Item 10.3.1.*

6. PUBLIC QUESTION TIME

6.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the Council meeting held 28 August 2007 the following questions were taken on notice:

6.1.1. Mr Geoff Defrenne, 24 Kennard Street, Kensington

Summary of Question

I attended the Agenda Briefing session last week. The Director Strategic and Regulatory Services sought clarification by the Council on the use of the Australian Standards. I have now looked up that note in the column, it is Note 4 in the copy downloaded from the City’s website and Note 3 in the Government Gazette.

1. Could the Council provide an understanding of what that Note actually means?
2. Where a car bay abuts a wall, pillar, or fence does the scheme specify the width is to be increased by 0.30 metres?
3. Will the Council be educating the staff on understanding the Town Planning Scheme?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 11 September 2007, a summary of which is as follows:

1. The note cross refers to Australian Standard AS 2890.1 for relevant car parking and access design requirements not otherwise specified in the City of South Perth Town Planning Scheme No. 6 nor the Residential Design Codes 2002.
2. Yes.
3. The City’s planning services team undertakes training as and when the need arises. I am satisfied that planning staff are competent with respect to their understanding of the car parking provisions of TPS6 and that training in this area is not required.

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

Summary of Question

This question relates to Agenda Item 10.0.1 on page 19 of the July 2007 Council Minutes under Comment on Deputation from the CEO which also refers to Cr Best’s debate on this item and in particular the comment from the CEO: *He said he had no knowledge of the memo of 2000 referred to.....* Mr Drake stated that the CEO first saw the memo in question

at a 'round table' meeting with the Minister and others and that the same memo was read aloud by the Mayor at Deputations two months ago. Can the CEO make a statement saying that he had no knowledge of the memo of 4 October 2000 and why did he make that comment?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 10 September 2007, a summary of which is as follows:

The statement was intended to be that the CEO had no knowledge of the significance/ or relevance of the Memo referred to in relation to the matter that is currently awaiting the decision of the Minister.

6.1.3 Mr Geoff Defrenne, 24 Kennard Street, Kensington

Summary of Question

In June I asked: *did the CEO have the Council's approval to be on the LGMA Board.* Response: *The Mayor responded yes.* But he failed to say when approval was given. This answer appears to be incorrect. Is it the role of the CEO, Mayor or Council to ensure the answers to questions are correct?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 10 September 2007, a summary of which is as follows:

A considerable amount of time has been devoted to this subject over four (now five) council meetings with an equally considerable number of questions asked and answers provided. The suggestion that the previous answer is incorrect is demonstrably wrong and is not accepted.

It was also the subject of a Notice of Motion sponsored by Cr Jamieson at the August Council Meeting which failed for lack of support. The sentiments of the majority, recorded in the unconfirmed Minutes at page 146, clearly suggest that Council didn't have in 2005 and doesn't have now any qualms about the CEO's active involvement with the LGMA - quite the reverse in fact.

6.2 PUBLIC QUESTION TIME : 25.9.2007 (7.09pm)

Opening of Public Question Time

The Mayor advised that Public Question Time would be limited to 15 minutes and that questions, not statements must relate to the area of Council's responsibility. He advised that questions would be taken from the gallery on a rotational basis and requested that speakers state their name and residential address. The Mayor then opened Public Question Time at 7.09pm.

The Mayor reported that written questions from Mr Defrenne had been provided.

6.2.1. Mr Geoff Defrenne, 24 Kennard Street, Kensington

Summary of Question

Last month I had a list of 23 questions. The unconfirmed Council Minutes indicate I asked 7 of the 23 questions. The Mayor said he would take the balance of the questions on notice. The questions have not appeared in the Minutes of the August meeting or Agenda for September. The questions are:

1. Who is responsible for the accuracy of the Council Minutes?
2. Why wasn't the statement by the Mayor that the balance of my questions would be taken on notice recorded in the Minutes?
3. Why wasn't the balance of my questions recorded in the Minutes.
4. What credibility will the Mayor and Council have if it passes the Minutes as presented?

Summary of Response

The Mayor acknowledged responding via email to these questions on 24 September. He also confirmed that a letter in response to the questions 'tabled' but not asked at the August Council meeting had been forwarded to Mr Defrenne on 24 September. The Mayor then read aloud from his email response to the questions asked:

1. It is the Council's responsibility in confirming the Minutes, to ensure that they are correct. Mr Frewing is currently on annual leave and has not been involved in the finalisation of the Agenda papers or correspondence referred to.
- 2/3. Your questions were dealt with administratively, in accordance with long-standing practice and statutory requirements.
4. Your comments about credibility are noted but not considered particularly credible on the basis of the points made above.

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

The Mayor responded that the question was taken on notice.

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

The Mayor responded that the questions were taken on notice.

Summary of Question

Will Council be advising who the visitor from the Department of Local Government is and their position?

Summary of Response

Mayor Collins stated that it was up to the Department to send an officer, as per of the ongoing monitoring program. He said it was not relevant who the officer is and that he did not have jurisdiction to point out members of the public gallery.

Close of Public Question Time

There being no further questions the Mayor closed Public Question time at 7.15pm

7. CONFIRMATION OF MINUTES / BRIEFINGS (7.15pm)

7.1 MINUTES

7.1.1 Ordinary Council Meeting Held: 28.8.07

COUNCIL DECISION ITEM 7.1.1

Moved Cr Trent, Sec Cr Ozsdolay

That the Minutes of the Ordinary Council Meeting held 28 August 2007 be taken as read and confirmed as a true and correct record.

CARRIED (9/3)

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

7.1.2 Special Electors Meeting Held: 4.9.2007 (*Item 10.1.1 refers*)

COUNCIL DECISION ITEM 7.1.2

Moved Cr Doherty, Sec Cr Maddaford

That the Minutes of the Special Electors Meeting held 4 September 2007 be taken as read and confirmed as a true and correct record.

CARRIED (12/0)

7.2 BRIEFINGS

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

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

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 - August Ordinary Council Meeting Held: 21 August 2007

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

7.2.2 Training Forum CoSP Inquiry Recommendation 2, Meeting Held: 22.8.2007

In accordance with Recommendation 2 of the Report of the Inquiry into the City of South Perth May 2007 'Training Stage One' was held on 22.8.07 and facilitated by Deputy Mayor Paul Kelly, Town of Claremont and Garry Hunt, CEO City of Joondalup. Notes from the Training Forum are included as **Attachment 7.2.2.**

7.2.3 Code of Conduct Forum - CoSP Inquiry Recommendation 3, Meeting Held: 29.8.2007

In accordance with Recommendation 3 of the Report of the Inquiry into the City of South Perth May 2007 'Code of Conduct Complaints Representatives from WALGA and the Corporate Crimes Commission gave presentations on Code of Conduct. Notes from the Training Forum are included as **Attachment 7.2.3.**

7.2.4 DoLG New Official Conduct Rules - CoSP Inquiry Recommendation- Training Meeting Held: 3.9.2007

A representative from the Department of Local Government and Regional Development gave a presentation on the Department of Local Government New Official Conduct Rules. ALGA and the Corporate Crimes Commission gave presentations on Code of Conduct. Notes from the Training Forum are included as **Attachment 7.2.4.**

COUNCIL DECISION ITEMS 7.2.1 TO 7.2.4 INCLUSIVE

Moved Cr Maddaford, Sec Cr Ozsdolay

That the comments and attached Notes under Items 7.2.1 to 7.2.4 inclusive on Council Agenda Briefings held since the last Ordinary Meeting of Council on 28 August 2007 be noted.

CARRIED (12/0)

8. PRESENTATIONS (7.20pm)

8.1 PETITIONS -

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

8.1.1 Petition dated 9 September 2007 from Ms Catherine Li and 29 Signatures requesting Council "Stop the Commercial Panel Beating Business in a Residential Area"

Text of petition reads: *The owners of 22 Campbell Street have been operating a panel beating business for the commercial business for more than a year in their garden shed. We would like South Perth City Council to take action to stop this prohibited business based on Town Planning Scheme No. 6. We believe this home-based panel beating business involving the repair of client motor vehicles will adversely affect the amenity of the neighbourhood by creating dust and noise."*

RECOMMENDATION

That the Petition dated 9 September 2007 received from Ms Catherine Li together with 29 signatures, requesting Council stop the commercial panel beating business at No. 22 Campbell Street, South Perth be received and forwarded on to the City's Planning and Community Services Directorate for investigation.

COUNCIL DECISION ITEM 8.1.1

Moved Cr Ozsdolay, Sec Cr Cala

That the Petition dated 9 September 2007 received from Ms Catherine Li together with 29 signatures requesting Council stop the commercial panel beating business at No. 22 Campbell Street, South Perth be received and forwarded on to the City's Planning and Community Services Directorate for investigation.

CARRIED (12/0)

8.1.2 Petition dated 19 September 2007 received from Mr Chris Lamb, Principal, St Columba's Primary School together with approximately 370 Signatures supporting the application by the school to redevelop the school grounds.

Text of petition reads: *We the undersigned, being electors of the City of South Perth hereby request the City Council to look favourably on the application for planning approval to allow the redevelopment of the school grounds at St Columba's Primary School for the purpose of constructing a playing field as depicted on plans Number SC-OV-01 to 04 Revision D.*

RECOMMENDATION

That the Petition dated 19 September 2007 received from Mr Chris Lamb, Principal, St Columba's Primary School together with approximately 370 signatures supporting the application by the school for the redevelopment of the school grounds at No. 30 York St, South Perth, be forwarded to the Planning and Community Services Directorate for consideration together with other submissions received as part of the report on this matter to the October Council meeting.

COUNCIL DECISION ITEM 8.1.2

Moved Cr Trent, Sec Cr Ozsdolay

That the Petition dated 19 September 2007 received from Mr Chris Lamb, Principal, St Columba's Primary School together with approximately 370 signatures supporting the application by the school for the redevelopment of the school grounds at No. 30 York St, South Perth, be forwarded to the Planning and Community Services Directorate for consideration together with other submissions received as part of the report on this matter to the October Council meeting.

CARRIED (12/0)

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

Nil

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

Nil

8.4 DELEGATES' REPORTS Delegate's written reports to be submitted to the Minute Secretary prior to **7 September 2007** for inclusion in the Council Agenda.

Nil

9. METHOD OF DEALING WITH AGENDA BUSINESS (7.22pm)

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

The Acting Chief Executive Officer confirmed that this was correct.

COUNCIL DECISION ITEM 9.0 - EN BLOC RESOLUTION

Moved Cr Trent, Sec Cr Cala

That the officer recommendations in relation to Agenda Items 10.0.1, 10.1.1, 10.3.2, 10.4.1, 10.5.1, 10.5.3, 10.6.1 and 10.6.2 be carried en bloc.

CARRIED (12/0)

10. REPORTS

10.0 MATTERS REFERRED FROM PREVIOUS COUNCIL MEETINGS

10.0.1 Planning Policy P397 “Battle-Axe’ Residential Development: Matching Materials and Colours not required” (Item 10.3.6 July 2007 Council Meeting)

Location:	City of South Perth
Applicant:	Council
Lodgement Date:	Not applicable
File Ref:	LP/801
Date:	3 September 2007
Author:	Rod Bercov, Strategic Urban Planning Adviser
Reporting Officer:	Steve Cope, Director Planning and Community Services

Summary

In July 2007, Council adopted the **draft** Planning Policy P397 “Battle-Axe’ Residential Development: Matching Materials and Colours not Required” for the purpose of public consultation. The draft Policy has now been advertised and no submissions were received. Therefore the Policy is now being presented again, without modification, for final adoption.

Background

Council Planning Policies P377_T “Proposed Addition of Grouped Dwellings to Existing Single Houses” and P370_T “General Design Guidelines for Residential Development” both contain provisions relating to the need for proposed additional dwellings located behind an existing house to be constructed of matching materials and colours. However, In the case of development proposals involving the addition of detached dwellings behind an existing dwelling, the Council now considers that only the design needs to match in order to achieve a sufficient degree of compatibility. In this circumstance, it is not considered necessary for the dwellings to match one another in terms of external colours and materials. Therefore the Council intends to adopt the new Policy P397 (**Attachment 10.0.1**) which will have the effect of revoking the relevant parts of those existing policies which require matching materials and colours.

Comment

The draft Policy P397 has been advertised in the manner described in the “Consultation” section of this report. As no submissions were received, the Policy should now be adopted without modification.

Consultation

At the July 2007 meeting, for the purpose of the required public consultation, the Council resolved that the draft Policy P397 was to be advertised in the manner described in the Officer report presented to that meeting. The following advertising procedures have been completed:

- The required notice was published in the “City Update” section of the 7, 21 and 28 August editions of the *Southern Gazette* newspaper inviting comments on the draft Policy. The submission period extended over a period of 29 days.
- Notices were also placed on the City’s web site, in the City’s Libraries and at the Civic Centre office.

Policy and Legislative Implications

Clause 9.6 of Town Planning Scheme No. 6 sets out the procedure for preparation and adoption of planning policies. That procedure is described as follows:

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

In the case of Policy P397, the actual advertising arrangements exceeded the required minimum in that the newspaper notice was published three times; a longer submission period was provided; and notices were also placed on the City's web site, in the City's Libraries and at the Civic Centre office.

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 AND COUNCIL DECISION ITEM 10.0.1
--

That, under the provisions of clause 9.6 of the City of South Perth Town Planning Scheme No. 6:

- (a) Policy P397 "'Battle-Axe' Residential Development: Matching Materials and Colours not Required", **Attachment 10.0.1**, be adopted as a Council Planning Policy; and
- (b) a notice relating to Council's final adoption of Policy P397 be published once in the *Southern Gazette* newspaper.

CARRIED EN BLOC RESOLUTION

10.0.2 Proposed Cat Local Law (Item 14 referred June 07 Council Meeting) 7.26pm
--

Location: City of South Perth
Applicant: Council
File Ref: LE/207
Date: 4 September 2007
Authors: Mark Taylor, Manager City Environment
Sebastian Camillo, Manager Environmental Health Services
Reporting Officer: Glen Flood, Director Infrastructure Services

Summary

The purpose of this report is to enable Council to consider whether to proceed with the preparation and drafting of a Cat Local Law.

Background

At the June 2007 meeting at Item 14 Council resolved as follows in response to an item of New Business:

That in order to promote responsible cat ownership, a report be prepared for the September 2007 Council meeting outlining alternative strategies and process for the development of a Cat Local Law.

The City considered introducing controls on cats in 1996, **Attachment 10.0.2(a)** refers. At that time the financial and resource ramifications of managing a cat local law were discussed and it was considered to be too expensive, problematic and therefore was not introduced. Instead, Council resolved to promote a cat sterilisation subsidy which is still in place and effective today.

It was considered then that overarching state legislation for cats would be preferable as the statutory framework within which a cat local law might operate. . The benefits of such state legislation is demonstrated by the existence of the Dog Act to deal with the regulation of dogs. For example:

1. It would provide a uniform law across the state, which will ensure a shared understanding of what the law requires by the larger community;
2. It would make registration of cats mandatory which would greatly assist with identification of domestic cats and the control of feral animals.

At the time of compiling the 1996 report, the Department of Local Government's stated position was that *"they would prefer to wait and observe the outcome of local authorities introducing local laws relating to cats before drafting their own legislation"*.

Comment

Eleven years on, the State Government still does not have cat legislation and is not likely to be considered in the foreseeable future.

The rest of Australia's actions relating to cat management are listed in the table below:

State	Enabling legislation	Existing ranger services for cat control
ACT	<p><i>Domestic Animals Amendment Bill 2007</i></p> <ul style="list-style-type: none"> Proposed ACT Bill is consistent with Victoria and New South Wales legislation. Compulsory age for cat de-sexing will be reduced to 3 months. There will be a limit the number of cats that can be owned without a multiple cat licence to three, the same as for dogs. 	
New South Wales	<p><i>Companion Animal Act 1988</i></p> <p>Cats must be microchipped and life time registered if obtained or born on or after 1/7/1999 If born or obtained before 1/7/1999, cats must wear a collar and tag</p> <p>There is s prohibition on cats in restricted areas (wildlife sensitive zones, food preparation areas)</p> <p>Cats can be declared a nuisance if they make unreasonable noise or damage a neighbour's property</p>	Nuisance and cat management issues are the responsibility of NSW local governments.
Queens-land	Queensland relies entirely on the <i>Local Government Act 1993</i> to manage cats. If companion animal legislation addresses cats it can provide a head of power for local laws, if not, local laws are made under section 20 of the Local Government Act.	All rural Queensland councils and the majority of city councils do not assume responsibility for cat management or undertake ranger services.
South Australia	<p><i>Dog and Cat Management Act 1995</i></p> <ul style="list-style-type: none"> Allows councils to make by-laws for the management of dogs and cats. Provides that any identified cat within a kilometres of a bona fide residence must be released if trapped or taken to a vet, RSPCA or Animal Welfare League if not identified. Identification may be a collar and tag bearing the owner's contact details or a microchip if there is an "M" tattooed in the ear. A cat more than a kilometre from a bona fide residence or in a National park or Crown Land may be killed regardless of whether or not it is identified. 	<p>Some councils will hire or lend out cat cages, and will respond if there is a health or a related issue, eg if a hoarder dies.</p> <p>However, most South Australian councils do not assume responsibility for cat management and do not provide ranger services.</p>

Queensland currently reviewing issues relating to unwanted cats

Queensland's Department of Primary Industries, (DPI), is currently undertaking a review of the management needs of the community relating to unwanted cats (and dogs) and to determine the feasibility of implementing statewide legislation.

A discussion paper, 'Managing Unwanted dogs and cats', was released in July 2007 and over 5,000 submissions were received. The Queensland DPI is expected to develop proposed policy positions in the near future. A copy of the paper is available from the DLGRD.

State	Enabling legislation	Existing ranger services for cat control
Tasmania	Tasmania relies entirely on the <i>Local Government Act 1993</i> to manage cats. Local laws are made under section 145 of the Local Government Act.	The provision of ranger services relating to cat control is likely to be consistent with f South Australia. Councils are unlikely to provide assistance through rangers, and related support services, unless the issues, in question, impact on public health and amenity standards.
Victoria	<p>Domestic (Feral and Nuisance) Animals Act in 1996</p> <ul style="list-style-type: none"> • All cat owners are legally required to register cats aged over six months with their local council each year. • Councils are required to issue an identification tag to the owner. This tag must be worn at all times when the cat is outside its owners property. • The Act contains a mechanism to provide protection to a property owner who does not wish to have neighbouring cats entering their property. • Councils wishing to restrict the presence of cats on public areas or requiring owners to keep cats on their own property, particularly at night, may exercise a number of options: <ul style="list-style-type: none"> • Under Section 25, a Council may make an order specifying hours during which a cat may not be outside its owners premises. • Under Section 26, a Council may make an order to prohibit the presence of cats in any public area of the municipal district of the Council. • Under Section 42, a Council may make a local law prohibiting or regulating the keeping of cats in a specified area of the municipality where threatened native fauna are at risk of attack. • Not all councils have the same local laws or orders regarding the confining of cats. 	<p>Councils have responsibility for cat management, including the provision of ranger services.</p> <p>Some councils develop their own facilities and programs, other councils have contracted out pound services and stray cat control programs to organisations such as the Cat Protection Society and RSPCA. (The Cat Protection Society is the main cat welfare shelter in Victoria).</p>

During the compilation of this report, City officers spoke with representatives from the Department and the Western Australian Local Government Association (WALGA). WALGA is discussing the development of a Model Cat Local Law; however it is WALGA's view that the State Government should introduce cat legislation. The Department however is still employing a 'watching brief' over local authorities with a preference for them to develop their own laws based on the proposed WALGA model local law. This has resulted in a classic 'catch 22' situation which has ramifications for the City if it now decided to develop a cat local law. These include:

1. No uniform state wide model or statutory framework to work from;
2. No effective leadership on the issue from either the State Government or WALGA.

Without effective legislative support from the state parliament or policy leadership from WALGA, introducing a cat local law in South Perth could be time consuming, resource hungry as well as potentially controversial in the community. With this in mind, it could be quite reasonable for the City to delay further consideration of the issue until the state government and WALGA have developed a coherent and strategic policy approach to the problem.

The City amended its Dog Local Law in the late 1990's to prohibit dogs from its most important natural areas. Additionally, the City adopted the Health Local Laws in 2002 to control the number of domestic cats which people are permitted to keep on any premises within the district. This was specifically included to control the number of domestic cats being kept on premises which could potentially stray into fauna protected areas and threaten native animals that live within them.

Since the 1996 report, fifteen local authorities in Western Australia have introduced cat local laws. These vary in extent and are summarised in the table below (courtesy of the Department of Local Government).

Number of Local Governments that have introduced local laws relating to cat control					
	Local Government	Title of Local Law	Gazette (ascending order)	Date date	Subsequent Amendment(s)
1	Carnarvon Shire	Cat Control	June 1997		1998
2	Shark Bay Shire	Cat Control	October 1997		
3	Exmouth Shire	Cat Control	November 1997		
4	Kent Shire	Cat Control	March 1998		
5	Ashburton Shire	Control of Cats	June 1998		
6	Port Hedland	Cat Control	May 1999		
7	Serpentine-Jarrahdale Shire	Catteries (includes provision for limiting number of pet cats)	November 1999		
8	City of Stirling	Keeping and Control of Cats	January 2000		
9	Busselton Shire	Keeping and Welfare of Cats	March 2001		2001
10	Northam Shire	Keeping and Control of Cats	September 2002		2006
11	Capel Shire	Keeping and Welfare of Cats	August 2004		2005
12	Mundaring	Keeping of Cats	February 2005		
13	Bassendean Town	Responsible Cat Ownership	April 2005		2006
14	Geraldton City	Responsible Cat Ownership	July 2006		
15	Donnybrook-Balingup	Keeping and Welfare of Cats	April 2007		

The principal intention of these laws is to assist in the preservation of native fauna and in some instances to reduce the potential nuisance associated with straying pet cats. The following elements or requirements were common to many of the local laws in the table:

- Objective – the Protection of native fauna via the control of cats;
- Cats required to be identified by tag or micro chip or tattoo;
- Cats to be contained within property of owner either permanently or at night only;
- Declared cat prohibited areas (Fauna Protection Zones);
- Established buffer zone to cat prohibited area;
- No more than two cats per household without a permit outside prohibited area buffer zone;
- No more than one cat per household without a permit inside prohibited area buffer zone;
- Owner subject to prosecution where a cat not contained on premises, where more than allowed number of cats kept, where cat not identified and an additional penalty applied where cat found in a cat prohibited area;

- Where the local authority captures and impounds an unidentified cat or cat found in a cat prohibition zone the local authority must keep a register and comply with the requirements of the local Government Act 1995 Part 3, Division 3, Subdivision 4;
- In compliance with the above regulations a local authority may dispose of an animal after seven days impoundment and due process;
- An owner is responsible for impoundment costs and fees

Notwithstanding the good intentions behind these local laws, there is no data available upon which to judge whether the implementation of a cat local law has any impact on the problem.

It is accepted wisdom that cats are a problem in the local environment, particularly towards birds and small reptiles. This problem occurs equally in the urbanised setting and in and around natural areas however natural areas have a greater concentration of native fauna so are more important to protect. The City places great importance on its remaining natural areas and commits considerable resources to their management. Considering the potential impact on resources (as discussed in the 1996 report) and the serious doubt as to the overall effectiveness of a local law, if Council wishes to pursue this matter, it may be wiser in the first instance, to commit to protect the most important ecological areas in the City.

To that end, City officers are particularly interested in the approach taken by the City of Canning, which has recently had a cat local law gazetted. Canning has recognised the difficulties of an overarching cat local law and has instead resolved to create fauna protection zones over its most important natural areas only, and has created buffer zones around them. Canning will have available the penalties and enforcement capability of the local law if required, but will instead concentrate its limited resources on an education program for residents living in the buffer zones and in and around the fauna protection zones to encourage them to register their cats and keep them away from the important natural areas. Canning will periodically trap in the fauna protection zones using specialist contractors. The benefits of this approach are as follows:

1. No additional full time enforcement resources required;
2. Educated and informed residents living in and around the fauna protection zones;
3. Registered cats in these areas which may be more readily identified against feral animals; and
4. The ability of the City to enforce, impound, euthanase and/or fine if required.

A copy of the Canning Local Law is attached at **Attachment 10.0.2(b)** for information.

In conclusion, there are essentially three options Council could take with this issue. To gauge the merits of each, a triple bottom line (social, economic and environmental) assessment of the implications of each option has been made:

1. "Do nothing":
 - (a) Social implications - business as usual for cat owners, however continued annoyance and inconvenience to others who may not want cats in and around their properties;
 - (b) Economic implications - no additional cost burden to the City;
 - (c) Environmental implications - continued predation of native fauna by cats.

2. Introduce an overarching Cat Local Law:
 - (a) Social - major imposition to cat owners in the City. This will more than likely result in considerable upset and anger at the new laws with repercussions for the City;
 - (b) Economic - considerable cost burden to the City to manage the new law as discussed in the 1996 report (Attachment 10.0.2 refers). Additional cost burden to residents to register cats;
 - (c) Environmental - potential for reduced native fauna predation throughout the City, however, no baseline data exists, so hard to quantify.

3. Introduce a 'reduced scope' Cat Local Law targeting high value conservation areas with associated education program:
 - (a) Social - some imposition to cat owners living immediately around high value conservation areas;
 - (b) Economic - greatly reduced cost burden to the City. No need to employ additional ranger staff. Some costs to pay for education and periodic trapping programs. Additional cost burden to residents living around high value conservation areas to register their cats;
 - (c) Environmental - increased fauna protection in the high value conservation areas. Again, no baseline data exists so hard to quantify actual benefits.

If Council believes that cats are an environmental problem in the City and a cat local law will assist in reducing the problem, then the officers consider that the Canning approach of a reduced scope Cat Local Law targeting high value conservation areas is the best approach in consideration of available resources, associated social and environmental implications.

Consultation

Consultation has occurred with officers from the Department of Local Government, the Western Australian Local Government Association, the City of Canning and the Town of Bassendean.

If Council resolved to develop a cat local law then there would be a statutory requirement for community consultation.

Policy and Legislative Implications

Section 3.5 of the *Local Government Act 1995* empowers a local government to make a local law to assist in the performance of its functions. The process/procedure for making Local Laws is as follows.

Section 3.12 of the *Local Government Act 1995* states:

- “(1) In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.
- (2) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law in the prescribed manner.
- (3) The local government is to -
 - (a) give Statewide public notice stating that -
 - (i) the local government proposes to make a local law the purpose and effect of which is summarised in the notice;
 - (ii) a copy of the proposed local law may be inspected or obtained at any place specified in the notice; and
 - (iii) submissions about the proposed local law may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given;

- (b) as soon as the notice is given, give a copy of the proposed local law and a copy of the notice to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister; and
 - (c) provide a copy of the proposed local law, in accordance with the notice, to any person requesting it.
- (3a) A notice under subsection (3) is also to be published and exhibited as if it were a local public notice.
- (4) After the last day for submissions, the local government is to consider any submissions made and may make the local law * as proposed or make a local law * that is not significantly different from what was proposed.
** Absolute majority required.*
- (5) After making the local law, the local government is to publish it in the Gazette and give a copy of it to the Minister and, if another Minister administers the Act under which the local law is proposed to be made, to that other Minister.
- (6) After the local law has been published in the Gazette the local government is to give local public notice -
- (a) stating the title of the local law;
 - (b) summarising the purpose and effect of the local law (specifying the day on which it comes into operation); and
 - (c) advising that copies of the local law may be inspected or obtained from the local government's office.
- (7) The Minister may give directions to local governments requiring them to provide to the Parliament copies of local laws they have made and any explanatory or other material relating to them.
- (8) In this Section –
“making” in relation to a local law, includes making a local law to amend the text of, or repeal, a local law.”

Local Government (Functions and General) Amendment Regulations (No. 2) 2005 states as follows:

- “3. Notice of purpose and effect of proposed local law – s. 3.12(2)
For the purpose of section 3.12, the person presiding at a council meeting is to give notice of the purpose and effect of a local law by ensuring that –
- (a) the purpose and effect of the proposed local law is included in the agenda for that meeting; and
 - (b) the minutes of the meeting of the council include the purpose and effect of the proposed local law.”

Financial Implications

- Officer time to draft a local law;
- Potential requirement for legal advice during drafting of the local law;
- Officer time and materials to run an effective community consultation and education program ;
- Specialist contract trappers to control feral cats; and
- Impoundment and euthanizing costs.

Strategic Implications

This item is consistent with Goal 3: Environmental Management - *To sustainably manage, enhance and maintain the City's unique natural and built environment.*

OFFICER RECOMMENDATION ITEM 10.0.2

That....

- (a) Council consider whether to proceed with the drafting of a local law designed to protect native fauna from cats within areas considered to have high conservation values and designated as cat prohibition areas, and, if necessary;
- (b) present a further report, detailing the content of the draft local law and description of areas considered to have high conservation values to be designated as cat prohibition areas, for consideration at the earliest available Council meeting; and
- (c) the City write to the Department of Local Government and Regional Development urging the introduction of Cat Control Legislation.

AMENDMENT

Cr Jamieson suggested that part (c) of the Motion be amended to write to the Minister of Local Government, rather than the Department of Local Government.

The Mover and Seconder agreed to the Amendment.

AMENDMENT

Cr Jamieson suggested that instead of presenting a draft Local Law to Council that it go to the Audit and Governance Committee.

The Acting Chief Executive Officer responded that in the first instance it was necessary to present a report to Council to get a feel for the way in which Council want to progress this matter.

FORESHADOWED MOTION

Cr Jamieson foreshadowed he would be moving the following Motion if the current Motion is Lost.

That....

- (a) the officer recommendation not be accepted;
- (b) Council requests the City to prepare a draft CoSP Cat Local Law using as a starting frame work the CoSP Dog Local Law then apply suitable edits, and present this draft to the Audit and Governance Committee before the end of November 2007; and
- (c) the City write to the Minister of Local Government and Regional Development urging the introduction of Cat Control Legislation.

**OFFICER RECOMMENDATION AND
COUNCIL DECISION ITEM 10.0.2**

The Mayor put the Motion

That....

- (a) Council consider whether to proceed with the drafting of a local law designed to protect native fauna from cats within areas considered to have high conservation values and designated as cat prohibition areas, and, if necessary;
- (b) present a further report, detailing the content of the draft local law and description of areas considered to have high conservation values to be designated as cat prohibition areas, for consideration at the earliest available Council meeting; and
- (c) the City write to the Minister of Local Government and Regional Development urging the introduction of Cat Control Legislation.

CARRIED (10/2)

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

10.1 GOAL 1 : CUSTOMER FOCUS

10.1.1 Minutes Special Electors Meeting 4 September 2007

Location: City of South Perth
Applicant: Council
File Ref: GO/109
Date: 7 September 2007
Author: Kay Russell
Reporting Officer: Chief Executive Officer

Summary

The purpose of this report is to note the Minutes from the Special Electors Meeting held on Tuesday 4 September 2007.

Background

The meeting was called at the request of Elected Members due to concerns raised by residents / ratepayers in relation to an application from St Columba's School for a proposed retaining wall and fence addition to their sports oval at Lot 95 York Street, South Perth.

As a result, under a requirement of the *Local Government Act*, Section 528 a Special Electors Meeting was held on 4 September 2007 to discuss the concerns raised.

Comment

The Minutes from the Special Electors Meeting held 4 September 2007 are attached. **Attachment 10.1.1** refers.

A report on the development application, including submissions and the Motion passed at the Special Electors Meeting held on 4 September 2007 will be the subject of a report to the October meeting of Council.

Two motions were proposed at the Special Electors' Meeting only one of which was adopted and is repeated below:

MOTION

That Council hears the support of the community, as advocated in tonight's Special Elector's Meeting and approves the application submitted by St Columba's School.

CARRIED

RESPONSE

This Motion will be addressed in the Report on Submissions on this topic and form part of a report on the October 2007 Council Agenda.

Consultation

Notice of the Special Electors' Meeting scheduled for 4 September 2007 was advertised in the:

- West Australian newspaper on 16 August ;
- in the Southern Gazette newspaper on 21 and 28 August and 4 September;
- on the City's web site; and
- on the Public Notice Board at the Civic Centre and the Libraries/Heritage House

Policy Implications

This issue has no impact on this particular area.

Financial Implications

This issue has no impact on this particular area.

Strategic Implications

The Special Electors Meeting was called in accordance with the provisions of the *Local Government Act*. The calling of the meeting aligns with Strategic Goal 1: Customer Focus: *To be a customer focused organisation that promotes effective communication and encourages community participation.* .

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.1.1.

That....

- (a) the Minutes of the Special Electors Meeting dated 4 September 2007 be received; and
- (b) the Motion passed at the Special Electors Meeting on 4 September 2007 be considered together with other Submissions forming part of a report on the October 2007 Council Agenda in relation to the application for a proposed retaining wall/fence addition to the sports oval at St Columba's School, Lot 95 York Street, South Perth

CARRIED EN BLOC RESOLUTION

10.2 GOAL 2: COMMUNITY ENRICHMENT
Nil

10.3 GOAL 3: ENVIRONMENTAL MANAGEMENT

DECLARATION OF INTEREST : ITEM 10.3.1 : MAYOR COLLINS

"I wish to declare a conflict of interest in Agenda Item 10.3.1 on the Council Agenda for the meeting to be held 25 September 2007. Due to my close association with Members of the Board of the South Perth Hospital in Fortune Street, South Perth I will leave the Council Chamber at the Council Agenda Briefing on 18 September and the Council Meeting on 25 September during the discussion and vote on Item 10.3.1."

Note: Mayor Collins left the Council Chamber at 7.43pm and Deputy Mayor Maddaford took the position as Chair.

DECLARATION OF INTEREST : ITEM 10.3.1 : CR TRENT

“As a member of the community of South Perth I am a member of the South Perth hospital and while I believe the interest is trivial and in common with others wish to have it recorded. I will remain in the Council Chamber during the discussion and vote on Item 10.3.1.

Note: Cr Trent remained in the Council Chamber.

10.3.1 Proposed two-storey extensions/refurbishment to South Perth Hospital. 7.43pm

Location:	Lot 145 (No. 76) South Terrace and (Nos. 25 & 26) Fortune Street, South Perth
Applicant:	Silver Thomas Hanley, Architects for South Perth Hospital Inc.
Lodgement Date:	1 June 2007
File Ref:	SO2/76 - 11/349 ID 11.2007.355
Date:	2 September 2007
Author:	Gina Fraser, Senior Strategic Planning Officer
Reporting Officer:	Steve Cope, Director Planning and Community Services

Summary

The application for planning approval is for extensions to, and refurbishment of the South Perth Hospital involving the addition of a five-metre high infrastructure building on the Burch Street side of the site, 20 ‘day surgery’ beds and related facilities, and additional administrative offices on the first floor, among other modifications. The proposal will involve the removal of 12 existing Hospital beds and the removal of nine existing car bays.

Council’s discretion is sought in regard to setbacks, landscaped area, building height and on-site car parking bays as discussed in detail in the ‘Comments’ section of this report.

Two similar applications for proposed additions to the Day Procedure Unit of the Hospital have been considered by the Council. In September 2005 a two-storey proposal was approved involving the addition of 24 new beds to the Day Surgery Unit and various other additions and improvements to the Hospital; and in June 2006 a similar single-storey addition was approved, without the upper floor administrative expansion. The Hospital has decided not to proceed with either of those earlier proposals. The 2005 approval lapses in September 2007, and the 2006 approval in June 2008. No application for a building licence based on either of these approvals has been submitted.

A significant part of the current application is the essential infrastructure facilities (fire pumps and water tanks). The Hospital had not been fully advised of the need for these facilities when the previous development applications were lodged. The fire equipment must be accommodated on site in order for the proposed building expansions to occur. At the same time, a bulk oxygen storage tank will be installed within the infrastructure building to replace the smaller cylinders currently being used and thus improve the Hospital’s efficiency. The Hospital’s current air conditioning chiller situated in the north-eastern corner of the site will also be upgraded.

The entire development proposal is described in more detail in the ‘Comments’ section of this report.

The recommendation is for approval, subject to a number of standard and special conditions.

Background

This report includes the following attachments:

Confidential Attachment 10.3.1(a) Plans of the proposal.

Attachment 10.3.1(b) Artist’s photographic-based impression of the proposed infrastructure building facing Burch Street.

Attachment 10.3.1(c) Summary of Submitters’ Comments and Officers’ Responses.

Site information and requirements applicable to the proposal are listed below:

Zoning	Private Institution
Density coding	R15
Total lot area	8,330 sq. metres
Area zoned 'Private Institution'	7,736 sq. metres
Building height limit	7.0 metres
Permissibility of 'Hospital' use	'P' (permitted) within the Private Institution zone
Development proposal	Additions and alterations to existing Hospital, including a new infrastructure equipment building, a fourth operating theatre, conversion of existing procedures room to a fifth operating theatre, 20 additional day surgery recovery booths and facilities, and additional administrative offices

For the purpose of this report, for ease of reference, the term 'Hospital' is used to refer to the entire building complex situated on Lot 145, including the Hospital, Day Procedure Unit, Endoscopy Consulting Rooms, Roy Richardson House Consulting Rooms, Perth Imaging Consulting Rooms, the Maxillo Facial Clinic Consulting Rooms, visiting doctors, surgeons and staff, and any other uses, personnel and governing body contained within the complex jointly comprising the establishment known as 'South Perth Hospital Incorporated'.

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

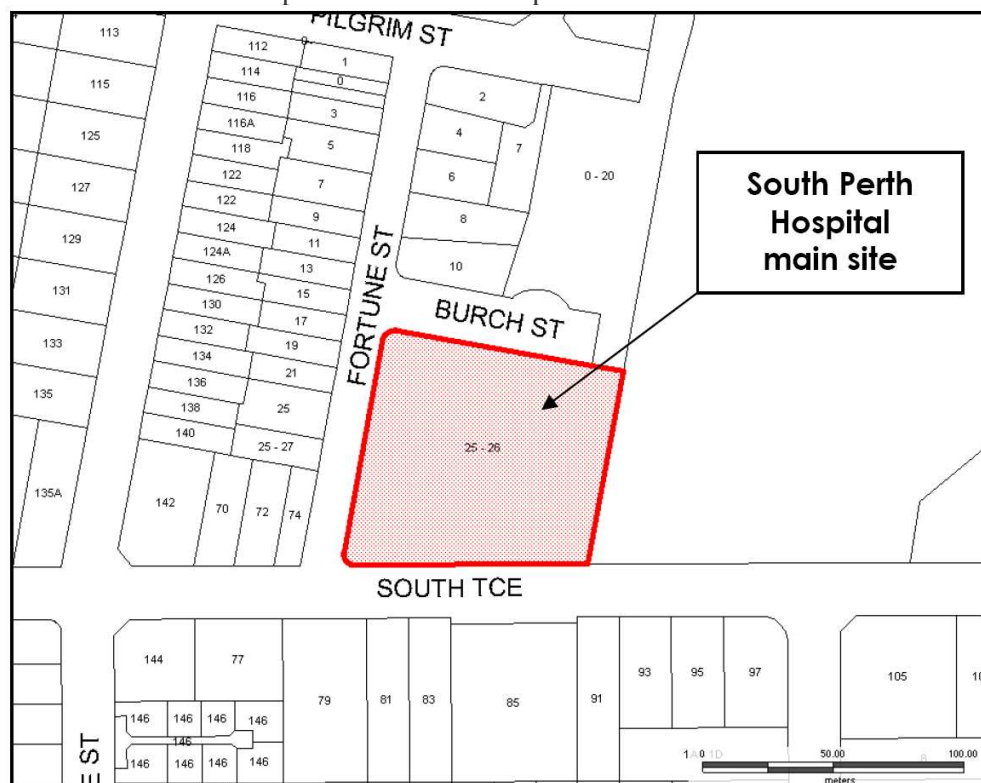
- (a) **Large scale development proposals:** Proposals involving non-residential development which, in the opinion of the delegated officer, are likely to have a significant effect on the City.
- (b) **The exercise of a discretionary power:** Proposals representing a significant departure from the Town Planning Scheme No. 6 (TPS6) (setbacks, landscaped area, building height and car parking), where it is proposed to grant planning approval.

In relation to item (a) above, the extent of amenity impact arising from the currently proposed additions will not be significant, although some neighbouring residents have expressed concern about the possible impact of the new infrastructure that is proposed to be installed along the Burch Street frontage. In addition to this, the impact on the neighbourhood of the entire establishment is already significant. The proposal will further intensify the use of the site. The proposed infrastructure equipment will be installed in a building directly opposite the rear corner of the property at No. 10 Fortune Street on the north-eastern corner of Burch Street. The amenity aspect of these facilities is discussed further in the 'Comments' and 'Consultation' parts of this report.

The Hospital site, Lot 145, consists of two amalgamated parcels of land straddling Fortune Street, being the main site at No. 76 South Terrace (shown shaded on the plan below) and No. 25 Fortune Street which comprises part of the Hospital's car park on the western side of Fortune Street. The two parcels were required to be amalgamated as a condition of a previous planning approval for Consulting Rooms within the Hospital complex.

No residential properties directly adjoin the Hospital. The nearest affected residential property is No. 10 Fortune Street, on the north-eastern corner of Burch Street. Other properties in Fortune Street have a direct view of the Hospital or are situated close enough to receive noise emanating from the Hospital. Burch Street also provides for Ambulance access to the Hospital, and leads to the Ernest Johnson Reserve, clubrooms and car park. The Ernest Johnson car park is also used by many of the Hospital's practitioners and visitors.

The location of the Hospital is shown on the plan below:



Comment

(a) Description of the proposal

Apart from portions of the Hospital building complex operated by independent practitioners, the Hospital currently concentrates predominantly on Day Procedure surgery, with a minimum of overnight in-patients. There are no long-stay surgical inpatients. Patient numbers vary depending on the actual case load of the operating theatres. Currently, with three operating theatres, the average daily total case load is approximately 30 patients.

The current proposal will enhance the day surgery element of the Hospital, this being its main function. The application is for single- and two-storey additions to the Hospital, and for significant modifications to the eastern end of the building, predominantly internally. As advised in the ‘Summary’ above, the current proposal is similar to two previous approved applications.

Similarity to September 2005 and June 2006 applications

Common elements of the current application and previous proposals approved in September 2005 and June 2006, include the following:

- removal of nine existing doctors’ car parking bays. This issue is discussed under the ‘Car Parking’ heading below;
- the proposed works being predominantly located along the eastern (park) side of the site, with the additional administrative offices and boardroom on the upper floor towards the south-eastern corner of the building (2005 approval only);
- expansion of existing 65-bed capacity of the Day Procedure Unit by 20 beds;
- deletion of 12 existing in-patient beds to accommodate the proposed Day Procedure Unit expansion;
- conversion of an existing procedure room to an Operating Theatre and associated clean-up areas;

- refurbishment and expansion of existing Recovery and Holding bays;
- refurbishment of existing Sterile Supply Department;
- provision of additional clean and dirty storage facilities;
- provision of new entry off existing lobby to expanded Day Procedure Unit;
- provision of new Reception, Waiting, WCs and office accommodation for the expanded Day Procedure Unit;
- addition of a new lift from ground to first floor.

Differences from September 2005 and June 2006 applications

The proposal also includes other elements which are unique to the current application. These include:

- accommodation of two fire service water tanks and pumps, and a bulk storage medical oxygen tank within a 5.0 metre high building situated between the existing Hospital building and the Burch Street road reserve;
- upgrading of the Hospital's existing air conditioning chiller located in the north-eastern corner of the site. The upgrade would involve replacement of the existing chiller with either one larger chiller or two smaller chillers in the same location;
- no bulk store for use in conjunction with the Hospital's general operations;
- introduction of a 'fire booster' which is set into the front fence of the Burch Street boundary;
- minor modification to the 'footprint' of the additions along the South Terrace frontage to accommodate the existing electrical transformer; and
- expansion of the Operating Theatre holding bays and staff change rooms extending partially into an existing internal courtyard area.

Proposed ground floor Day Surgery facilities

The proposed Day Surgery works are predominantly internal, located on the ground floor and will not affect the appearance or operation of the building greatly. While the proposed works will involve removal of 12 existing recovery beds, it will actually result in the addition of 20 new beds, or cubicles. An existing procedure room will also be converted into an operating theatre, and the public entrance to the Day Procedure Unit from South Terrace will be enhanced. Facilities for nursing and operating staff will also be improved.

Proposed upper floor administrative offices and boardroom

More significantly, the application involves expansion of the existing upper floor of the Hospital to provide additional administrative offices and a boardroom. These are located in the south-eastern corner of the building, facing South Terrace and the Ernest Johnson Reserve. Architecturally, these additions cause the appearance of the building to be significantly modified.

The proposal also includes the addition of another plant room within the roof cavity of the building. Two such areas currently exist. This room will not be visible externally.

Proposed infrastructure building

The application involves a new infrastructure building set back 1.5 metres from the Burch Street boundary, in a location formerly approved for a new bulk store. Currently, most of the setback area along the northern side of the Hospital is used for plant, storage, laundry and kitchen facilities.

The proposed infrastructure building comprises three distinct elements:

- (i) Fire service equipment required by the Fire and Emergency Services Authority of Western Australia (FESA), comprising two 12,600 litre capacity fire management water tanks measuring 3.0 metres × 3.0 metres × 2.0 metres high, and associated pumps will be installed in a building 6.2 metres wide × 4.5 metres deep × 4.8 metres high. In order to fit within a structure of these dimensions, the water tanks will be housed above the pump room.
- (ii) In the centre of the building a loading bay 4.2 metres wide and 8.4 metres long separates the two other elements of the building. The loading bay will be located entirely within the Hospital site behind security gates and will provide under-cover standing space for the off-loading of general Hospital medical supplies.
- (iii) A medical oxygen bulk storage vessel within an enclosure 3.0 metres × 3.0 metres × 4.0 metres high will be separately housed but contained within the main structure. This facility, which will have an independent set of access gates 3.0 metres wide inside the main outer security gates, will reduce oxygen delivery to approximately once every three to four weeks. A 24-hour oxygen supply is separately stored in a medical gas storage area on the Hospital site, in compliance with the relevant Australian Standard.

All of the infrastructure facilities described above will be contained within a brick building having an overall width of 13.9 metres and a height of 4.8 metres, but will include openings to the loading bay and oxygen vessel enclosure which, in combination, measure 7.3 metres wide and 4.0 metres high. An outer pair of access gates set into the brick perimeter fence, will cover the openings to both the loading bay and the oxygen vessel. The existing wide, tapering crossover will need to be further widened and modified significantly. This will involve the removal of a large and inappropriately planted pine tree, grass and certain infrastructure from within the street verge. Further comments relating to these matters are provided below.

The medical oxygen vessel enclosure is proposed to be located 1.5 metres back from the Burch Street boundary. This location is seen as functionally suitable for the Hospital's needs. The vehicle delivering the oxygen is an articulated truck approximately 18.0 metres long. This vehicle would need to park in the street and off-load the oxygen through a hose of maximum 5.0 metres length. The vehicle would not be able to use the proposed loading bay on the Hospital site. The project architect advises that it will take between 45 minutes and 1 hour from the time the truck arrives to the time the truck leaves after delivering the oxygen, including any administrative paperwork required to be undertaken at the Hospital.

The project architect has provided the following details in relation to the proposed location of the oxygen tank and logistics of refilling the tank:

“Regarding the distance from the neighbouring houses, oxygen is not a flammable gas and is therefore not considered as a high risk gas in terms of ignition. The structure enclosing the oxygen vessel is 2-hour fire rated and blast proof. In its current position with the gates to the street and not adjacent to the building, the best level of protection can be obtained from any radiation heat in the event of a fire within the building. This will not be achieved if the vessel is moved (to another location on the site).

According to the Australian Standards AS 1894-1997:

1. *The oxygen vessel cannot be closer than 5m from the existing gas valves that are situated (in the service court between the Hospital laundry and the staff dining room).*
2. *The oxygen vessel cannot be closer than 5m from any area that personnel can congregate, such as the nurses' dining room.*
3. *The point of delivery to the vessel cannot be closer than 6m from any door. You will notice that there are several doors (to the courtyard adjacent to) the laundry and fire pumps and as such the vessel will not be compliant (if located within this courtyard) next to the laundry. Moving the doors is not practical.*

Currently, oxygen is delivered in packs containing nine cylinders each. The Hospital has two packs in use and two spares. When one pack is empty a new one is ordered and delivered the next day. Currently, deliveries take place 2-3 times per week. With the oxygen vessel, deliveries will take place only once every 3-4 weeks, depending on usage. Therefore noise levels will be considerably lower once the vessel is in operation.

The oxygen will be delivered from the vessel to the Hospital via pipelines and from there to the different usage points with pipe work within the building.”

In parallel with the current development application, the Hospital is negotiating with the Council towards the possible purchase of 249 sq. metres of Council land at the end of Burch Street. If this land sale proceeds and the land is eventually amalgamated with the main Hospital site, the Hospital would propose to relocate the water tanks and pumps, medical oxygen vessel and air conditioning chillers into a compound to be constructed on this land. The Hospital has advised that the land purchase proposal is preferred because it provides the capacity for future expansion of the infrastructure when needed at any future time. If the infrastructure should be relocated as described, the building constructed to house the fire tanks and pumps would be modified for use as a bulk store for general Hospital supplies, as proposed in both the 2005 and 2006 applications.

The land sale is being processed separately through the appropriate statutory procedures. In the meantime, the development application now under consideration indicates that all of the infrastructure which is required for the current proposals can be located on the Hospital site.

Issues arising from the delivery of oxygen to the site for bulk storage will be very similar, irrespective of whether the storage vessel is located as proposed in the current development application, or relocated to the land at the end of Burch Street in the event that the land sale is finalised. It is anticipated that the same size delivery vehicle would be used and the same route followed to and from the site.

Detailed information relating to the type and size of the oxygen delivery vehicle was provided to the City for the first time, after the conclusion of the neighbour consultation process and only shortly prior to the finalisation of this report. The impact of the size and type of the vehicle involved have been closely examined by the Manager, Engineering Infrastructure in regard to the most appropriate route of travel to and from the site, and standing and loading arrangements at the site, in both possible locations. His comments are provided for consideration by the Council in conjunction with the development application:

"The proposed oxygen tank at either location will be serviced using an articulated tanker truck. Access to the rear of the Hospital would not be possible other than by using the following route. The officer nominated route is through the Ernest Johnson Oval Car park via Pilgrim Street.

The Hospital has identified two possible locations for the oxygen tank with the preferred location (location 2) being within the "surplus land" at the end of Burch Street and the subject of an earlier report on its acquisition (July 2007). Location 1 is approximately mid-block on Burch Street to the western side of the Hospital's emergency entrance. At this location, the tanker truck would "stop" parallel to the kerb line of Burch Street and within a designated loading zone. All costs associated with the construction of the paved loading zone would need to be met by the Hospital. At the preferred location, the tanker truck having entered Burch Street from the car park, would reverse into a widened crossing at the eastern end of Burch Street to service the tank.

The route nominated for the tanker truck would be off Coode Street into Pilgrim Street, turn right into the far eastern entrance to the car park with exit to Burch Street. The tanker truck would depart either left into Fortune Street and thence to South Terrace, or right into Fortune Street, left into Pilgrim Street to enter Coode Street. This route has been verified using Australian Standard vehicle templates for an 18.0 metre articulated vehicle using the proprietary software AUTOTURN. The exit routes into and along Coode Street and South Terrace respectively have also been verified using AUTOTURN. Minor adjustments would be necessary to the entrance and exit to / from car park to ensure the trailer movement. The modifications would be effected by the City at cost to the Hospital.

In addition, parked vehicles in Pilgrim Street near Wattle Street and Fortune Street near Burch Street may affect the ease at which the various turn movements can be made and hence it is suggested that tanker deliveries be made only in the morning between 7:00am and 8:00am when parking demand is at its lowest, with no deliveries being considered on a Sunday."

Conditions and advice notes incorporating this information are included in the recommendation.

Comments from submitters raise concerns with respect to the following aspects of the proposed infrastructure building:

- location
- design aesthetics
- setbacks.

These matters are addressed in the Summary of Submitters' Comments and Officers' Responses [**Attachment 10.3.1(c)**].

Infrastructure noise levels

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

"The fire pumps would be the most significant noise source. Unattenuated, the diesel engine would generate 88 dBA, equating to the noise level of a domestic lawn mower. The exhaust would generate 78 dBA. The pumps need to be tested weekly for a duration of five minutes in accordance with Australian Standard AS 1851. The actual

noise level would be significantly lower because the pumps will be housed in a roofed, brick-walled building. The electric pumps on the water tanks will similarly be attenuated, and in any case, these generate far less noise than the diesel pumps.

The combined noise of the two air conditioning chillers would be 78 dBA at a constant level. The chillers would not be enclosed, being located elsewhere on the Hospital site in the north-eastern corner of the site near the Ernest Johnson Reserve boundary. In this location, they would be approximately 60 metres from the closest residence. The existing chiller is located in a similar position and generates 75 dBA.”

The City’s Environmental Health Services has provided the following comments with respect to the noise levels of the proposed equipment:

“A detailed acoustic consultant’s report is to be submitted to the City upon submission of a building licence. The report is to demonstrate compliance with the Environmental Protection (Noise) Regulations 1997. The report should consider all equipment, plant rooms, cool rooms or air conditioning systems at the rear of the premises adjoining Burch Street.”

A condition to this effect is contained within the recommendation.

Comments from submitters raise concerns with respect to the following aspects of the noise emanating from the infrastructure building:

- soundproofing adequacy of the building
- the noise already exceeds the State-prescribed receiving levels for a residential area and could become worse
- whether the noise levels meet required standards for a residential area.

These matters are addressed in the Summary of Submitters’ Comments and Officers’ Responses [**Attachment 10.3.1(c)**].

Proposed fire booster

A new fire booster is proposed to be set into the brick fence of the development on Burch Street, immediately to the west of the existing crossover leading to the service yard. That crossover would need to be widened to provide vehicular access to the fire booster. The fire booster is a connection device that enables the fire brigade to pressurize or pump water into the fire hydrant system using the pumps on a fire truck (AS 2419.1-2005). It allows the fire brigade to pump water back into the system from the mains water supply. It comprises a cabinet approximately 2.5 metres wide × 1.0 metre deep × 1.8 metres high and would be painted red to meet the requirements of the relevant Australian Standard. The booster is located in this position to comply with the Building Code of Australia (BCA). It must be on the site boundary and visible from a main entrance to the building.

This equipment would only be used in the event of a fire or when tested once a year by FESA. The only noise relating to this equipment would be generated by the pumps on a fire truck connected to the booster system during a fire or testing exercise.

Air conditioning upgrade

The Hospital’s existing air conditioning chiller is located in the north-eastern corner of the site adjacent to the Ernest Johnson reserve. If the Hospital is successful in purchasing the additional Council land at the end of Burch Street, it would replace the existing chiller with two new chillers on the acquired land. If this land does not become available to the Hospital, the existing chiller would be replaced with a new, larger chiller in the same location as the existing one. The project architect advises

that this would not be the desirable option, as better results would be obtained from two smaller chillers. However, two smaller chillers could not be accommodated without the additional land the Hospital Board hopes to acquire.

Staging

As previously, the applicant proposes that the project will be constructed in five continuous stages to enable the maximum functioning of the building over the construction period of approximately 12 to 14 months.

(b) Zoned land area

The land area of Lot 145 comprising the entire Hospital site is 8,330 sq. metres. This area is zoned as follows:

Area zoned 'Private Institution'	7,736 sq. metres
Area zoned 'Residential'	594 sq. metres

For the purpose of calculating site requirements for this project, only the land zoned 'Private Institution' is relevant.

(c) Plot ratio

The applicant has provided a plot ratio check sheet which has been checked and found to be correct in terms of areas included. The overall plot ratio of the Hospital, taking into account the proposed works, is 3,306 sq. metres, or 0.427. This complies with the requirements of Table 3 of TPS6 with respect to the maximum permitted plot ratio of 0.6 for the Private Institution zone.

(d) Setbacks

The applicant is asking Council to exercise discretion under Clause 7.8 of TPS6 with respect to the following setback variations:

Boundary	Setback prescribed by Table 3 of TPS6	Existing setback of closest portion of the building	Proposed setback
Burch Street	7.5 metres	0 metres	1.5 metres to infrastructure building.
South Terrace	7.5 metres	4.8 metres	3.8 metres to nearest corner of stairwell and balcony above; 5.3 metres to nearest corner of the main building in line with existing transformer compound; 7.5 metres to other parts of proposed additions.
Eastern side (park)	4.5 metres	1.5 metres	1.5 metres.

The Hospital is currently constructed closer to all boundaries than the setbacks prescribed by TPS6. The two-storey proposal which was approved by the Council in 2005 included very similar setbacks. In the current application, no new works are proposed along Fortune Street. The following specific comments relate to the three boundaries affected by the current proposals:

Burch Street

The proposed infrastructure building and other works along the Burch Street side of the Hospital site have been described above. The proposed building would be set back 1.5 metres from Burch Street, a lesser distance than the 7.5 metre setback prescribed by TPS6. Historically, all parts of the existing Hospital facing Burch Street

have been approved with a 'deficient' setback, with some portions of building having a 'zero' setback. Council's discretionary approval is therefore sought for the proposed 1.5 metre setback from Burch Street, and **it is recommended** that this setback be approved.

As described above, if the Hospital's land purchase request is successful, the infrastructure would be relocated to that land. In that case, the now proposed infrastructure building would be retained but modified and converted into a bulk store for Hospital supplies. The bulk store previously approved was also set back 1.5 metres from Burch Street.

Comments from submitters raise concerns with respect to the following aspects of the proposed setback from Burch Street:

- location of the infrastructure building in relation to nearby houses
- effect on streetscape and noise brought about by the proposed minimal setback of the infrastructure building
- delivery and servicing vehicles - noise and adequacy of access.

These matters are addressed in more detail the Summary of Submitters' Comments and Officers' Responses [**Attachment 10.3.1(c)**].

After having considered all of the submitters' and officers' comments in relation to this matter, **it is recommended** that the proposed setback be approved.

South Terrace

The proposed reduced setback from South Terrace has been approved twice previously by the Council. The current proposal, although marginally different in footprint, maintains a setback similar to that previously approved. This setback will have limited impact on residential amenity in the locality. Immediately adjoining the Hospital site is a park and recreation reserve, known as the Ernest Johnson Reserve. Existing Hospital setbacks along South Terrace range from 20.0 metres to 5.0 metres. The proposed additions are predominantly set back 7.5 metres, as required by TPS6, with the closest corner being 3.8 metres. The portions of the proposed additions which protrude into the 7.5 metre setback area comprise:

- Ground floor front corners of the Day Procedure Unit facilities on the ground floor level and an external stair at the front, set back approximately 3.8 metres from the street.
- Upper floor external stairs leading from the ground to a balcony above, with the upper storey additions behind the balcony comprising expanded administrative offices, Boardroom and related facilities. All of the upper storey additions apart from the stairs and the balcony are set back 7.5 metres from South Terrace.

Council's discretionary approval is sought with respect to the portions of the proposed additions which are set back less than 7.5 metres from South Terrace. With substantial portions of existing building at approved setbacks of less than 7.5 metres, and the average setback along South Terrace remaining at more than 7.5 metres (including the proposed new works), the proposed additions will be compatible with the building's existing façade. **It is recommended** that the reduced South Terrace setback be approved.

Eastern boundary

The eastern boundary of the site faces the City's Ernest Johnson Reserve. In early 1990s, the Hospital was granted approval to build to within approximately 1.2 metres of this boundary. The same minimum setback is proposed in the current proposal, in line with the closest point of the existing setback, for:

- Ground floor Day Procedure Unit surgery and recovery cubicles which have windows overlooking the park.
- Upper floor Administrative offices, Manager's office, Boardroom and an extension of the balcony.

All portions of the existing building have been approved at less than the TPS6 minimum setback of 4.5 metres, with the actual setback from the eastern boundary varying between 1.2 metres and 2.7 metres. The proposed additions will be compatible with the building's existing setbacks. **It is recommended** that the reduced eastern boundary setback be approved.

(e) **Landscaped area**

The applicant has provided landscaping calculations which have been checked and found to be correct in terms of areas included. The existing Hospital is deficient in the amount of landscaped area provided in comparison with the amount now required by TPS6. Table 3 of TPS6 prescribes 25% minimum area of landscaping for the Private Institution zone. The Hospital was approved in the 1950s and has been incrementally expanded over the years. Historically, the minimum area of landscaping prescribed under successive Town Planning Schemes has not been required to be provided.

The current proposal involves a further reduction in the landscaped area by 14.0 sq. metres (0.18%), brought about by a net expansion of the footprint of the building. A total landscaped area of 1,243 sq. metres, or 16.06% of the portion of the site zoned 'Private Institution', will be provided.

Clause 7.8 of TPS6 provides the Council with discretionary power to approve a proposal which does not comply with the prescribed (25%) landscaped area. Having regard to the long history of approved development on the site prior to TPS6 being introduced and the small extent of the proposed landscaping reduction, **it is recommended** that the proposed landscaping reduction be approved.

(f) **Building height**

TPS6 prescribes a Building Height Limit of 7.0 metres for the site. The peripheral walls of the proposed new portions of building comply with the prescribed height limit. However, the roof is proposed to contain several 'minor projections' which are permissible under Clause 6.2(1)(b)(v)(D) of TPS6. That provision reads as follows:

"(v) ... the measurement of the height of a building shall not include the following:

...

- (D) minor projections which extend outside the space referred to in subparagraph (v)(A), including, but without in any way restricting the generality of this provision, such structures as vertical glass planes within the roof structure, dormer and saw-toothed windows, and chimneys."*

The minor projections now under consideration include:

Description	Dimensions	Height above notional 25 degree roof shape	Height above finished ground level	Where visible from
Gable feature above pitch of the main roof	2.0 metres high	4.0 metres	11.0 metres	Ernest Johnson Reserve
Vertical ventilation panels to new and existing plant rooms inside the roof	16.5 metres wide x 1.1 metres high	0.8 metres	7.8 metres	Eastern end of Burch Street
	5.6 metres wide x 1.1 metres high	0.8 metres	7.8 metres	Ernest Johnson Reserve
	3.0 metres wide x 1.1 metres high	0.8 metres	7.8 metres	Ernest Johnson Reserve

It is considered that all of these projections are minor, will have no detrimental impact on the amenity of users of the adjoining Ernest Johnson Reserve or eastern end of Burch Street, and should therefore be approved under Clause 6.2(1)(b)(v)(D) of TPS6.

(g) Parking and crossovers

Existing car parking provision on site

The South Perth Hospital was first approved in 1954 as a 26-bed Hospital with major and minor operating theatre facilities. No car parking requirements existed at that time under the City's By-Law No. 1 'Classification of Districts' (1936-72). The Hospital has continued to expand incrementally over the years to its current size of 65 beds.

Town Planning Scheme No. 2 (1972-86) prescribed '*1 parking space for every patient's bed provided*' for a Hospital. The same parking ratio was prescribed in TPS5 (1986 - 2003) and later in TPS6 (2003). None of these Town Planning Schemes operated retrospectively, and car parking was only required to be provided for new development.

With minimal space available for parking on the main Hospital site, the Council has approved the following off-site car parking facilities for the Hospital in more recent years:

- **1993** Hospital car park containing 12 car bays on Lot 44 (No. 27) Fortune Street;
- **2003** Consulting Rooms car park containing 16 car bays on Lot 45 (now part of Lot 145) adjoining and expanding the car park on Lot 44;
- **2005** 'Cash in lieu' contribution of \$56,000 towards the redesign and expansion of parking facilities in Burch Street and in the City's Ernest Johnson car park. The car parking modifications have been completed. While preserving street trees and protecting a residents' crossing, an additional six bays were achieved in Burch Street, and an additional 22 in the car park, giving a total increase of 28 bays;
- **2006** In approving this application, the Council recommitted its September 2005 decision with respect to car parking and the 'cash in lieu' contribution of \$56,000 which has been paid.

In total, 40 car bays are currently provided on 'Hospital land' for use by various medical functions accommodated within the Hospital complex, as follows:

- 28 car bays on the western side of Fortune Street (Lots 44 and 145);
- 3 bays on Lot 145 on the eastern side of Fortune Street; and
- 9 bays on Lot 145 on the South Terrace frontage.

A total of an 'extra' 28 car bays have also been provided in Burch Street and in the Ernest Johnson car park.

In 2005, the Hospital provided the City with a Traffic Assessment Report prepared by David Porter, engineer. That report calculates that, if assessed under current TPS6 standards, the Hospital should be provided with 156 bays. On this basis, there is a historical 'shortfall' of 116 bays on Hospital land, while noting that the Hospital's 'cash-in-lieu' payment has facilitated the addition of 28 further bays on Council land.

Current car parking proposal

The current development application is similar to both the 2005 and 2006 approved applications in that it involves new building works which will displace nine existing on-site car bays which are reserved for doctors' use only. The need for provision of car parking on site has been debated in detail at previous Council meetings, and the applicant has now effectively provided the required car bays through the 'cash in lieu' contribution of \$56,000 for 28 car bays. These car bays have been provided by the City on the Ernest Johnson car park and in the adjacent Burch Street road reserve. The current application proposes the addition of 20 beds and deletion of nine car bays from the site. This equates to the need to provide 29 car bays and 28 have been provided.

Clause 7.8 relating to discretion to permit variations from Scheme provisions:

As stated above, the current application proposes the addition of 20 beds and deletion of nine car bays from the site. Under the provisions of Clause 6.3 and Table 6 of TPS6, this equates to the need to provide 29 car bays on site. This cannot be achieved. However, in relation to previous similar development applications which did not proceed, the applicant has paid cash-in-lieu of 30 bays, and the Council has used this payment to improve and add to the parking bays in Burch Street and the Ernest Johnson car park. Therefore, it could be considered that the required parking for the current application has been 'retrospectively' provided.

No additional car parking is proposed as part of the current application. Clause 7.8 of TPS6 enables the Council to grant approval to a proposal which does not comply with the Scheme with respect to a number of site requirements, including car parking. The relevant provisions of Clause 7.8(1)(a) read as follows:

"... if a development ... does not comply with site requirements prescribed by the Scheme with respect to ... (v) car parking; ... and (vii) related matters ... the Council may, notwithstanding that non-compliance, approve the application unconditionally or subject to such conditions as the Council thinks fit".

This situation is safeguarded by paragraph (b) of Clause 7.8(1), which reads:

"The power conferred by this sub-clause may only be exercised if the Council is satisfied that:

- (1) 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;*

- (2) *the non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the precinct or upon the likely future development of the precinct; and*
- (3) *the proposed development meets the objectives for the City and for the precinct in which the land is situated as specified in the precinct Plan for that precinct.”*

The current application is deemed to meet these safeguards, and **it is recommended** that the proposal be approved without any further car parking being provided.

Future Hospital expansion beyond current proposals

It is coincidental that a car parking solution is available within the Ernest Johnson car park which has enabled provision of the required car bays for the current proposal. However, should the Hospital wish to expand further in the future, a different solution will be necessary, involving the provision of additional car bays on Hospital land.

Crossovers and street trees

The proposal will require considerable modification to the street verge along the southern side of Burch Street, involving the widening, or merging, of two existing crossovers. The applicant's site plan shows that this would bring the nearest edges of those crossovers to within less than 2.0 metres from an existing large Maritime pine (*Pinus pinaster*) tree. The tree is described in the City's records as being in 'good' condition. However, in relation to the future health and stability of the tree, advice from the City's Manager, City Environment indicates that:

- (i) The tree was not planted by the City, but is situated on land under the care and control of the City and is therefore the City's responsibility. The tree does not fit within the City's range of appropriate street trees, due to its potentially large size and surface root system. It is more suited to a forest or open parkland setting.
- (ii) At a current height of 16 metres, the tree is currently at about 40-50% of its mature size and is already showing signs of lifting the surrounding land. It is inevitable that the tree will need to be removed in the near future, irrespective of the Hospital's current development proposal. The majority of its root system is within the top 1.5 metres of the soil profile and there is a strong likelihood that the extent of damage it causes to nearby infrastructure and property will increase as it grows. The existing road pavement kerb is within 2.0 metres of the trunk of the tree. It is noted that the surrounding grassed verge could be reduced in area with the current development proposal. In this event, and even without such development, there is a high probability that the tree will become destabilised as it continues to grow and could eventually fall, causing serious damage to surrounding property.
- (iii) The Manager, City Environment is of the opinion that the tree should be removed. Although suitable for a large, open park setting, it is not possible to relocate the tree to the nearby Ernest Johnson reserve because the *Pinus pinaster* does not generally survive transplanting.
- (iv) Having regard to the above, **it is recommended** that the City remove the tree at no cost to the Hospital. While this is contrary to the City's usual practice of requiring an applicant to meet the cost of removing a street tree, in this case the need for removal of the tree is not a result of the development application.

The above advice was provided in the belief that the project design could enable the street tree to remain. Advice since received with respect to the size of the delivery vehicle, as described above, indicates that it is possible that more major road works will be required, and the whole of the landscaped verge between the two crossovers might need to be paved for Hospital use. Details in this respect will need to be carefully designed by the City's Manager, Engineering Infrastructure. Any modifications required to be undertaken to the crossovers, verge, Burch Street carriageway alignment or other areas along the route of the oxygen delivery vehicle, would be at the Hospital's cost. A condition to this effect is included in the recommendation.

The required modification to the Burch Street verge will also cause some existing infrastructure to need relocation at the Hospital's cost. This infrastructure includes:

- two 'No Standing' street signs;
- one street light pole; and
- a service manhole marked 'Electric Cables'.

Relocation or removal of this infrastructure will also be required at the Hospital's cost. A condition to this effect is included in the recommendation.

Bicycle Parking

In addition to prescribing car parking requirements, Table 6 of TPS6 prescribes the ratio of bicycle parking bays to be provided, being 1 per 10 beds for use by staff and visitors. Under the current proposal, the requirement for the proposed 24 additional beds would be three bicycle bays. None are indicated on the plan, but could be easily accommodated. A condition to this effect is included in the recommendation.

(h) **Design**

The overall design of the building is acceptable to the City, to the City's Design Advisory Consultants (DAC) and has not raised any adverse comments from neighbours. In relation to the 2005 application approved by the Council, it was noted that the proposed Recovery Cubicles within the Day Procedure Unit were provided with wide windows in the eastern external wall overlooking the adjoining Ernest Johnson Reserve. The outlook across the adjoining park was pleasant for patients during their recovery period. In the 2006 application, the applicant reduced the window sizes and the fence along the eastern boundary of the site was proposed to be of solid brick for the length of boundary adjacent to the Day Procedure Recovery Cubicles. The current proposal reverts to the 2005 situation, with windows of the recovery area proposed to be open to the reserve. The Hospital apparently considers that the pleasant aspect across the reserve is beneficial to patients, and that the need for privacy can be effectively managed by means other than a high brick fence. Therefore, **it is recommended** that this design element be approved.

Comments from submitters relate mainly to the Burch Street frontage. Submitters have raised concerns with respect to the following design aspects of the proposed infrastructure building:

- location
- design aesthetics
- setbacks.

These matters are addressed in the Summary of Submitter's Comments and Officers' Responses [**Attachment 10.3.1(c)**].

(i) Heritage

The 'South Perth Community Hospital' is listed in the City's Municipal Heritage Inventory (MHI) as Category 'C'. This Category is defined as follows:

"Retain and conserve if possible: endeavour to conserve the significance of the place through the provisions of the City of South Perth Town Planning Scheme. A more detailed Heritage Assessment/Impact Statement may be required before approval is given for any major redevelopment or demolition. Photographically record the place prior to demolition."

The MHI describes the South Perth Hospital as having 'aesthetic, historic, scientific, social and rarity cultural heritage significance'. It is important as much for its historic and social role as a major community facility, as for its architectural qualities representing the style of the 1950s and 60s. It was built in a "unique spirit of civic cooperation", following lobbying and fund-raising by the residents of South Perth (*West Australian*, 26 April 1956), and by the South Perth Community Centre Association.

The relatively low heritage classification of the site, combined with the sympathetic design of the additions and the need for the Hospital to remain a modern, efficient medical facility, leads to the conclusion that no special consideration needs to be given to the proposal in relation to 'heritage'.

(j) Scheme Objectives

Within Precinct 3 : 'South Perth Civic', the Hospital is a prominent development. The current proposal supports the following Precinct objective relating to the Hospital:

To encourage the further development and integration of a civic/community node and streetscape between the South Perth Community Hospital and the Council's Civic Centre by facilitating additional para-medical facilities to develop adjacent to South Terrace between Fortune and Sandgate Streets.

The proposal has also been assessed under, and has been found to meet, the following 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.*

Objective (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.*

(k) Other Matters to be Considered by Council

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 24 listed matters, the following are particularly relevant to the current application and require careful consideration:

(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;*
- (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;*
- (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;*
- (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;*
- (w) *any relevant submissions received on the application, including those received from any authority or committee consulted under Clause 7.4;*
- (x) *any other planning considerations which the Council considers relevant.”*

The proposal has been assessed having particular regard to all of these matters and is considered to be acceptable in relation to these matters.

Consultation

(a) Design Advisory Consultants’ comments

The design of the proposal was considered by the City’s Design Advisory Consultants at their meeting held on 20 August 2007. The proposal was favourably received by the Consultants. Their more specific comments are summarised below:

DAC comments	Project architect responses	Officer comments
(i) The Architects were complimentary in terms of the general design of the two-storey additions as viewed from South Terrace and the Ernest Johnson Reserve.	No comment.	Agree with DAC.
(ii) Concern was expressed with respect to the following design aspects of the infrastructure building on Burch Street:		
(A) the minimal setback from Burch Street;	(A) The setback of the compound was brought about by the functional requirements of the oxygen vessel. The truck delivering the oxygen to the vessel has to be able to park next to the vessel and connect with hosing that can reach a maximum of 5.0 metres.	This aspect is acceptable to the City. The Manager, Engineering Infrastructure is prepared to modify the Burch Street verge and carriageway design, as necessary, at the Hospital’s cost.

DAC comments	Project architect responses	Officer comments
(B) the increased width of the crossover to the street, removing some of the existing landscaping on the verge. In this respect, the Architects recommend that as much as possible of the setback area in front of the structure be landscaped to soften the impact of the large building, including on the street verge where appropriate;	(B) The setback area will be landscaped to soften the building.	The landscaping will be required to be shown on the landscaping plan.
(C) for both functional and aesthetic reasons, the wide access gates across the front of the compound should be designed to slide or open to the west, rather than towards the Hospital entry to the east;	(C) The gate will be redesigned as suggested.	Details of the revised gate opening will need to be shown on working drawings.
(D) the front (Burch Street) wall of the proposed infrastructure building would be improved by some steel or brick artistic relief, having regard to the importance and frequency of use of the Hospital entrance immediately alongside the structure.	(D) The elevation of the compound was kept unobtrusive as it was the intention to keep the focus on the main entrance. We are, however, willing to revisit the design and take the request under consideration.	Agree with DAC. The scale of the proposed building warrants more decorative treatment. This will need to be detailed on working drawings.
(iii) The Architects noted some drafting inconsistencies in the drawings, including: (A) the representation of the lot boundary lines on Fortune Street and Burch Street; and	Revised plans have been submitted.	The revised plans show the correct lot boundaries.
(B) between the north-westerly photographic representation of the infrastructure building (which shows the loading bay to be fully enclosed within the building), and the plans of the structure (which depict the loading bay as being unenclosed other than by the gate across the front and the roof).	(B) The loading bay is enclosed as shown on the elevation - the oxygen vessel partially encloses the loading bay and the rest is defined by the parapet wall screening the roof. The photographic perspective will be revised and provided.	The revised photographic perspective will correct any ambiguity of design. The approved elevation will be reflected in any resulting working drawings.

In relation to item (ii) of the DAC notes, modifications or conditions have been recommended to achieve appropriate design improvements.

(b) Neighbour consultation

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Policy P104 'Neighbour and Community Consultation in Town Planning Processes'. The owners of all properties in Fortune Street and in South Terrace between Coode and Hazel Streets were invited to inspect the application and comment on it. A total of 65 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 21-day advertising period,

three submissions were received, all expressing concern with various aspects of the proposals. The submissions have been summarised and responses provided to all comments, in **Attachment 10.3.1(c)** to this report.

The comments are referred to in brief throughout this report under relevant headings, and are summarised more particularly in the Summary of Submitters' Comments and Officers' Responses contained in **Attachment 10.3.1(c)**.

(c) Engineering Infrastructure

The Engineering Infrastructure department was invited to comment on a range of issues relating to crossovers, car parking and traffic, arising from the proposal. There are no major design problems in relation to these matters, provided that the crossovers are designed to appropriate specifications. The applicant will need to liaise with the responsible State agency regarding the required relocation of the light pole, and the relocation would be at the applicant's cost. A condition to this effect is included in the recommendation.

The Manager, Engineering Infrastructure has also provided detailed advice relating to delivery vehicles servicing the proposed oxygen bulk storage vessel. His comments in this respect are contained in the relevant part of the 'Comments' section of this report.

(d) Environmental Health

The following comments have been obtained from the City's Environmental Health Services:

- "1. Deliveries to be conducted between the hours of 7:00 am and 7:00 pm Monday to Saturday. All deliveries outside of these hours to comply with the Environmental Protection (Noise) Regulations 1997.*
- 2. A detailed acoustic consultant's report is to be submitted to the City upon submission of a building licence. The report is to demonstrate compliance with the Environmental Protection (Noise) Regulations 1997. The report should consider all equipment, plant rooms, cool rooms and air conditioning systems at the rear of the premises adjoining Burch Street.*
- 3. Storage and transportation of dangerous goods, chemicals and the like to be in accordance with the Dangerous Goods (Transport) Act 1998. It may be necessary to apply to the Department of Industry and Resources for approval to store dangerous goods."*

Conditions to this effect are included in the recommendation.

Policy and Legislative Implications

Comments in relation to various relevant provisions of the No. 6 Town Planning Scheme 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) payment by the applicant for the full cost of works to be undertaken by the City's Engineering Infrastructure Department in relation to street verge improvements, car park modifications, other road works and relocation of street signs.

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

No. 6 Town Planning Scheme compliance

The proposal complies with the Scheme requirements with respect to Use and plot ratio.

Council discretion

If the application is to be approved, the Council will need to exercise its discretion with respect to the following aspects of the proposal:

- reduced setbacks to the southern (South Terrace), northern (Burch Street) and eastern (Ernest Johnson Reserve) boundaries;
- reduction of already deficient landscaped area;
- minor roof projections beyond the notional 25 degree hip roof shape.
- provision of no car parking bays on site, as approved in September 2005 and June 2006 - additional car parking has already been provided within the Ernest Johnson car park at the Hospital’s cost;

For reasons explained within this report, it is recommended that these variations from normal TPS6 requirements be approved.

Building design

The building design has been assessed by the City’s Design Advisory Consultants as being generally compatible. Concern has been expressed by some submitters regarding certain design features, principally in relation to the location and operation of the proposed infrastructure building on Burch Street. The issues have been discussed in the Summary of Submitters’ Comments and Officers’ Responses, **Attachment 10.3.1(c)**, and modifications or conditions have been recommended to achieve appropriate design improvements.

Car parking and traffic issues

Concern has been expressed by some residents with respect to car parking and traffic issues, and their effect on the amenity of surrounded residents. Some of these concerns have been upheld and appropriate conditions applied. The issues are addressed fully in this report and in the accompanying Summary of Submitters’ Comments and Officers’ Responses.

Overall consideration

The application has been assessed with particular regard to the wide range of matters required by Clauses 1.6, 6.2, 6.3, 7.5, 7.8, Table 3, Table 6 and other relevant parts of Town Planning Scheme No. 6, and comments received from all those consulted, and it is recommended that the application be conditionally approved.

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.3.1
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Moved Cr Smith, Sec Cr Gleeson

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for two-storey extensions and refurbishment to the South Perth Hospital, incorporating a Day Procedure Unit, administrative offices, an infrastructure building and other works, on Lot 145 (No. 76) South Terrace and (Nos. 25 and 26) Fortune Street, South Perth, **be approved**, subject to:

(a) **Standard Conditions**

330 (3 bays), 390, 410, 425, 445, 470, 471, 505, 508, 550, 660, 664.

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

- (i) The setback area in front of the proposed infrastructure building shall be landscaped to soften the visual impact of this building. Details of the proposed landscaping shall be included in the required landscaping plan.
- (ii) For both functional and aesthetic reasons, the wide access gates set into the brick fence across the Burch Street frontage of the proposed infrastructure building shall be designed to slide open to the west, rather than towards the Hospital entry to the east.
- (iii) The wall of the proposed infrastructure building facing Burch Street shall be provided with artistic relief, having regard to the importance and frequency of use of the Hospital entrance immediately alongside. This decoration shall be shown on related working drawings.
- (iv) To avoid unreasonable disturbance to nearby residents, all deliveries and collection services shall be conducted between the hours of 7:00am and 7:00pm Monday to Saturday and 9:00am to 7:00pm Sundays and public holidays, unless of an urgent nature.
- (v) A detailed acoustic consultant's report shall be submitted to the City upon submission of a building licence application, demonstrating compliance with the *Environmental Protection (Noise) Regulations 1997*. The report shall consider all equipment, plant rooms, cool rooms and air conditioning systems at the rear of the premises adjoining Burch Street.
- (vi) Storage and transportation of dangerous goods, chemicals and the like shall be in accordance with the *Dangerous Goods (Transport) Act 1998* and shall comply with all of the requirements of the Department of Industry and Resources in relation to such goods.
- (vii) The Hospital shall consult with the City's Manager, Engineering Infrastructure in relation to any required modifications to the City's roads, car park or other infrastructure required in order to facilitate the delivery of oxygen to a bulk storage vessel on the Hospital site in an 18.0 metre long articulated tanker. Any modifications required to be undertaken to the Burch Street crossovers, Burch Street carriageway alignment, Ernest Johnson car park, any street verge, or other areas along the route of the oxygen delivery vehicle to accommodate that vehicle, shall be undertaken at the Hospital's cost. This includes any loading zone which might need to be created in Burch Street.
- (viii) The Hospital shall meet the cost of removal or relocation of any road management signs in Burch Street, and the installation of any new signs or other measures required to facilitate or manage any deliveries to the Hospital site.

- (ix) The Hospital shall liaise with the responsible State agency regarding the need to relocate the street light and manhole relating to electric cables in Burch Street. The removal and relocation of such infrastructure shall meet the requirements of that agency and be at no cost to the City.
 - (x) All deliveries of oxygen to the bulk storage vessel shall be commenced between the hours of 7:00am and 8:00am Monday to Saturday and the delivery vehicle shall depart by not later than 9.30am. These deliveries are not permitted on Sundays.
- (c) **Standard Important Advice Notes**
640, 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.
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- (d) **Specific Important Advice Notes**
- (i) The City has examined the advice provided by the project architect with respect to the delivery of oxygen and the refilling of the oxygen vessel. It is noted that whether the proposed oxygen tank is situated to the south of Burch Street, or at the end of Burch Street, it will need to be serviced using an 18.0 metre long articulated tanker truck. The City recommends that the following route be followed for the tanker truck to reach the proposed oxygen tank in either location: from Coode Street into Pilgrim Street, turn right into the far eastern entrance to the public (Ernest Johnson) car park, and exit into Burch Street. To depart from Burch Street, the City recommends that the tanker truck turn either left into Fortune Street and thence to South Terrace, or right into Fortune Street, left into Pilgrim Street and thence to Coode Street. This route has been verified using Australian Standard vehicle templates for an 18.0 metre articulated vehicle using the proprietary software AUTOTURN. The exit routes into and along Coode Street and South Terrace respectively have also been verified using AUTOTURN. Minor adjustments would be necessary to the entrance and exit to and from the Ernest Johnson car park to adequately provide for the trailer movement. The modifications would be effected by the City at cost to the Hospital. The Hospital is responsible for ensuring that any delivery drivers are familiar with the recommended route.
 - (ii) The Hospital is responsible for ensuring that any deliveries to the Hospital site are properly managed and coordinated.

CARRIED (11/0)

Note: Mayor Collins returned to the Council Chamber at 7.45pm and resumed the position as Chair.

10.3.2 Modifications to Approved Drawings for Multiple Dwellings Under Construction on Lot 1 (No. 17) South Perth Esplanade, South Perth

Location:	Lot 1 (No. 17) South Perth Esplanade, South Perth
Applicant:	Greg Rowe & Associates on behalf of Lex Kingdom
Lodgement Date:	1 June 2007
File Ref:	SO1/17 / 11.2007.258 / 11/6407
Date:	20 September 2007
Author:	Christian Buttle, Manager, Development Assessment
Reporting Officer:	Steve Cope, Director Planning and Community Services

Summary

To consider an application for planning approval for a modification to the approved roof design for a Multiple Dwelling development which is currently under construction on Lot 1 (No. 17) South Perth Esplanade, South Perth. The report recommends that the modified roof design be refused.

The report has been updated to address matters discussed at the Council Agenda Briefing Session held 18 September 2007, and to also provide comment on further revised drawings received 14 September 2007.

Background

The development site details are as follows:

Zoning	Residential
Density coding	R80
Lot area	607 sq. metres
Building height limit	13 metres
Development potential	4 Multiple Dwellings
Maximum Permitted Plot ratio	607 sq.metres

This report includes the following attachments:

- 1. Confidential Attachment 10.3.2(a):** Plans showing approved roof design.
- 2. Confidential Attachment 10.3.2(b):** Plans showing proposed modified roof design dated 14 September 2007. (Revised)
- 3. Attachment 10.3.2 (c):** Letter from Greg Rowe & Associates dated 31 May 2007.
- 4. Attachment 10.3.2 (d):** Letter from Greg Rowe & Associates dated 14 August.
- 5. Attachment 10.3.2 (e):** Letter from Hardy Bowen Lawyers dated 21 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:

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.

A brief summary of the background associated with this development is identified below:

- September 2004: Council granted planning approval for 3 Multiple Dwellings.
- October 2004: Appeal lodged with the Town Planning Appeal Tribunal against condition of approval requiring 3 metre minimum setback to Queen Street.
- February 2005: Appeal Upheld and revised planning approval granted (revised approval deleted requirement for 3m minimum setback to Queen Street boundary and revised date by which substantial commencement was to occur).
- October 2006: Building Licence issued for forward works.
- January 2007: Building Licence issued for remainder of construction.
- June 2007: Application for planning approval lodged for modified roof design.

Comment

(a) Description of the proposal

The amended roof design has come about as a result of the applicants stated need to increase the height of the lift shaft above that shown on the current approved drawings.

In an attempt to address conflict with the building height controls prescribed by TPS6, the additional height has been ‘concealed’ within a roof. To facilitate the concealment of the lift shaft within a roof structure, a very steep 60 degree pitch has been incorporated into the modified roof design surrounding the lift shaft, while a 45 degree pitch is now shown for the remainder of the upper floor. The aim of including such a steep pitch is to reduce the extent of visible external wall - the portion of a building which is subject to height control. Such design attempts to address the City’s height controls by concealing what would otherwise be non-compliant external wall within a roof space.

TPS6 specifies a maximum permissible building height of 13 metres for properties which front South Perth Esplanade. TPS6 also specifies that the permissible 13 metre building height is to be measured above a reference point of 2.3 metres above AHD. This results in an overall permissible building height of 15.3 metres AHD. TPS6 also allows walls which are situated above the maximum permissible height to be approved, provided that such wall is contained within a notional 25 degree hipped roof shape, measured from the maximum permissible building height, based upon the alignment of the exterior walls of the building. TPS6 also gives the Council the capacity to approve a minor projection which projects outside of the 25 degree envelope. Council Officers are of the opinion that the portions of the building which extend above and beyond those shown on the approved drawings can not reasonably be classified as minor projections.

The approved drawings, **Attachment 10.3.2(a)**, incorporate a “tiered” roof above the fourth floor of the building which follows the alignment of a 25 degree envelope, with the exception of the lift shaft which extends to a height of 17.0 metres above AHD and which was previously categorised as a minor projection.

The amended drawings:

- increase the height of the lift shaft to 17.5 metres AHD (i.e. 2.2 metres above the line of the maximum prescribed building height);
- increase the maximum roof height from 17.2 metres above AHD to 17.6 metres AHD; and
- significantly increase the overall bulk and scale of the fourth level of the building above and beyond that which was shown on the approved drawings.

(b) Building height

The building height controls within the City’s TPS6 specify a maximum height to the top of an external wall and not a maximum top of roof or ridge height. In this instance the applicant has attempted to address the height control by concealing building structure which would otherwise be assessed as external wall within a roof with a 60 degree pitch.

Clause 6.2(3) of TPS6 states that:

“The Council may impose a restriction on roof height where, in Council’s opinion, the proposed height of a roof would have an adverse impact on, or be out of character with, development within the focus area”.

As such a steep roof pitch is clearly out of character with other development within the focus area, and could be said to have an adverse impact on, or be out of character with development within the focus area, it is not appropriate to approve a 60 degree roof pitch in this instance.

The height of the building, and particularly the height of the lift shaft projection above the maximum permissible building height, is a matter which was the subject of extensive discussion between the applicant and the City at the time of initial building licence submission. When the building licence was originally received, the height of the lift shaft had increased above and beyond that shown on the approved planning drawings. Prior to the issue of the building licence, the applicant was required to lodge amended drawings which reduced the height of the lift shaft to a height not exceeding that which was shown on the approved planning drawings. Given the scrutiny that was given to this component of the design, and the need to lower the height of this component of the building prior to the issue of a building licence, the capacity to accommodate the required lift should have received detailed consideration by the proponent prior to the commencement of construction of the building.

(c) Detailed Comment on Further Revised Drawings dated 14 September 2007

During the assessment of the application for planning approval, revised drawings were received on 14 September 2007. The following comments are made specifically in relation to those drawings.

- The drawings cause a large part of the former unroofed roof terrace which had previously been included in open space calculations to be covered by roof and therefore not able to be included in open space calculations. As there was no spare capacity with respect to open space provision, the development becomes non-compliant with respect to this matter;
- There is some reduction in the bulk of the overall roof structure from that shown on the previous drawings. However, the bulk of the overall roof structure is still substantially greater than that shown on the current approved drawings;
- There is no change to the overall height of the lift shaft component of the proposal.

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

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;*
- (f) any planning policy, strategy or plan adopted by the Council under the provisions of clause 9.6 of this Scheme;*
- (i) the preservation of the amenity of the locality;*
- (j) all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*
- (n) the extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area, in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details;*

- (w) *any relevant submissions received on the application, including those received from any authority or committee consulted under clause 7.4;*
- (x) *any other planning considerations which the Council considers relevant.*

Consultation

(a) Design Advisory Consultants' comments

The design of the proposal was considered by the City's Design Advisory Consultants at their meetings held during June and July 2007.

At their June 2007 meeting, the Advisory Architects made the following comments:

"The Advisory Architect commented that prior to making a decision as to whether or not to support the modified roof design, it was necessary for the following further information to be provided:

- *Two section drawings, one taken through grid line 7 and the other taken centrally between grid lines 4 and 5; and*
- *Confirmation that there has been no change to the floor plan drawings.*

This information is required in order to ascertain:

1. *How the height of walls for the uppermost level of the building have changed from the design which has received approval; and*
2. *How the height of the walls for the uppermost level of the building have changed relative to the notional 25 degree envelope identified within TPS6, measured above the maximum permitted building height.*

The additional information is required, noting the increased bulk of the roof, overall increased height of the building structure, and proposed steep roof pitch."

Having regard to the preceding comments, the Advisory Architect recommended that the matter receive further consideration, following receipt of the required additional information.

At their July meeting, the Advisory Architects made the further following comments:

- "(i) When compared to the approved development, the proposed change to a steep roof pitch leads to an increased building bulk, which is visually undesirable. Reducing the pitch of the roof is preferred.*
- (ii) The already approved roof form and design is preferred as it matches with the detail of the approved balconies.*
- (iii) The section drawings provided are not to scale and need to be resubmitted to scale.*
- (iv) Compliance with the permissible building height needs to be carefully examined.*
- (v) The eaves overhang, as marked in a dotted line on the approved top floor plan, is also required to be modified to match the proposed roof."*

Officers accept the comments which have been made by the Advisory Architects.

(b) Neighbour consultation

Neighbour consultation has been undertaken for this proposal to the extent and in the manner required by Policy P104 "Neighbour and Community Consultation in Town Planning Processes". The owners and occupiers of properties at Nos. 15 and 19 South Perth Esplanade and 5 - 9 Queen Street were invited to inspect the application and to submit comments during a 14-day period. A total of 12 neighbour consultation notices were mailed to individual property owners and occupiers. During and after

the advertising period, 3 submissions were received, each of which objected to the proposed development. The comments of the submitters, together with an officer response, is summarised as follows:

Submitter's Comment	Officer Response
Modified roof design is very bulky.	There is no question that the proposed roof design incorporates additional bulk compared with the approved roof design. The submitters' comment is UPHELD .
Increased roof height would adversely affect value of property.	City Officer's are unable to comment on this matter, and alleged impact on property values is not a valid consideration when determining a development application. The submitters' comment is NOT UPHELD .
Increased roof height would further block views from adjoining property.	Additional building structure creates the potential for increased impact on views currently enjoyed from surrounding properties. The submitters' comment is UPHELD .
Proposed development has already benefited from sufficient variations to TPS6, R-Code and policy provisions.	Although the submitters' comment is NOTED , the current application must be assessed on its own merits.

Policy and Legislative Implications

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

Financial Implications

The issue has no impact on this particular area.

Strategic Implications

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

<p align="center">OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.3.2</p>
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That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for proposed modifications to the approved roof design for Multiple Dwellings under construction on Lot 1 (No. 17) South Perth Esplanade, South Perth **be refused** for the following reasons:

- (a) The proposal attempts to circumvent prescribed height controls by introducing an excessively steep (60 degree) roof pitch in order to conceal external wall structure.
- (b) Council is of the opinion that a 60 degree roof pitch would have an adverse impact on, and be out of character with, development within the focus area.
- (c) The design modifications cause the development to be non-compliant with respect to minimum prescribed open space requirements identified within the Residential Design Codes 2002.
- (d) Approval of the proposed development would be contrary to the orderly and proper planning of the locality.
- (e) Having regard to the matters identified in reasons (a - d) 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.
- (f) Having regard to the matters identified in reasons (a - d) 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.

CARRIED EN BLOC RESOLUTION

10.4 GOAL 4: INFRASTRUCTURE

10.4.1 Roof Preservation - Civic Centre Building

Location: City of South Perth
Applicant: Council
File Ref: FM/301
Date: 8 September 2007
Author / Reporting Officer: Michael J Kent, Director Financial and Information Services

Summary

This report considers a proposal to address some recently detected water damage in the City's most significant (by value) building asset. It aims to protect and sustainably enhance the Civic Centre building in a manner that complements the recently completed building refurbishment work. The report also identifies an appropriate funding source for the necessary remedial work.

Background

In September 2006, the approved refurbishment work on the Civic Centre building (Administration Offices and Council Chamber) was completed. The project was essentially an extensive re-design and refurbishment of the existing building to better utilise the available space, take advantage of technology opportunities and provide some additional floor space at the north eastern end of the building. The project was a financially responsible and sustainable re-use of the structure of the existing building with most external walls and the roof remaining substantially as they were. Prior to the building works commencing, an assessment was made of the existing building - and this assessment supported Council's view that overall the building was structurally sound and its architectural merit should be preserved and re-used.

The outcome that was achieved from the project was certainly true to these objectives - with the refurbished building:

- proving functional in both the Office and Council Chamber areas
- respecting the tradition and merit of the old building
- being well received by the wider community.

Having now had the opportunity to experience a full (and relatively severe) winter in the refurbished building, it has become apparent that the previous internal fit out may have been concealing a number of deficits in the existing roof structure. Recent water staining of new ceiling tiles and small leaks in parts of the Administration Office, Reception Room and Council Members Lounge have provided evidence that the existing roof is being breached by rainwater in several places during periods of heavy rainfall. Minor remedial 'patching' of leaks that could be traced has provided some relief - but is not regarded as a long term solution.

A comprehensive independent inspection of the roof has established that the roof appears to have been compromised over a number of years as ad-hoc works on various pieces of roof mounted plant have occurred and through the passage of time as the roof has aged. Other than one or two very minor areas resulting from trying to integrate new roofing materials with the pre-existing roof surfaces, the issues identified appear to relate **not** to recent building works - but are more likely related to deterioration of the roof due to its age.

Having invested in the refurbishment of the building to the extent that the City has done, it seems both prudent and necessary to address the integrity of the building roof to ensure that the City exercises responsible stewardship of its most valuable building asset. Having

identified a genuine imperative for promptly addressing this matter, the remainder of this report considers the options available to the City and examines responsible funding alternatives for the works that do not compromise other initiatives.

Comment

Following a review of the state of the building roof by the refurbishment builders to identify whether or not there were any roof defects attributable to building works (see the Background section for an explanation of the findings), the City commissioned an independent assessment of the building roof - which has been conducted by an experienced roofing contractor.

A detailed report was prepared by the consultant who provided the City with advice that it was required to choose between two alternatives:

- **Option 1** - undertake remedial works on the compromised roof areas as identified in the report
- **Option 2** - replace the building roof.

In order to assist Council in its decision making process, the consultant provided indicative costings and likely outcomes for each alternative. It should be acknowledged that these are not market tested quotations - only indicative information to help make an informed decision. In the consultant's view, undertaking remedial works on the compromised areas (**Option 1**) would cost in the order of \$35,000 - \$40,000 and would add probably another 8 - 12 years to the life of the existing roof. **Option 2** (replacing the roof on the Administration Building and Council Chamber) would cost around \$80,000 to \$85,000 and would be expected to give a reliable roof life of around 25 years.

Given the importance of this particular building, Council's previously demonstrated preference for sustainable re-use of its building stock - and its responsible approach to the stewardship of its assets, it would seem that Option 2 (replacing the roof) would be the preferred approach - subject to the City identifying a suitable funding source that does not compromise other projects.

Consultation

This report was prepared with the input of an independent external consultant and in conjunction with the building management team within the Infrastructure Services directorate. Dialogue has also occurred with a registered builder. Examination of the financial implications was undertaken by the Financial Services team.

Policy and Legislative Implications

The selection of the preferred option is not directly affected by legislation or City policy - but the officer recommendation is consistent with the principles of sustainability in force at the City. Should Council endorse the officer recommendation, it will be necessary, given the likely value of the proposed works, to test the market by seeking formal competitive quotations in writing from at least three suitable suppliers in accordance with the requirements of Policy P605 - Purchasing & Invoice Approval.

Financial Implications

Two options are presented in this report - with the recommended option expected to have a funding requirement of around \$80,000 to \$85,000. At present this work is not included in the City's adopted budget - notwithstanding that it is now identified as prudent and necessary remedial work.

At the time of preparing the 2007/2008 Annual Budget it was estimated that the Opening Position for the purposes of the budget (calculated in accordance with Dept of Local Govt Guidelines) would be \$533,366. In the 5 weeks following the estimation of the Opening

Position, more than \$1.2M worth of transactions were processed - some impacting the Opening Position favourably, some unfavourably. Overall, after processing all of these transactions, the City's audited financial statements show that the actual Opening Position for the 2007/2008 Budget was \$683,678. This improved budget position will need to be brought to account in the Q1 Budget Review in October. The unexpected windfall gain from the better than anticipated Opening Position means that the City can in fact fund the necessary roof replacement works from this source - honouring its stewardship responsibilities on the building without having to compromise approved programs or projects to fund it.

The appropriate budget amendment to recognise the revised Budget Opening Position and the Roof Replacement would be recognised in the Q1 Budget Review

Strategic Implications

This report deals with matters that are related to the strategic goals of Infrastructure Management Goal 4 *To sustainably manage, enhance and maintain the City's Infrastructure assets* and Financial Viability Goal 6 *To provide responsible and sustainable management of the City's financial resources*.

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.4.1
--

That

- (a) the City administration calls competitive quotations in accordance with Policy P605 for the replacement of the roof of the Administration Building and Council Chambers;
- (b) the replacement of the roof is undertaken at a time that minimises adverse impact on the public and operation of the Administration Building and Council Chambers - whilst responsibly considering the adverse impact of weather; and
- (c) notional funding of up to \$85,000 be provided for the project subject to the Q1 Budget Review recognising the financial impact of funding the project from the revised 2007/2008 Budget Opening Position.

CARRIED EN BLOC RESOLUTION

10.5 GOAL 5: ORGANISATIONAL EFFECTIVENESS

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

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

Summary

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

Background

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

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

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

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

Comment

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

Consultation

During the month of August 2007, forty seven (47) development applications were determined under delegated authority [**Attachment 10.5.1** refers].

Policy and Legislative Implications

The issue has no impact on this particular area.

Financial Implications

The issue has no impact on this particular area.

Strategic Implications

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

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.5.1
--

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

CARRIED EN BLOC RESOLUTION

10.5.2 Amendment to Parking Local Law 2003 (7.45pm)
--

Location:	City of South Perth
Applicant:	Council
File Ref:	LE/101
Date:	7 September 2007
Author:	Sean McLaughlin, Legal and Governance Officer
Reporting Officer:	Cliff Frewing, Chief Executive Officer

Summary

In order to better regulate traffic movement and car parking during the staging of the 2007 Red Bull Air Race, an amendment to the City's Parking Local Law 2003 has been proposed to provide for the establishment of a General No Parking Zone in accordance with Clause 7.4 of that law.

The procedural requirements for the making of a local law were initiated by the City in July with the giving of state-wide public notice of the proposed law.

As the submission period has concluded, Council may now proceed to consider any submissions received and make the local law.

Background

At its June 2007 ordinary meeting Council endorsed the holding of the 2007 Red Bull Air Race on and around Sir James Mitchell Park which will involve the imposition of road closures and parking restrictions in adjacent areas.

In order to facilitate the proposed parking restrictions, an amendment to the Parking Local Law is required to enable the establishment of a General No Parking Zone during the staging in November of the 2007 Red Bull Air Race.

Clause 7.4 of the Parking Local Law enables the City to establish General No Parking Zones for specified areas at specified times. However, this can only be done by prescribing the desired time and area in a schedule to the local law (Schedule 4) through an amendment to the local law.

Comment

Procedural Requirements for the making of a local law

Section 3.12 of the Act and regulation 3 of the *Local Government (Functions & General) Regulations 1996* set out the procedural requirements for the making of a local law.

Purpose and effect

The purpose of the proposed amendment local law is to provide for the scheduling of an additional General No Parking Zone in the City of South Perth and to amend clause 7.4 to clarify the operation of the clause.

The effect of the proposed amendment local law is to provide for the regulation of car parking and traffic movements through the affected area during the prescribed period.

The text of the proposed amendment local law is set out at **Attachment 10.5.2**.

Public consultation

Section 3.12(3) of the Act requires a local government to give State-wide public notice stating that the local government proposes to make a local law the purpose and effect of which is summarized in the notice.

A notice was published in the *West Australian* on 28 July 2007 and in the *Southern Gazette* on 31 July 2007.

After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed.

As no submissions were received, Council may proceed to make the local law as proposed.

Policy and Legislative Implications

Policy and legislative implications are as described in this report.

Financial Implications

Nil.

Strategic Implications

The proposal is consistent with **Strategic Goal 5: Organisational Effectiveness**

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

OFFICER RECOMMENDATION ITEM 10.5.2

That the Amendment (Parking Local Law) Local Law 2007, **Attachment 10.5.2** be adopted as a local law of the City of South Perth pursuant to the powers conferred under section 3.12(4) of the *Local Government Act 1995*.* (*Absolute majority required.)

STATEMENT ACTING CEO : AMENDMENT TO ATTACHMENT 10.5.2

The Acting Chief Executive Officer referred Members to a Memorandum, circulated prior to the commencement of the meeting, which identified a number of textual revisions made to the 'Parking Local Law' **Attachment 10.5.2** as a result of advice received from the Department of Local Government. He further stated that the advice was received after the report was finalised and after the submission period expired. The Administration considers that the recommended changes improve the appearance of the Local Law, ensures greater clarity for the reader and recommends that it should be adopted. The revised version contains no changes to the operation or content of the proposed law as advertised for public comment.

**OFFICER RECOMMENDATION AND
COUNCIL DECISION ITEM 10.5.2**

Moved Cr Gleeson, Sec Cr Ozsdolay

That the Amendment (Parking Local Law) Local Law 2007, **Attachment 10.5.2, as amended**, be adopted as a local law of the City of South Perth pursuant to the powers conferred under section 3.12(4) of the *Local Government Act 1995*.*

CARRIED (12/0)

By Required Absolute Majority

10.5.3 Financial Interest Returns 2006 - 2007

Location:	City of South Perth
Applicant:	Council
File Ref:	GO/107
Date:	7 September 2007
Author:	Sean McLaughlin, Legal and Governance Officer
Reporting Officer:	Cliff Frewing, Chief Executive Officer

Summary

In accordance with the City's Management Practice **M523 Financial Interest Returns** the CEO is to prepare a report on the lodging of returns for presentation to Council as soon as reasonably practicable after 31 August each year.

Background

Part 5 of the *Local Government Act 1995* requires that councillors and 'designated employees' (that is, employees who exercise delegated power) lodge a statement of their financial interests within three months of the commencement of their term or employment respectively (Primary Return) and annually thereafter by or before 31 August each year (Annual Return).

Comment

Returns from Councillors and designated employees were lodged in accordance with the Act. One designated employee who was on extended leave during the relevant period is expected to lodge his return upon returning to work.

Consultation

Nil.

Policy and Legislative Implications

The report records compliance with the statutory requirements governing the lodgement of financial interest returns as required by the *Local Government Act 1995*.

Financial Implications

Nil.

Strategic Implications

This Report complies with **Strategic Goal 5: Organisational Effectiveness** - *“To be a professional, effective and efficient organisation.”*

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.5.3
--

That report Item 10.5.4 of the September 2007 Council Agenda on the lodging of Financial Interest Returns for 2006 - 2007 be received.

CARRIED EN BLOC RESOLUTION

10.6 GOAL 6: FINANCIAL VIABILITY

10.6.1 Monthly Financial Management Accounts - August 2007

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	8 September 2007
Author / Reporting Officer:	Michael J Kent, Director Financial and Information Services

Summary

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

Background

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

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

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

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

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

A summary of budgeted revenues and expenditures (grouped by department and directorate) is also provided each month. This schedule reflects a reconciliation of movements between the 2007/2008 Adopted Budget and the 2007/2008 Amended Budget including the introduction of the capital expenditure items carried forward from 2006/2007.

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

Comment

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

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

Operating Revenue to 31 August 2007 is \$25.02M which represents 101% of the \$24.87M year to date budget. Major factors contributing to this favourable variance include a better than expected rates revenue performance (due to late notification of revised GRVs from the Valuer General's Office and new interim valuations since the rates strike), higher RCS subsidies being earned at the Collier Park Hostel (although these come with an additional cost burden as well) and better than anticipated investment revenue due to higher volumes of cash being held for carry forward works. Another favourable variance relates to planning

fees for two large developments. The favourable variances are partly offset by less than expected revenue from rubbish service levies and a slower than anticipated start to the year at the golf course (thought to be largely attributable to the inclement weather).

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

Operating Expenditure to 31 August 2007 is \$4.88M which represents 94% of the year to date budget of \$5.18M. Operating Expenditure to date is around 4% favourable in the Administration area and about 8% under budget in the Infrastructure Services area.

Most of the favourable variance is regarded as only of a timing nature as only 2 months of the year have expired. During this time, most of the programs for operational and maintenance activities are being developed, specifications developed and quotations sought. As a consequence a number of apparent timing variances appear on the management accounts - but these are expected to correct in future months as the various programs are rolled out. A number of small variances exist in the administration area but these are also largely considered to reflect timing differences that should correct later in the year.

The salaries budget (*including temporary staff where they are being used to cover vacancies*) is currently around 10% under the budget allocation for the 213.4 FTE positions approved by Council in the budget process - although some agency staff invoices were not received at month end.

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

Capital Revenue is disclosed as \$0.28M at 31 August against a budget of \$0.05M - with revenue (lease premiums and refurbishment levies) from 4 newly occupied units at the Collier Park Village (3 in August alone) combining with road grants received ahead of budget timing and a contribution for parking bay works from the South Perth Church of Christ making up the very favourable variance at reporting date.

Capital Expenditure at 31 August is \$0.71M against a year to date budget of \$0.73M. The capital expenditure program is not scheduled to really commence in earnest until September - and these simply represent start up costs at this time. Overall, the City has now completed around 4% of the full year capital program including the carry forward works.

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

Directorate	YTD Budget	YTD Actual	% YTD Budget	Total Budget
CEO / Financial & Info Services	28,500	23,281	82%	3,555,000
Corp & Community Services	5,000	37,314	-	1,255,978
Strategic & Reg Services	10,000	3,914	39%	710,000
Infrastructure Services	683,600	648,165	95%	8,681,060
Underground Power	0	0	-	4,800,000
Total	727,100	712,674	98%	19,002,038

Details on the variances relating to Capital Revenue and Capital Expenditure items are provided in **Attachment 10.6.1(5)** of this Agenda.

Consultation

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

Policy and Legislative Implications

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

Financial Implications

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

Strategic Implications

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

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.1

That

- (a) the monthly Balance Sheet and Financial Summaries provided as **Attachment 10.6.1(1-4)** be received;
- (b) the Schedule of Significant Variances provided as **Attachment 10.6.1(5)** be accepted as having discharged Council's statutory obligations under Local Government (Financial Management) Regulation 35.
- (c) the Summary of Budget Movements and Budget Reconciliation Schedule for 2007/2008 provided as **Attachment 10.6.1(6)(A)** and **10.6.1(6)(B)** be received.

CARRIED EN BLOC RESOLUTION

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

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

Summary

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

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

Background

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

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

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

Comment

(a) Cash Holdings

Total funds at month end of \$37.89M compare very favourably to \$33.71M at the equivalent stage of last year. Around 60% of the difference relates to higher holdings of cash backed reserves whilst the remainder is due to funds associated with carry forward works being held as investments until needed later in the year and solid rates collections to date - with collections only slightly below last year's excellent result so far.

The net cash position is improved relative to August 2006 with monies brought into the year and our subsequent cash collections being invested in secure financial instruments to generate interest until those monies are required to fund operations or projects later in the year. Excluding the 'restricted cash' relating to cash-backed Reserves and monies held in Trust on behalf of third parties; the cash available for Municipal use currently sits at \$18.40M (compared to \$16.90M in 2006/2007). **Attachment 10.6.2(1).**

(b) Investments

Total investment in short term money market instruments at month end is \$37.53M compared to \$33.56M last year. As discussed above, the difference relates to good cash collections, higher reserve cash holdings and delayed outflows for capital projects.

Funds held are responsibly spread across various institutions to diversify risk as shown in **Attachment 10.6.2(2)**. Interest revenues (received and accrued) for the year to date total \$0.28M, which is significantly up from \$0.25M at this time last year. This is attributable to higher cash holdings, higher interest rates and timely, effective treasury management.

The average rate of return for the year to date is 6.65% with the anticipated yield on investments yet to mature currently at 6.62%. This reflects careful selection of investments to meet our immediate needs whilst retaining the opportunity for longer term investments in the future - after carefully considering our cash flow management needs. The City actively manages its treasury funds to pursue responsible, low risk investment opportunities that generate interest revenue to supplement its rates income.

(c) Major Debtor Classifications

The level of outstanding rates relative to the same time last year is shown in **Attachment 10.6.2(3)**. Rates collections to the end of August 2007 (after the due dates for the first rates instalment) represent 60.1% of total rates levied compared to 61.2% at the equivalent stage of the previous year. Given the one week later issue date this year, this suggests that collections to date are again strong - being within 1% of last year's best ever result. It is considered that the rating and communication strategy used for the 2007/2008 rates strike have again established a good foundation for successful rates collections this year.

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

General debtors stand at \$1.71M at 31 August 2007 compared to \$1.87M at the same time last year. Most debtor categories are lower than at this time last year - most notably Sundry Debtors and Balance Date Debtors that are favourably impacted this year by not including the outstanding balances for vehicle trade-ins / grants that existed at this time last year.

Consultation

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

Policy and Legislative Implications

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

Financial Implications

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

Strategic Implications

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

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.2

That Council receives the 31 August 2007 Statement of Funds, Investment & Debtors comprising:

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

CARRIED EN BLOC RESOLUTION

10.6.3 Warrant of Payments Listing

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	9 September 2007
Authors:	Michael J Kent and Deborah M Gray
Reporting Officer:	Michael J Kent, Director Financial and Information Services

Summary

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

Background

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

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

Comment

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

Consultation

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

Policy and Legislative Implications

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

Financial Implications

Payment of authorised amounts within existing budget provisions.

Strategic Implications

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

OFFICER RECOMMENDATION ITEM 10.6.3

Moved Cr Trent, Sec Cr Gleeson

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

CARRIED (10/2)

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

11. APPLICATIONS FOR LEAVE OF ABSENCE

11.1 Request for Leave of Absence : Cr Trent 30.11.07 - 5.12.07 (7.51pm)

Moved Cr Doherty, Sec Cr Hearne

That Cr Trent be granted leave of absence from any meetings held between 30 November and 5 December 2007. inclusive.

CARRIED (12/0)

12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12.1 Community Visioning - Cr Doherty 3.9.2007

I hereby give notice that I intend to move the following Motion at the Council Meeting to be held on 25 September 2007.

MOTION

That....

- (a) the Chief Executive Officer be requested to prepare a report for the Ordinary Meeting of Council to be held in February 2008 on “Visioning,” and the “Visioning Process” in relation to the 2008 reviews of, but not limited to the following:
- Town Planning Scheme;
 - Strategic Plan;
 - Connected Community Plan; and
 - Sustainability Strategy Action Plan
- (b) the “Visioning” include:
- (i) but not be limited to, public workshops, telephone polls, website and written surveys; and
- (a) all stakeholders including, but not limited to, residents, ratepayers, Elected Members and Council staff.

MEMBER COMMENT

During 2008 the City will be reviewing the current Town Planning Scheme, Strategic Plan, Connected Community and Sustainability Action Plan. It is timely to consider the review of these documents which guide the direction of the City in a wider context and engage the community in Creating a Sustainable Community Vision for the City of South Perth – 2008 to 2028. Alongside the review of the aforementioned documents the State government is reviewing the Residential Design Guidelines (R Codes) which tie in with the City’s review of TPS6 and associated planning policies. Similarly, with the review of the Strategic Plan, revisiting the City’s Values and Mission would be part of this process.

The Oregon Model of Community Visioning has been used as a framework by other Councils as it focuses on a process through which any community can create a shared vision for their future and in essence begin to make that vision a reality. It is a framework for planning, policy and decision-making. The process focuses on asking the 5 questions:

1. where are we now?
2. where are we going?
3. where do we want to be?
4. how do we get there?
5. are we getting there?

An amount of \$40,000 has been allocated in the 2007/2008 budget in the event that a Community Visioning process is undertaken in conjunction with the review of TPS6. Other funding sources may be available to provide additional resources to assist the City to implement this “Visioning” process.

COMMENT CEO

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

The request from Cr Doherty regarding undertaking a “Visioning” exercise is generally consistent with the City Administration’s intentions in 2008. The City’s current strategic directional document, the “Strategic Plan 2004-2008”, is now due for review and the February 2008 timeframe for a report on the subject is appropriate.

It would also be the intention of the Administration that the Strategic Plan / City Visioning Exercise would also embrace the review of other relevant guiding documents, such as those mentioned above, and the intended timing of the review of these documents will be included in the February 2008 Report.

The suggestions with regard to the merits of the possible use of the Oregon Model and other such methodologies for embracing community views, can also be considered during the scoping phase of the review process early in 2008.

Regarding the extent of consultation on such an initiative, the City would undertake the process in accordance with the City’s adopted Communication and Consultation Policy P103. The consultative methodologies listed in the Motion would be consistent with this Policy and supporting Management Practice with the exception of the “Telephone Poll”. However, at the time when the particular project consultative strategy is formulated this additional consultative mechanism can be considered.

The budget allocation to undertake this “City Visioning Project” in the current financial year is \$50,000.

COUNCIL DECISION ITEM 12.1

Moved Cr Doherty, Sec Cr Maddaford

That....

- (a) the Chief Executive Officer be requested to prepare a report for the Ordinary Meeting of Council to be held in February 2008 on “Visioning,” and the “Visioning Process” in relation to the 2008 reviews of, but not limited to the following:
- Town Planning Scheme;
 - Strategic Plan;
 - Connected Community Plan; and
 - Sustainability Strategy Action Plan
- (b) the “Visioning” include:
- (i) but not be limited to, public workshops, telephone polls, website and written surveys; and
- (b) all stakeholders including, but not limited to, residents, ratepayers, Elected Members and Council staff.

CARRIED (12/0)

12.2 Use of Temporary Staff : Cr Jamieson 13.9.2007
--

I hereby give notice that I intend to move the following motion at the Council Meeting to be held on 25 September 2007.

MOTION

Council requests the CEO to provide a briefing session before the October 2007 Council Meeting, and provide a report to the October 2007 Council Meeting covering the following issues:

- (a) with respect to use of temporary staff:
 - (i) please provide copies of all relevant policies, procedures, work instructions or other similar relevant documentation.
 - (ii) please provide a detailed description including officer responsibilities and CEO accountabilities of the processes used for:
 - (A) immediate and short-term temporary staff engagements and subsequent payments; and
 - (B) medium to long-term temporary staff engagements and subsequent payments;
 - (iii) please provide a detailed description including officer responsibilities and CEO accountabilities of the processes used when short-term temporary staff engagements continue to medium or long-term engagements
- (b) please provide similar information regarding other areas of City business processes for payments against goods and/or services where purchase orders are not used.

MEMBER COMMENT

Over a period of a year the processes behind use of temporary staff have gradually been divulged to Council with each new set of questions. This evolution includes:

1. Temporary staff costs rising from half a million dollars to one million dollars
2. Explanation that skills shortage is a key reason
3. Staff vacancy from January 2006 not advertised until October 2006, and similarly with another vacancy from March 2006 which is not consistent with the skills shortage response.
4. Tenders have not been called for supply of temporary staff services or for a panel for services. There was an attempt at producing a suitable tender but that was found by the CEO to be unsatisfactory.
5. The CEO commenced use of State Government Common Use Contracts for temporary staff.
6. The CEO advised he would bring a report to Council but that never occurred.
7. Following an agreed process, I have asked questions about Warrants of Payments but responses have been insufficient to fully answer the questions.
8. The CEO has declined my requests for copies of invoices.
9. Advice has been received the City does not use purchase orders for temporary staff.
10. Advice has been received that invoices for temporary staff are paid under the following conditions: *"Therefore, Financial Services does not have a PO or other info on staff transactions until will receive an authorised invoice for payment - which we then process if it appears to be authorised appropriately."*

This is not to say that anything is necessarily wrong. However, I do not consider it appropriate to sit back and hope all is OK. I have been asking suitable questions for approximately one year and would like to receive satisfactory responses when a half a million dollar variation occurs.

I want to find out that everything is in order. Currently I am not able to express my confidence that all is OK.

COMMENT CEO

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

The Administration does not support the Notice of Motion for the following reasons.

Respective Roles and responsibilities of Council and Administration

The Notice of Motion disregards the critical findings of the South Perth Inquiry Report, its recommendations and Council's subsequent actions to address the issues raised in the report which were subsequently endorsed by the Minister for Local Government.

The intent of the Motion is contrary to those findings of the Inquiry Report which detail a series of instances where Elected Members sought to become embroiled in administrative affairs.

In this instance, the Motion would seek to have Council become involved in "procedures", "work instructions", "other relevant documentation", "detailed descriptions of processes for staff engagements and payments", and "similar information and details of business processes where purchase orders are not used".

The Motion improperly seeks Council's involvement in areas that are the responsibility of the CEO. It is not the proper function of Council (or Councillors) to second-guess the CEO (or Administration) on how to conduct the day-to-day management of the City's affairs or direct it on how to perform routine clerical tasks.

Advice has been received on numerous occasions that the Council's role does not include involvement in matters such as those contained in the Notice of Motion. In essence, the Act provides for Council to perform a representative role and to be involved in "high level" strategic policy activities not in the detailed and mundane administrative tasks. Numerous references in the Inquiry Report and Recommendations make this very clear.

Recommendation 2 of the Inquiry Report was as follows:

- R2. Council ensure that elected members undertake elected member training, provided by a training provider approved by the Department of Local Government and Regional Development, particularly in matters relating to:
- (a) The role and powers of the Chief Executive Officer and Administration; and
 - (b) The role of Council and Councillors.

In support of the recommendation, the Department provided the following comments:

The Inquiry has noted that some Elected Members have a flawed understanding of their legal and ethical obligations as Councillors. The Inquiry considers that education is necessary to ensure Elected Members are aware of their roles and responsibilities, not only to the ratepayers and electors of the City, but to the local government and to the law.

Council supported the recommendation and embarked on Elected Member training sessions which involved a high profile CEO and Elected Member, a Director from WALGA, a Manager from the Corruption and Crime Commission and Department of Local Government representative. The advice provided by the CEO, Elected Member and WALGA Director all commented on the respective roles and responsibilities of Elected Members and the CEO.

Previous advice on the operation of the tender regulations

The intent of the Motion ignores previous advice provided to Cr Jamieson (and other councillors) concerning the proper operation of the tender regulations - see Councillors Bulletin Item 28 October 2006.

Previous advice on requests for information about warrants of payments and invoices etc.

The intent of the Motion ignores previous advice provided to Cr Jamieson (and other councillors) concerning his requests for invoices and details of warrants of payment - see CEO Memo dated 20 July 2007.

Previous allegation about hiring of temporary staff

Cr Jamieson has previously alleged that the CEO breached the City's tender policies in regard to hiring of temporary staff - see Item 11 of the 12 Matters - which allegation was dismissed by resolution of Council made on 24 July 2007.

Department of Local Government Compliance Audit Return

As with all local governments, the City is obliged by the *Local Government Act* each year to complete what is called a statutory Compliance Audit Return for lodging with the Department of Local Government. A whole chapter of the Return is devoted to checking compliance with tendering practices for the provision of goods and services. The Return has been completed and lodged for each of calendar years 2005 and 2006 and the City has received no adverse comment from the Department with respect to its tendering practices.

Annual External Financial Audit

Further, it is relevant that the most appropriate forum to identifying any weaknesses in internal control is through the audit process. It is very evident that the City is and has been the subject of comprehensive audits on all matters associated with purchasing and payment processes - indeed it is one of the primary areas of interest and a specific task of the external auditor. No matters of concern have been raised by the City's external auditors over any of the recent years' audits.

It is also of relevance to note that this general subject has been the subject of numerous questions by the Councillor (and by a member of the public) all of which have been answered in the public forum of council meetings. Further information has been provided directly to Councillors in the Bulletin.

Suggestion of improper management practices

Finally, it is noted that in the Member Comment, reference is made by the Member to 'when a half million dollar variation occurs'. No further explanation is given by the member as to the relevance or significance of this comment. The suggestion is vigorously denied - the facts (as described in the budget papers and annual audit) do not support the suggestion and in fact the City's expenditure on staff overall has come in under budget in recent years. The member is respectfully advised that if he wishes to pursue the matter he should take his complaint to the appropriate agency and that if he wants to raise the matter in the public forum of a council meeting he should provide the relevant facts to support his allegation.

Administrative costs

The administrative costs - in staff time and effort - in performing the various tasks set out in the Motion would be substantial and can not be justified generally or on the basis of the Councillor's comments.

Conclusion

The Administration does not support the motion for the reasons expressed and considers that it is not consistent with the fundamental division of statutory roles and responsibilities of Council and the Administration.

MOTION

Cr Jamieson moved his Motion at Item 12.2, Sec Cr Best

Point of Order

Prior to speaking for his Motion Cr Jamieson raised a point of order in relation to the CEO Comments at Item 12.2 as per pages 63 and 64 of the Agenda. He said that the CEO is there to provide a balanced report and by his comments he is entering into debate. Cr Jamieson asked the Mayor for a ruling.

Mayor Collins stated that the CEO Comments for Item 12.2 already form part of the Council Agenda and therefore this matter should now be debated.

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Jamieson opening for the Motion

- refer Member Comments 1 - 10 in relation to temporary staff issues
- not saying anything is necessarily wrong - not appropriate to sit back and hope all is OK
- have been asking suitable questions for approximately 1 year - would like satisfactory responses when a half a million dollar variation occurs.
- CEO advised he would bring a report to Council - never happened
- talking about temporary staff and other areas - 3% of Budget and 17 % of staff Budget
- talking \$1m a year being spent - want to know processes are there - want to see policies/procedures etc and feel comfortable
- want openness and visibility
- issue gone on for a long time
- refer Member Comments 1 - 10 - frustrating process

Note: Manager Environmental Health Services retired from the meeting at 8.09pm

- part (b) refers to processes of payments - not so we can interfere but to feel confident
- auditors randomly select items - not an internal audit - does not fulfil responsibilities
- not happy with CEO not providing a balance report
- support the Motion

Mayor Collins requested a comment from the Acting CEO

Acting Chief Executive Officer stated this matter has been the subject of numerous questions and information has been provided directly to Councillors via the Member Bulletin. He further stated that the Department of Local Government Compliance Audit Return resulted in no adverse comments being raised. In relation to the external financial audit he acknowledged that this process is used across the industry and is designed to try and capture any anomalies. In relation to the suggested \$1m over-run he said that the salary budget had been on target over the last 3 years. The Acting CEO reiterated that there has been a considerable amount of effort put into responding to this issue.

Cr Best for the Motion

- seconded Motion to promote debate
- when considering issues put myself in shoes of ratepayers
- would they think it OK for temporary staff costs to go from \$1/2m to \$1m - large discrepancy
- staff vacancies not advertised for a long time
- what type of processes do we have for appointing staff
- need to better manage it - not have a further blow out in temporary staff

- residents want to have confidence / openness and accountability
- response from CEO does not show openness and transparency
- is this Council open and transparent
- who is responsible for signing off on the Budget
- are we comfortable signing off on the Budget
- ask Members to think seriously about this
- support the Motion

Cr Gleeson against the Motion

- greatest shortage of reserves for this State is staff
- this State would be up and running if we had people to man jobs
- local governments have difficulties getting officers
- I was elected in 1978 - this matter never mentioned prior to the last 12 months
- temporary staff not a new thing - been around forever
- ratepayers would be shocked if we could not get temporary staff and the City ran to a halt
- City run by Administration - Council make decisions
- temporary staff problems have never been mentioned in my place of business
- lucky our officers can recruit temporary staff and keep administration ticking over
- not our job to criticize the CEO / staff on use of temporary staff
- would be annoying if we could not get temporary staff
- Motion is one of 'no confidence' in administration
- against the Motion

Cr Hearne against the Motion

- do not have a lot of sympathy in the way the matter has been handled
- aware/acknowledge separation of powers
- want CEO on notice that I will be dealing with this issue in next Budget
- next Budget will be limited to amount spent on temporary staff
- hopefully through that process we will get the reasons Cr Jamieson is seeking
- against the Motion

Mayor Collins put Members on notice for the future that staff are not to be criticized in Council meetings. He referred to the CEO's advice to this Council on the matter in response to questions raised and stated that if Members did not agree with the CEO's report then for this Council to act appropriately they would ask auditors to prepare a report on this matter and be briefed - that is basically what the CEO is saying. This Council has every right to ask for an auditor's report and look at their brief if there is a perception that there is something wrong. However, if you were to limit the use of temporary staff you could put the Council to a stand still.

Point of Order - Cr Best stated that Cr Gleeson was interjecting and using unsavoury language. The Mayor requested Cr Gleeson stop interjecting.

Cr Wells - point of clarification - where is criticism - Cr Jamieson states under point 10 *not necessarily anything wrong*. Staff vacancy from January 2006 not advertised until October 2006, and similarly vacancy from March not advertised for 3 months. Tenders have not been called - CEO commenced use of State Government Common Use Contracts for temporary staff. Understand CEO is responsible to this Council. Cr Jamieson is correct the CEO is answerable to us. Where is the criticism of CEO in Member comment?

Mayor Collins responded that the comments referred to were made during the debate.

Cr Ozsdolay against the Motion

- as heard from Acting CEO, the CEO has reported back on a number of occasions
- to imply that he has not is incorrect
- a lot of resources used on this matter
- concerns about amount of time spent on this matter
- member comments say “*not necessarily anything wrong*” then why keep pursuing
- could there be some improvements made - I guess so - for administration to decide
- refer briefing by CEO of Joondalup on roles of CEO and Councillors
- believe temporary staff is the CEO’s business
- spoke about signing off on the Budget - staff salaries came in under budget
- temporary staff not ideal - but came in under budget
- do not get down into the nitty gritty
- against the Motion

Cr Jamieson closing for the Motion

- deny saying budget ‘over-run’ - salaries budget varies from \$1/2m to \$1m
- issue is because there was a variation from \$1/2m to \$1m
- when has CEO informed us about staff - never came to Council
- questions - why has temporary staff spend gone that way - trying to get answers
- problem - points 1 - 10 - each bit is evolving one bit at a time
- no use of purchase orders - not able to express confidence

Point of Order - Cr Gleeson - item relates to temporary staff now it seems to be attacking the Director Financial Services.

Mayor Collins - point of order rejected. Not attacking the Director.

- evolution with each set of questions
- why did temporary staff blow out - answer skill shortage - agree - hard work getting to this point
- support Motion

COUNCIL DECISION ITEM 12.2

The Mayor put the Motion

Council requests the CEO to provide a briefing session before the October 2007 Council Meeting, and provide a report to the October 2007 Council Meeting covering the following issues:

- (a) with respect to use of temporary staff:
 - (i) please provide copies of all relevant policies, procedures, work instructions or other similar relevant documentation.
 - (ii) please provide a detailed description including officer responsibilities and CEO accountabilities of the processes used for:
 - (A) immediate and short-term temporary staff engagements and subsequent payments; and
 - (B) medium to long-term temporary staff engagements and subsequent payments;
 - (iii) please provide a detailed description including officer responsibilities and CEO accountabilities of the processes used when short-term temporary staff engagements continue to medium or long-term engagements
- (b) please provide similar information regarding other areas of City business processes for payments against goods and/or services where purchase orders are not used.

LOST (2/10)

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

13. QUESTIONS FROM MEMBERS WITHOUT NOTICE

13.1. RESPONSE TO PREVIOUS QUESTIONS FROM MEMBERS WITHOUT NOTICE

At the Council meeting held 28 August 2007 the following questions were taken on notice:

13.1.1 Cleanaway Pick ups - Time/Noise Issue : Cr Jamieson

Summary of Questions

1. Previously advised that Cleanaway have an agreement not to collect in residential areas before 7.00am. Is this a contract agreement ie what is nature of agreement?
2. Previously asked, and did not get an answer to: *Where in the City are there commercial centres more than 100m from residential properties where they start collections prior to 7.00am?*
3. Did Cleanaway empty bins along Melville Parade / Mary Street before 6.30am?

Summary of Response

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

1. The City has a contractual agreement with Cleanaway for the collection of waste and recycling bins throughout the City.
2. On the 28 June 2007 you requested that Cleanaway provide a list of commercial centres in which they start prior to 7.00 am. The City responded on 6 July 2007 confirming that Cleanaway service rubbish and recycling bins prior to 7.00am in commercial areas and major roads within the City where there is minimal impact on residential areas. A list has now been requested and will be provided by Cleanaway as soon as possible. Upon receipt of the listings, an assessment will be undertaken to determine the distance to residents.
3. There are no specific dates or days mentioned in your question, however, in accordance with Cleanaway's bin servicing procedure it may be possible that a Cleanaway vehicle serviced bins on Mary Street/Melville Parade, Como. It is noted that no complaints have been received from residents in the Mary Street/Melville Parade area.

13.2 QUESTIONS FROM MEMBERS WITHOUT NOTICE 25.9.2007

13.2.1 Cleanaway Pick ups - Time/Noise Issue : Cr Jamieson

Summary of Questions

Cr Jamieson referred to the following question, asked at the August Council meeting and to the response received and stated that the specific date in relation to this question was **21 August 2007.**

3. Did Cleanaway empty bins along Melville Parade / Mary Street before 6.30am?

Summary of Response

The Mayor confirmed that the information would be passed on.

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

Nil

STATEMENT BY THE MAYOR - CHANGE TO ORDER OF BUSINESS (8.31pm)

Before closing the Meeting to the public the Mayor advised Members that the advice received in relation to Items 15.1.3 and 15.1.4, where Councillors Smith and Jamieson have declared an interest, is that these items can be withdrawn from Section 15.1 *Matters for which the Meeting May be Closed* and discussed in the public form. He said it was extremely important that Council is transparent and that there is no reason for these matter not to be debated publicly and individually. Council could however, vote for them to be moved into confidential business if it wished.

DECLARATION OF INTEREST : ITEM 15.1.3 : CR SMITH

"I wish to declare a Financial Interest in Confidential Item 15.1.3 "Application for Legal Representation" on the Agenda for the Ordinary Council Meeting on 25 September 2007.

I have sought legal advice and representation in relation to my response to the Inquiry conducted by the Department of Local Government and Regional Development and in view of this I will leave the Council Chamber and not participate in the discussion on this item."

Note: Cr Smith left the Council Chamber at 8.31pm

MOTION

Cr Jamieson moved that Item 15.1.3 "Application for Payment of Legal Costs" be dealt with under *Confidential* business.

The Motion Lapsed for wanted of a Seconder.

(LAPSED)

15.1.3 Application for Payment of Legal Cost (Item 15.1.1 referred August 2007 Meeting)
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Location:	City of South Perth
File Ref:	LS/103
Date:	11 September 2007
Author:	Sean McLaughlin, Legal and Governance Officer
Reporting Officer:	Cliff Frewing, Chief Executive Officer

Summary

Cr Smith has made an application to Council pursuant to the City of South Perth Legal Representation Policy P519, for the payment by the City of legal costs incurred by him in March 2007 for legal advice he obtained concerning adverse comments made about him by the Department of Local Government in its Inquiry Report 2007.

The application was the subject of a report to Council in August 2007. Council resolved at its August meeting to seek independent legal advice prior to making a determination on the application.

Independent legal advice, having now been obtained, confirms the advice provided to Council in August and concludes that Council cannot lawfully reimburse Cr Smith's legal expenses. **Confidential Attachment 15.1.3** refers.

Background

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

The Terms of Reference for the inquiry were as follows:

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

By 20 February 2007, the Authorised Person conducting the Inquiry advised that the Inquiry had progressed to its natural justice phase, where copies of sections of the draft report that contain possible adverse comments were provided to those persons concerned to enable them to have their views considered by the Inquiry prior to the finalisation of the Report. The Authorised Person noted that the sections containing possible adverse comments contained preliminary findings and the views of the Inquiry and, upon taking other views into consideration, these could be changed.

The period for a person wishing to make a submission to the Inquiry in response to possible adverse comments was extended in the case of Cr Smith from 7 March to 21 March 2007.

The Final Inquiry Report was publicly released on 10 May 2007.

The Inquiry Report made 15 Findings, most of which made adverse comments about the behaviour of Cr Smith.

At its ordinary meeting of 26 June 2007, Council resolved at Item 12.3 that if Cr Smith wished to pursue his claim for legal expenses he should do so in accordance with Policy P519.

The Department of Local Government wrote to Councillors on 26 June in relation to Item 12.3 and noted that although each Elected Member was entitled to natural justice in the Inquiry process, however, this did not lead to the conclusion that this should automatically result in the City being liable for the cost of such advice. The Department noted that the City had a policy on the funding of legal expenses.

Cr Smith has now made an application to Council pursuant to the City's Legal Representation Policy P519 to pay him \$3,976.20 for legal costs which he has incurred in obtaining advice.

A copy of Cr Smith's application was provided to Councillors with the August report and is not attached to this report.

Comment

The City's Legal Representation Policy P519, which was adopted by Council in October 2006, is based closely on the Department of Local Government's Operational Guideline No. 14 - Legal Representation for Council Members and Employees. As Policy P519, consistently with the Departmental Guideline explains, the rationale for the policy is to enable a local government to provide legal assistance to councillors and employees, in those rare circumstances, where in the course of their duties they are exposed to legal action initiated by an aggrieved party who believes that they have not carried out their statutory duties in a correct or appropriate manner.

Cr Smith's application does not fall within the scope of this rationale which provides the basis for the policy. A copy of Policy P519 was provided to councillors with the August report and a copy is not attached to this report.

Criteria for approving legal representation application

The City's Legal Representation Policy P519 mandates four criteria which must be satisfied before Council can approve an application for the payment of a councillor's legal costs:

- (i) the legal representation costs must relate to a matter that arises from the performance, by the member, of his or her functions;
- (ii) the legal representation costs must be in respect of legal proceedings that have been, or may be, commenced;
- (iii) in performing his or her functions, to which the legal representation relates, the member must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
- (iv) the legal representation costs do not relate to a matter that is of a personal or private nature.

On the basis of the details contained in the application, it appears that the legal costs relate to advice which was obtained in the 'natural justice' period of the Inquiry during March 2007 and which presumably concerned the preparation of Cr Smith's response to the adverse comments contained in the draft report. Clearly the application does not relate to legal proceedings existing or in prospect and accordingly does not satisfy the second criteria.

Upon a consideration of the circumstances of the Inquiry and in particular the 15 findings most of which were unequivocally adverse in their commentary on the conduct of Cr Smith, Council may conclude that his application does not satisfy the third criteria either. 'Improper conduct' is defined in Policy P519 to mean "a breach of the standards of conduct that a reasonable person would expect of a person knowing their duties, powers and authority".

Council could reasonably come to this conclusion on the basis of the following Inquiry Report Findings:

- The Inquiry Report - Finding 2, found that Cr Smith attempted to influence a City officer to issue a demolition licence and in doing so, attempted to obtain a benefit or advantage for a person, contrary to clause 2.11 of the City of South Perth Code of Conduct. When elected, councillors make a declaration, required under section 2.29 of the Act, to act with integrity and to observe the Code of Conduct which has been adopted by the City.
- The Inquiry Report - Findings 1, 3, 8, and 11, found that none of Cr Smith's repeated allegations of City officers acting improperly, of lying or of destroying documents were substantiated.
- The Inquiry Report - Finding 15, found that "Cr Smith used his position as councillor to orchestrate and implement a personal and improper campaign of attacks against the professional and personal integrity of a staff member."

Under clause 5 of the Legal Representation Policy, Council may determine that a council member has not acted in good faith or has acted in a way that constitutes improper conduct, and that a determination under clause 5 may be made on the basis of and consistent with the findings of an authorised inquiry conducted pursuant to Part 8 of the Act.

Repayment of legal representation costs

Under clause 3.6 of P519, an application must be accompanied by a statement signed by the applicant in which he:

- (a) states that he has read and understood the terms of this Policy;
- (b) acknowledges that any approval of legal representation costs is conditional on the repayment provisions of clause 6 and any other conditions to which the approval is subject; and
- (c) undertakes to repay to the City any legal representation costs in accordance with clause 6.

Cr Smith has provided a signed statement in accordance with the requirement of sub-clause (a), but has not provided a signed statement in accordance with sub-clauses (b) and (c).

Is the expenditure within the scope of the local government's function?

Section 3.1 of the Act provides that the general function of a local government is to provide for the good government of persons in its district. Section 6.7(2) provides that money held in the municipal fund may be applied towards the performance of the functions and the exercise of the powers conferred on the local government by the Act or any other written law. Under these provisions a local government can expend funds to provide legal representation for council members and employees as long as it believes that the expenditure falls within the scope of the local government's function.

When in March 2007 Council adopted a resolution to pay the legal expenses of any councillor who wished to engage a lawyer, legal advice which was subsequently obtained, determined that Council's resolution was unlawful, and also noted that Policy P519 was required to be taken into account and properly considered by Council in determining matters of the kind presently under discussion. A copy of this advice was provided to councillors in April and is not attached to this report.

Conclusion

For the reasons outlined above, the Administration is of the firm view that the application should not be approved. This conclusion is reached, firstly, on the basis that the criteria in P519 have not been satisfied, and secondly, that Council would be acting contrary to sections 3.1 and 6.7 (2) of the Act if it otherwise chose to approve the application.

Miscellaneous

Should Council resolve to approve the application, Cr Smith would need to obtain a properly documented statement of account from Lavan Legal which detailed the time spent and the identity of the legal practitioner who provided the service for each item on the account and the hourly fee of that practitioner.

City's Code of Conduct

Clause 3.5 of the City's Code of Conduct states that decisions of Council will generally be consistent with the policies of Council. Members may resolve to vary from council-approved policies in specific cases where it is deemed appropriate. Where Council does resolve to vary from council-approved policies Council will provide reasons for the variation from the policy and the reasons will be recorded in the Minutes

Consultation

Independent legal advice which was obtained from McLeods Lawyers is attached at **Confidential Attachment 15.1.3**. That advice confirms the advice provided in the officer's report to Council for the August meeting and concludes that Council cannot lawfully reimburse Cr Smith's legal expenses incurred in relation to the departmental inquiry.

Policy and Legislative Implications

The policy and legislative implications are described in this report.

Financial Implications

Nil.

Strategic Implications

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

OFFICER RECOMMENDATION ITEM 15.1.3

That Council, having considered the application for payment of legal costs, in accordance with the City's Legal Representation Policy P519, the provisions of the *Local Government Act*, and the independent legal advice from McLeods Lawyers, has decided to refuse the application.

MOTION

Cr Ozsdolay moved the officer recommendation. Sec Cr Cala

FORESHADOWED MOTION

Cr Jamieson foreshadowed he would be moving the following Motion if the current Motion is Lost.

That....

- (a) the officer recommendation not be adopted;
- (b) legal fees requested by Cr Smith in *Confidential Attachment 15.1.3* be paid by the City;
- (c) Cr Smith be reminded that if Council subsequently determines that Policy P519 clause 5.5 applies, then the money may be reclaimed as per Policy P519 clause 6; and
- (d) Policy P519 be referred to the Audit and Governance Committee to add an alternate to clause 1(b) to allow a Council Member or City employee to also be able to seek legal advice on the <pending - word to be determined> by the Department of Local Government and Regional Development.

**OFFICER RECOMMENDATION AND
COUNCIL DECISION ITEM 15.1.3**

The Mayor put the Motion

That Council, having considered the application for payment of legal costs, in accordance with the City's Legal Representation Policy P519, the provisions of the *Local Government Act*, and the independent legal advice from McLeods Lawyers, has decided to refuse the application.

CARRIED (9/2)

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

Note: Cr Smith returned to the Council Chamber at 8.49pm.

DECLARATION OF INTEREST : ITEM 15.1.4 : CR JAMIESON

"I wish to declare a Financial Interest in Agenda Item 15.1.4 for the Council Meeting on 25 September 2007. I will leave the Chamber and not participate in debate on the Agenda Item relating to my application for payment of legal fees for legal representation."

DECLARATION OF INTEREST : ITEM 15.1.4 : CR BEST

"I wish to declare a financial interest regarding Confidential Item 15.1.4 and I will therefore leave the Council Chamber so as to not participate in, or be present during any discussion or decision-making procedure relating to the matter. The nature of the interest relates to my possible application for legal representation in relation to Council Meeting 12.3.2007 Item 11.2 Legal Fees for Cr Smith."

Note: Crs Jamieson and Best left the Council Chamber at 8.50pm

Note: For the benefit of the public gallery who did not have a copy of item 15.1.4, the Mayor read aloud the 'summary' and 'background' text from report.

15.1.4 Application for Legal Representation
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Location:	City of South Perth
Applicant:	Cr Jamieson
File Ref:	LS/103
Date:	20 September 2007
Author:	Sean McLaughlin, Legal and Governance Officer
Reporting Officer:	Glen Flood, A/Chief Executive Officer

Summary

Cr Jamieson has made an application to Council pursuant to the City of South Perth Legal Representation Policy P519, for the payment by the City of legal costs which may be incurred by him in seeking legal advice and representation in relation to the Department of Local Government's consideration of undertaking prosecution proceedings concerning the allegation that Cr Jamieson has breached the financial provisions of the *Local Government Act*.

Background

Cr Jamieson, along with other Councillors, participated in a March 2007 Council Agenda item in which Council resolved to make payment of the legal expenses of Councillors who were the subject of adverse findings in the Department of Local Government's Report of its Inquiry into the City of South Perth published earlier this year. Although ostensibly the intention of the resolution appeared to concern Cr Smith only, by its terms it applied to other Councillors as well. The City subsequently obtained legal advice which concluded that the resolution was unlawful and could not be implemented. In addition, the advice stated that it was likely that each Councillor who participated in the matter had a financial interest and should not have participated in the decision-making process without appropriate amendments to the resolution or a determination by the Minister under section 5.69 of the Act. This advice, dated 3 April 2007, was provided to Councillors as an attachment to the Councillors' Bulletin dated 5 April 2007.

A determination from the Minister was subsequently obtained after Councillors made a disclosure of a financial interest in the matter for the purposes of revoking the March 2007 resolution. At subsequent meetings of Council, some Councillors including Cr Jamieson made qualified statements of disclosure - refer example of the disclosures recorded at Agenda Item 11.1 at the April 2007 ordinary meeting of Council.

Cr Jamieson subsequently received a letter from the Department dated 7 August 2007 advising him that in its assessment he had breached the financial provisions of the Act by failing to disclose a financial interest in relation to "Item 11.2 Department of Local Government Inquiry - Legal Fees of Cr Smith 12.3.2007." The letter requested that Cr Jamieson respond to its assessment which he apparently did by letters dated 24 and 26 August 2007. The City does not have copies of those letters. The Department wrote to Cr Jamieson again on 29 August 2007 and advised him that its position remained unchanged notwithstanding Cr Jamieson's correspondence and further advised him that as it was considering undertaking prosecution proceedings in the matter, his request for a meeting with the Acting Director General, Mr Quentin Harrington, was not considered appropriate. The letters from the Department are at **Confidential Attachment 15.1.4(a)**.

Cr Jamieson emailed an application to the CEO on 12 September 2007 in accordance with the City's Legal Representation Policy P519. The application seeks funding in the sum of \$27,500 covering payment for advice, preparation of defence and trial representation concerning the matters outlined in the Department's letters.

A copy of Cr Jamieson's application is at **Confidential Attachment 15.1.4(b)**

Comment

The City's Legal Representation Policy P519, which was adopted by Council in October 2006, is closely based on the Department of Local Government's Operational Guideline No. 14 - Legal Representation for Council Members and Employees. As Policy P519, consistently with the Departmental Guideline explains, the rationale for the policy is to enable a local government to provide legal assistance to councillors and employees, in those rare circumstances, where in the course of their duties they are exposed to legal action initiated by an aggrieved party who believes that they have not carried out their statutory duties in a correct or appropriate manner.

Cr Jamieson's application does not appear to fall within the scope of this rationale which provides the underlying principles for the application of the policy. As a copy of Policy P519 has been previously provided to Councillors in relation to the current application from Cr Smith, a further copy is not attached to this report. The essential criteria and procedural aspects of the policy are outlined below.

Criteria for approving legal representation application

Policy P519 mandates four criteria which must be satisfied before Council can approve an application for the payment of a councillor's legal costs:

- (i) the legal representation costs must relate to a matter that arises from the performance, by the member, of his or her functions;
- (ii) the legal representation costs must be in respect of legal proceedings that have been, or may be, commenced;
- (iii) in performing his or her functions, to which the legal representation relates, the member must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and
- (iv) the legal representation costs do not relate to a matter that is of a personal or private nature.

The Application

Under clause 3.3, the application must give details of –

- (a) the matter for which legal representation is sought;
- (ii) how that matter relates to the functions of the member or employee making the application;
- (iii) the nature of the legal representation being sought (such as advice, representation in court, preparation of documents etc);
- (iv) the lawyer (or law firm) who is to be requested to provide the legal representation;
- (v) an estimate of the cost of the legal representation; and
- (vi) why it is in the interests of the City for payment to be made.

Repayment of legal representation costs

Under clause 3.6, an application must be accompanied by a statement signed by the applicant in which he:

- (a) states that he has read and understood the terms of this Policy;
- (b) acknowledges that any approval of legal representation costs is conditional on the repayment provisions of clause 6 and any other conditions to which the approval is subject; and
- (c) undertakes to repay to the City any legal representation costs in accordance with clause 6.

Expenditure properly within the scope of the local government's function

Section 3.1 of the Act provides that the general function of a local government is to provide for the good government of persons in its district. Section 6.7(2) provides that money held in the municipal fund may be applied towards the performance of the functions and the exercise of the powers conferred on the local government by the Act or any other written law. Under these provisions Council can expend funds to provide legal representation for council members and employees as long as it believes that the expenditure falls within the scope of the local government's functions.

Independent legal advice

The City has obtained independent legal advice from McLeods Lawyers to assist Council in its deliberations on this matter. That advice is attached at **Confidential Attachment 15.1.4 c**.

Legal Representation Policy Criteria

In essence, the advice from McLeods concludes that notwithstanding that the application satisfies the criteria in sub-clauses 1(a), (b) and (d) of Policy P519, at this stage there is insufficient information before Council to support a conclusion that sub-clause 1(c) is satisfied. This position is reached on the basis that there is no information to support a conclusion that Cr Jamieson did not act unlawfully. This being the case, Council may reasonably conclude that the application fails to meet the criteria in sub-clause 1(c) because Council cannot be satisfied that Cr Jamieson has not acted unlawfully.

On this basis it would be open to Council to decline the application at this stage but leave it open to Cr Jamieson to reapply if and when he provides Council with information that would allow it to conclude that he may not have acted unlawfully, or the matter is determined in his favour by a court.

Good governance principles

Furthermore, the legal advice notes that Council could not lawfully approve the application unless satisfied on reasonable grounds that the expenditure of public funds to pay for Cr Jamieson's legal representation costs would be for the good government of the City. As noted in the advice, the circumstances in which Cr Jamieson's need for financial assistance has arisen are critical to Council's deliberation on this question.

Cr Jamieson is facing prosecution action because of his behaviour *subsequent* to the March 2007 Council meeting - it is this behaviour which distinguishes his position from those Councillors who participated in the March meeting but who have subsequently made unequivocal financial interest disclosures.

As the advice concludes on this point, it would not be in the City's best interests to provide funding for an Elected Member for a matter that arose simply because that Member chose to act contrary to the advice (already sought and funded by the City and which advice is consistent with that obtained by the Department), and then to rely instead on his own idiosyncratic view of the matter.

For the City to give financial assistance in these circumstances, it is not unreasonable to expect that the Elected Member should satisfy Council that he had a rational and reasonable basis for declining to follow these advices.

Security Agreement

If Council, upon consideration of the matters outlined in this report, resolves to approve the application, as the custodian of the City's funds, Council should impose as a condition of any approval under the Legal Representation Policy and consistently with clause 5.2 of that policy, a requirement that the recipient of any funds provides appropriate security or enters a legally binding agreement to repay costs to the City in the event that any of the

circumstances described in clause 6.1 occur. The application estimates that the legal expenses involved would cost the City \$27,500 at a minimum, however there is no guarantee that the conduct of the proceedings would not cost considerably more.

Conclusion

For the reasons outlined above and for the reasons outlined in the McLeods advice, the Administration is of the view that the application should not be approved. This conclusion is reached, firstly, on the basis that not all the criteria in P519 have been satisfied, and secondly, that Council would be acting contrary to sections 3.1 and 6.7 (2) of the Act if it otherwise resolved to approve the application.

Public Disclosure

The question of whether applications for legal representation should be confidential was recently raised at a Council meeting. The City sought advice on this question and the answer (which is contained within the McLeods advice referred to above) suggests that in the absence of any of the exceptions set out in section 5.23(2) of the Act, the Council meeting should be open to the public. The advice suggests that none of the matters set out in section 5.23(2) are likely to be present in applications of the kind under consideration and therefore they should be debated in open Council Meetings.

The conclusion is reinforced by the fact that one of the essential criteria which an applicant must meet under Policy P519, is that the matter for which legal representation is sought does not relate to a matter that is of a personal or private nature.

In recognition of the principles seeking greater accountability of local governments to their community and better decision-making by local governments, which principles are set out in section 1.3 (2) of the Act, the Administration recommends that the Council meeting may remain open to members of the public when this Agenda Item is reached.

Consultation

A copy of this report has been forwarded to the Department of Local Government in accordance with Recommendation R5 of the Department's Inquiry Report 2007, which provides for the monitoring of Council meetings by the Department.

Policy and Legislative Implications

The policy and legislative implications are described above.

Financial Implications

If the application is approved, the amount which Council determines be paid.

Strategic Implications

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

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 15.1.4
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Moved Cr Gleeson, Sec Cr Cala

That Council, having considered the application for legal representation at **Attachment 15.1.4(b)**, in accordance with Policy P519, has decided to refuse the application.

CARRIED (9/1)

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

Note: Crs Jamieson and Best returned to the Chamber at 9.18pm

15. MEETING CLOSED TO PUBLIC

15.1 Matters for which the Meeting May be Closed. (9.18pm)

MOTION

Moved Cr Maddaford, Sec Cr Hearne

That the meeting be closed to the public at 9.18pm in accordance with the *Local Government Act Sections 5.23(2)(a) and 5.23(2)(d)* while Items 15.1.1, 15.1.2 and 15.1.5 are discussed as they relate to matters affecting an employee, and legal advice obtained.

Cr Jamieson point of clarification (*re representative from the DoLG permitted to remain in the gallery*) - What holds priority Standing Orders Local Law or a Motion passed at a previous Council meeting? Is this a breach of the Standing Orders Local Law?

Note: Cr Doherty left the Council Chamber at 9.21pm

Mayor Collins stated that he believed that Council's decision to invite the Department of Local Government to attend over-rides the Local Law. Council has maintained that the Department of Local Government attend meetings and deemed that they remain in the Council Chamber during *Confidential* matters.

Note: Cr Doherty returned to the Council Chamber at 9.23pm

Cr Jamieson against the Motion

There is a person sitting in the Chamber that I do not know - not appropriate to support the Motion until I know who he is.

COUNCIL DECISION : MEETING CLOSED TO THE PUBLIC

The Mayor put the Motion

That the meeting be closed to the public at 9.18pm in accordance with the *Local Government Act Sections 5.23(2)(a) and 5.23(2)(d)* while Items 15.1.1, 15.1.2 and 15.1.5 are discussed as they relate to matters affecting an employee, and legal advice obtained.

CARRIED (11/1)

Note: The following staff and members of the public gallery, with the exception of Mr Geoff Defrenne, left the Council Chamber at 9.24pm.

Mr S Cope	Director Strategic and Regulatory Services
Mr M Kent	Director Financial and Information Services
Mr I Croxford	Acting Director Infrastructure Services
Ms D Gray	Manager Financial Services
Mr C Buttle	Manager Development Assessment
Mr R Bercov	Strategic Urban Planning Adviser
Mr S McLaughlin	Legal and Governance Officer
Ms R Mulcahy	City Communications Officer

The Mayor asked Mr Defrenne to leave the Council Chamber. Mr Defrenne remained in the public gallery and asked for clarification in relation to the *Act* on the ruling that the representative from the DoLG be permitted to remain.

MOTION

Moved Cr Smith, Sec Cr Cala

That Mr Geoff Defrenne be asked to leave the Council Chamber.

CARRIED (12/0)

Note: The Officer from the Department of Local Government remained in the Chamber. Mr Defrenne left the Council Chamber and the doors were closed at 9.25pm

15.1.1 Recommendations from CEO Evaluation Committee Meeting (9.25pm)

Location: City of South Perth
Applicant: Council
File Ref: GO/107
Date: 6 September 2007
Author: Kay Russell
Reporting Officer: Cliff Frewing, Chief Executive Officer

Confidential

This report has been designated as ***Confidential*** under the *Local Government Act* Sections 5.23(2)(a) as it relates to a matter affecting an employee.

Note: Report circulated separately

MOTION

Moved Cr Ozsdolay, Sec Cr Gleeson

That Council adopt the following Recommendation of the CEO Evaluation Committee Meeting of 5 September 2007:

- (a) the Report from Kellehan Saunders (***Confidential Attachment 4.1***) for the Assessment of the CEO KPI's for the 2006/2007 period be noted;
- (b) the evaluation process continue consistent with Model 2, as adopted at Item 13.1.1(d) of the Minutes of the Council Meeting 24 April 2007, and be presented to a Special Council meeting at a date to be determined; and
- (c) subject to the CEO's concurrence, the Committee accept the expedited on-line process as recommended by Consultants, Kellehan Saunders.

AMENDMENT

Moved Cr Smith, Sec Cr Wells

That part (b) be amended to include the additional words in *italics*:

- (b) the evaluation process continue consistent with Model 2, as adopted at Item 13.1.1(d) of the Minutes of the Council Meeting 24 April 2007, *and that the report on the 360° feedback component of Model 2 (which involves feedback from 'direct reports' and Elected Members), separates Elected Member and Officer feedback,* and this be presented to a Special Council meeting at a date to be determined; and

The Mayor put the Amendment.

CARRIED (9/3)

COUNCIL DECISION ITEM 15.1.1 * Revoked December 2007 Council Meeting at Item 15.1.2

The Mayor put the Amended Motion

That....

- ~~(a) the Report from Kellehan Saunders (***Confidential Attachment 4.1***) for the Assessment of the CEO KPI's for the 2006/2007 period be noted;~~
- ~~(b) the evaluation process continue consistent with Model 2, as adopted at Item 13.1.1(d) of the Minutes of the Council Meeting 24 April 2007, and that the report on the 360° feedback component of Model 2 (which involves feedback from 'direct reports' and Elected Members), separates Elected Member and Officer feedback, and this be presented to a Special Council meeting at a date to be determined; and~~
- ~~(c) subject to the CEO's concurrence, the Council accept the expedited on line process as recommended by Consultants, Kellehan Saunders.~~

CARRIED (11/1)

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

15.1.2 Moylan Proceedings - Legal Costs (9.40PM)

Location: South Perth
Applicant: Council
File Ref: LS/103
Date: 7 September 2007
Author: Sean McLaughlin, Legal and Governance Officer
Reporting Officer: Cliff Frewing, Chief Executive Officer

Confidential

The CEO has designated this report confidential under section 5.23 of the *Local Government Act* as it relates to the personal affairs of a person and deals with legal advice which relates to a matter which will be discussed at the meeting.

Note: Report circulated separately

**OFFICER RECOMMENDATION AND
COUNCIL DECISION ITEM 15.1.2**

Moved Cr Doherty, Sec Cr Hearne

That....

- (a) *Confidential* report Item 15.1.2 of the September 2007 Council Agenda be received; and
- (b) Council resolves to take no further action in relation to the costs incurred in defending the proceedings as outlined in the report.

CARRIED (12/0)

15.1.5 Notice of Motion from Cr Jamieson with respect to Agenda Item 15.1.1 of the Council Meeting held 28 August 2007 : 19.9.2007

I hereby give notice that I intend to move the *Confidential* Motion concerning Item 15.1.1 of the August Council Meeting (circulated separately) at the Council Meeting to be held on 25 September 2007.

COUNCIL DECISION ITEM 15.1.5

Moved Cr Jamieson, Sec Cr Best

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

CARRIED (8/4)

NOTE: MAYOR COLLINS AND CRS GLEESON AND OZSDOLAY REQUESTED THAT THEY BE RECORDED AS HAVING VOTED AGAINST THE MOTION

COUNCIL DECISION : MEETING OPEN TO THE PUBLIC

Moved Cr Ozsdolay, Sec Cr Trent

That the meeting be again open to the public at 9.58pm

CARRIED (12/0)

15.2 Public Reading of Resolutions that may be made Public.

For the benefit of the two members of the public that returned to the Council Chamber the Council Resolutions for Items 15.1.1 and 15.1.2 were read aloud by the Mayor and Item 15.1.5 was read aloud by the Minute Secretary.

16. CLOSURE

The Mayor closed the meeting at 10.02pm and thanked everyone for their attendance.

DISCLAIMER

The minutes of meetings of the Council of the City of South Perth include a dot point summary of comments made by and attributed to individuals during discussion or debate on some items considered by the Council.

The City advises that comments recorded represent the views of the person making them and should not in any way be interpreted as representing the views of Council. The minutes are a confirmation as to the nature of comments made and provide no endorsement of such comments. Most importantly, the comments included as dot points are not purported to be a complete record of all comments made during the course of debate.

Persons relying on the minutes are expressly advised that the summary of comments provided in those minutes do not reflect and should not be taken to reflect the view of the Council. The City makes no warranty as to the veracity or accuracy of the individual opinions expressed and recorded therein.

These Minutes were confirmed at a meeting on 16 October 2007

Signed _____
Chairperson at the meeting at which the Minutes were confirmed.