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ORDINARY COUNCIL MEETING

**Minutes of the Ordinary Meeting of the City of South Perth Council
held in the Council Chamber, Sandgate Street, South Perth
Tuesday 25 November 2008 at 7.05pm**

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Mayor opened the meeting at 7.05pm and welcomed everyone in attendance. He then paid respect to the Noongar people, custodians of the land we are meeting on and acknowledged their deep feeling of attachment to country.

2. DISCLAIMER

The Mayor read aloud the City's Disclaimer.

3. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

3.1 Activities Report Mayor Best

Mayor's Activities Report for the month of October attached to the back of the Agenda.

3.2 Audio Recording of Council meeting

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.

3.3 Foreshadowed Motion of Condolence Agenda Item 14

The Mayor, on behalf of the City expressed condolences to the family and the City of Swan on the sudden death of Mayor Charlie Gregorini and foreshadowed he would be moving a Motion to this effect at Item 14 on the Agenda.

3.4 Withdrawal of Agenda Item 10.3.3

The Mayor advised that at the request of the applicant, Agenda Item 10.3.3 "Development No. 6 Parker Street" is withdrawn and will be presented to the December Council Meeting.

4. ATTENDANCE

Present:

Mayor J Best

Councillors:

G W Gleeson	Civic Ward
I Hasleby	Civic Ward
P Best	Como Beach Ward
B Hearne	Como Beach Ward
T Burrows	Manning Ward
L P Ozsdolay	Manning Ward
C Cala	McDougall Ward
R Wells, JP	McDougall Ward
R Grayden	Mill Point Ward
D Smith	Mill Point Ward
S Doherty	Moresby Ward
K R Trent, RFD	Moresby Ward

Officers:

Mr C Frewing	Chief Executive Officer
Mr S Bell	Director Infrastructure Services
Mr S Cope	Director Development and Community Services
Mr M Kent	Director Financial and Information Services
Mr S Camillo	Manager Environmental Health and Ranger Services(until 7.58pm)
Ms D Gray	Manager Financial Services
Mr R Kapur	Manager Development Assessment
Mr N Kegie	Manager Community, Culture and Recreation (until 8.38pm)
Mr R Bercov	Strategic Urban Planning Adviser
Mr S McLaughlin	Legal and Governance Officer
Ms R Mulcahy	City Communications Officer
Mrs K Russell	Minute Secretary

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

4.1 Apologies

Nil

4.2 Approved Leave of Absence

Nil

5. DECLARATION OF INTEREST

The Mayor reported that a Declaration of Interest had been received from Cr Doherty in relation to Item 10.3.4. He further stated that in accordance with *Local Government (Rules of Conduct) Regulations 2007* that the Declaration would be read out immediately before the Item in question was discussed.

6. PUBLIC QUESTION TIME

6.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the Council meeting held 28 October 2008 the following questions were taken on notice:

6.1.1 Mr John Stewart, 7 Keaney Place, Waterford

Summary of Question

Has any consideration by the City been given to the current ingress or egress at the Conlon Street junction either by closure or any other manner? Has Main Roads made any approach to the City along similar lines?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 10 November 2008, a summary of which is as follows:

Manning Road is classified as a District Distributor Road within the State Road Hierarchy. All works associated with the construction and maintenance of Manning Road is undertaken by the City of South Perth, however the responsibility for the upgrade and maintenance of traffic signals is the responsibility of Main Roads Western Australia being the regulatory authority.

No consideration has been given to modifying the Conlon Street / Townsing Drive intersection with Manning Road and certainly any form of closure may strongly be resisted by all three institutions having access to the intersection ie CSIRO, Curtin University and Clontarf Campus, as well as the property owners within the "triangle" off Manning Road and in particular Conlon Street. Therefore, any proposal would be subject to an extensive community consultation process and the recommendation to close the intersection would require a resolution of Council.

Finally, Main Roads Western Australia have not raised any concerns with the intersection and hence the City is not aware of any proposal to close Conlon Street at Manning Road.

6.1.2 Mr Geoff Defrenne, 24 Kennard Street, Kensington

Summary of Question

In report Item 10.5.4 it states there have been six successful appeals against the City in the last 18 months. How many unsuccessful appeals against the City have there been?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 5 November 2008, a summary of which is as follows: There have been two unsuccessful appeals.

6.1.3 Mr Barrie Drake, 2 Scenic Crescent, South Perth

Summary of Question

In relation to the second question I asked earlier, perhaps it should be framed to read: *Could you advise the legal costs with respect to Drake vs City of South Perth?*

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 10 November 2008, a summary of which is as follows:

The City incurred legal costs of \$22,751.49 for the matter of Drake vs. City of South Perth.

6.2 PUBLIC QUESTION TIME : 25.11.2008

Opening of Public Question Time

The Mayor advised that Public Question Time would be limited to 15 minutes, that questions, not statements, must relate to the area of Council's responsibility and requested that speakers state their name and residential address. The Mayor then opened Public Question Time at 7:10pm.

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

Summary of Question

Last month I asked how much had the City spent on legal costs in the matter of Drake vs City of South Perth . The answer received was \$22,751.49. My research shows that this figure is not correct. I am trying to establish the total cost of this matter to the City and therefore the ratepayers of the City of South Perth. I have spent in excess of \$34,000 proving that the development at 11 Heppingstone Street has been overbuilt by approximately 30%. I have incurred these costs since 2002. During the past 5 to 6 years I have asked many questions about the development at No. 11 Heppingstone Street with almost as many incorrect answers. It is hard to get information if the person responding to the questions is trying their best not to provide that information.

The information I am trying to obtain from Council is: The total cost to the City associated with the overbuilding of the site ie legal costs paid to McLeods, Minter Ellison, Jackson McDonald, Kott Gunning etc as well as the dollar value of the hours spent by officers etc. I believe this information should be provided to the ratepayers and elected members.

Summary of Response

The Mayor stated that this Council prides itself on being open and transparent. He said the issue in question goes back to 2002 and long before the current Councillors were part of the decision-making process. He further advised that it would be very difficult to track the amount of officers' time put into this issue.

The Chief Executive Officer said that in relation to comments made, that he did not agree that the administration has provided incorrect answers and confirmed that on page 6 of the November Agenda the response to the question asked at the October Council meeting is the correct answer to the question asked. He further advised that he rejected the assertion that the administration has provided incorrect answers to previous questions asked as the administration always endeavours to answer questions correctly. The CEO stated that it was impossible for the City to qualify all costs of this action and that he could not and would not devote resources to researching an estimate of the costs as requested unless there is a Council Motion directing him to do so.

Summary of Question

In relation to Agenda Item 10.3.3 - development at No. 6 Parker Street - it is clear by the way the development has been measured that the officers of the City know how to measure plot ratio etc that determines the bulk of the building, so why have they not measured No.11 Heppingstone Street in the same way. Why can't 11 Heppingstone Street be measured?

Summary of Response

The Mayor responded that as previously advised, on many occasions, that when No. 11 Heppingstone Street was built the City was using a different formula to measure plot ratio and that this method has now been changed. He apologised to Mr Drake on behalf of Council for the decision in 2002, which he stated was regrettable, however said that he believed it was now time to move on.

Summary of Question

Has the development at No. 11 Heppingstone Street, South Perth applied for Strata Titles?

Summary of Response

The Mayor replied no.

Summary of Question

Will the development at No. 6 Parker Street, when it applies for Strata Titles, be treated the same way as No. 11 Heppingstone Street?

Summary of Response

The Mayor responded that any proposal before Council will be determined using our current practices/policies/Town Planning Scheme etc.

6.2.2 Mr Geoff Defrenne, 24 Kennard Street, Kensington

Summary of Question

In relation to measuring plot ratio and as part of the 'learning process', in particular the 'Belmont Report' on this matter, will the Belmont Report be made available to the public?

Summary of Response

The Mayor confirmed the report referred to was made available to the Kensington Community Association and to Elected Members who requested a copy at the time in question, which is now an old issue. He further stated that it is not proposed to release the report to the general public.

Close of Public Question Time

There being no further questions the Mayor closed public question time at 7.23pm

7. CONFIRMATION OF MINUTES / BRIEFINGS

7.1 MINUTES

7.1.1 Ordinary Council Meeting Held: 28 October 2008

COUNCIL DECISION ITEM 7.1.1

Moved Cr Burrows, Sec Cr Grayden

That the Minutes of the Ordinary Council Meeting held 28 October 2008 be taken as read and confirmed as a true and correct record.

CARRIED (13/0)

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.

7.2.1 Agenda Briefing - October Ordinary Council Meeting Held: 21.10.2008

Officers of the City presented background information and answered questions on report items identified from the October 2008 Council Agenda. Notes from the Agenda Briefing are included as **Attachment 7.2.1**.

7.2.2 Concept Forum South Perth Train Station Precinct Study Meeting Held: 22.10.2008

Consultants, Syme Marmion presented an update on the progress of the South Perth Train Station Precinct Study and answered questions from Elected Members. Notes from the Concept Briefing are included as **Attachment 7.2.2**.

7.2.3 Concept Forum Town Planning Major Development Meeting Held: 5.11.2008

Officers/Applicants provided background information on a proposed Bed and Breakfast development at No. 3 Philp Avenue and answered questions from Elected Members.

Notes from the Concept Briefing are included as **Attachment 7.2.3**.

7.2.4 Concept Forum Performance Monitor Results - Catalyse Community Survey Meeting Held: 11.11.2008

Lisa Lough of Catalyse presented an overview of the Results of the Community Survey and answered questions from Elected Members.

Notes from the Concept Briefing are included as **Attachment 7.2.4**.

7.2.5 Concept Forum - Manning Community Facility Study - Presentation of Preliminary Concept Plan - Meeting Held: 12.11.2008

Officer presented a Preliminary Concept Plan / Options in relation to the Manning Community Facility Study and answered questions from Elected Members.

Notes from the Concept Briefing are included as **Attachment 7.2.5**.

COUNCIL DECISION ITEMS 7.2.1 TO 7.2.5 INCLUSIVE

Moved Cr Doherty, Sec Cr Cala

That the comments and attached Notes under Items 7.2.1 to 7.2.5 inclusive on Council Agenda Briefings held since the last Ordinary Meeting of Council on 28 October 2008 be noted.

CARRIED (13/0)

8. PRESENTATIONS

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

Nil

8.2 PRESENTATIONS - Occasions where Awards/Gifts may be Accepted by Council on behalf of 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.

Note: Deputations in relation to Agenda Items 10.2.2, 10.3.1, 10.3.3 and 10.3.4 were heard at the November Council Agenda Briefing held on 18 November 2008.

Opening of Deputations

The Mayor opened Deputations at 7.25pm

8.3.1 Mr Geoff Longshaw, 20 Garden Street, South Perth Agenda Item 10.2.1

Mr Longshaw spoke against the officer recommendation at Item 10.2.1. "*Safer Australia Day Strategy*" on the following points:

- during Red Bull event residents in Garden Street ensured their vehicles were not parked on verge/street etc in accordance with Council guidelines
- vehicles illegally parked on verge / street did not receive infringements

8.3.2 Ms Cecelia Brooke, 8/20 Garden Street, South Perth Agenda Item 10.2.1

Ms Brooke spoke against the officer recommendation at Item 10.2.1. "*Safer Australia Day Strategy*" on the following points:

- neglect of Council to fine people who park in restricted areas during Red Bull Air Race event
- different 'rules' for Saturday / Sunday - why were residents not informed
- residents acknowledged Council restrictions and took necessary action
- visitors to the area flaunt the 'rules' but no infringements issued
- suggest special permits for residents' parking

Note: In response to Deputations at Item 8.3.1 and 8.3.2 the Manager Environmental Health and Rangers Services advised that all residents within the restricted zone were advised of the parking restrictions and that Rangers did patrol the area.

8.3.3 Mr Geoff Defrenne, 24 Kennard Street, Kensington Agenda Item 10.2.3

Mr Defrenne spoke against the officer recommendation at Item 10.2.3 "*Proposed Statue of Sir James Mitchell*" on the following points:

- statues generally built to honour a person
- Sir James Mitchell set up farming projects around Yillgarn area which failed badly
- James Mitchell's projects made life hell for thousands of returned servicemen
- against proposal for a statue of this particular individual

8.3.4 Mr Peter Campbell, 1 Birdwood Avenue, Como Agenda Item 10.3.4

Mr Campbell spoke in support of the proposal but against the trading hours at Item 10.3.4 "*Proposed Change of Use to Take-Away Pizza Shop*" on the following points:

- support proposal for change of use to Pizza Shop
- support on basis business trades no later than 10pm on weekdays and 10.30pm Friday/Saturday
- premises for Pizza Shop Use directly abuts residential area
- increased traffic / parking / safety issues
- community consultation
- urge Council undertake traffic study for the area.

Close of Deputations

The Mayor closed Deputations at 7.55pm

8.4 COUNCIL DELEGATES

Delegate's written reports to be submitted to the Minute Secretary prior to **7 November 2008** for inclusion in the Council Agenda.

8.4.1. Council Delegate: River Regional Council: 16 October 2008

A report from Crs Trent and Cala summarising their attendance at the Rivers Regional Council Meeting held 16 October 2008 is at **Attachment 8.4.1**.

The Minutes of the Rivers Regional Council Meeting of 16 October 2008 have also been received and are available on the *iCouncil* website and in the Council Lounge.

RECOMMENDATION

That the Delegate's Report in relation to the Rivers Regional Council Meeting held on 16 October 2008 be received.

COUNCIL DECISION ITEM 8.4.1

Moved Cr Ozsdolay, Sec Cr Doherty

That the Delegate's Reports in relation to the Rivers Regional Council Meeting held 16 October 2008 be received.

CARRIED (13/0)

8.5 CONFERENCE DELEGATES

Delegate's written reports to be submitted to the Minute Secretary prior to **7 November 2008** for inclusion in the Council Agenda.

Nil

9. METHOD OF DEALING WITH AGENDA BUSINESS

The Mayor advised the meeting that with the exception of the items identified to be withdrawn for discussion that the remaining reports, including the officer recommendations, would be adopted en bloc, ie all together. He then sought confirmation from the Chief Executive Officer that all the report items had been discussed at the Agenda Briefing held on 18 November 2008.

The Chief Executive Officer confirmed that this was correct.

WITHDRAWN ITEMS

The following items were withdrawn for discussion / debate:

- Item 10.0.1 Proposed Amended Motion - Cr Grayden
- Item 10.2.2 Proposed Alternative Motion - Cr Ozsdolay
- Item 10.2.3 Proposed Alternative Motion - Cr Cala
- Item 10.3.2 Amended Officer Recommendation
- Item 10.3.4 Declaration of Interest - Cr Doherty

COUNCIL DECISION ITEM 9.0 - EN BLOC RESOLUTION

Moved Cr Trent, Sec Cr Hearne

That with the exception of Withdrawn Item 10.0.1, 10.2.2, 10.2.3, 10.3.2 and 10.3.4 which are to be considered separately, the officer recommendations in relation to Agenda Items 10.2.1, 10.3.1, 10.5.1, 10.5.2, 10.5.3, 10.5.4, 10.6.1, 10.6.2, 10.6.3, 10.6.4 and 10.6.5 be carried en bloc.

CARRIED (13/0)

Note: Manager Environmental Health and Ranger Services retired from the meeting at 7.58pm.

10. REPORTS

10.0 MATTERS REFERRED FROM PREVIOUS COUNCIL MEETINGS

10.0.1 Policy P350 'City-Wide Residential Policies' - Report on Submissions *(Item 10.0.1 June 2008 Council meeting refers)*

Location:	City of South Perth
Applicant:	Council
Lodgement Date:	Not applicable
File Ref:	LP/801/350
Date:	3 November 2008
Author:	Gina Fraser, Senior Strategic Planning Officer
Reporting Officer:	Steve Cope, Director Development and Community Services

Summary

In June 2008, in preparation for public advertising for the lodging of submissions, a set of fourteen revised draft City-wide residential policies was endorsed by the Council as part of the 'Residential Design Policy Manual'. The document comprised the first part of that Policy Manual. The second part, comprising Precinct-based streetscape policies is to be prepared and presented as a separate process at a later time.

The first part of the Policy Manual now comprises Policy P350 'City-Wide Residential Policies'. It was advertised for public comment for a period of more than 60 days, and comments have been received. As a result of the submissions received, Policy P350 has been further reviewed and modified where appropriate. It is now recommended that Policy P350 'City-Wide Residential Policies', as modified and as contained in **Attachment 10.0.1(b)** to this report, be adopted and implemented.

Background

In accordance with Policy P104 and the June 2008 Council resolution, between 5 July and 8 September 2008, a total of 66 days, the draft revised policies comprising Policy P350 'City-Wide Residential Policies' were advertised. The community consultation process is discussed more fully in the 'Consultation' section of this report. A schedule of submissions has been prepared for consideration by the Council prior to adopting the final version of Policy P350. For simplicity throughout this report, the document is hereafter referred to as the 'Policy Manual'.

This report is to be read in conjunction with the following attachments:

- **Attachment 10.0.1(a)** Schedule of Submissions.
- **Attachment 10.0.1(b)** Modified Policy P350 'City-Wide Residential Policies' comprising the first part of the 'Residential Design Policy Manual'.

The draft Policy Manual was last considered at the June 2008 Council meeting, when it was endorsed for community consultation, following enhancement and expansion of Policy P350.1 'Sustainable Design' as directed by the Council in February 2008.

The Policy Manual is a supporting 'policy' status document, prepared and now to be adopted under the provisions of Clause 9.6 of Town Planning Scheme No. 6 (TPS6). The complete Policy Manual will comprise the following:

(a) **Policy P350 ‘City-Wide Residential Policies’**

- Introduction
- Policy P350.1 Sustainable Design
- Policy P350.2 Residential Boundary Walls
- Policy P350.3 Car Parking Access, Siting, and Design
- Policy P350.4 Additions to Existing Dwellings
- Policy P350.5 Trees on Development Sites and adjoining Street Verges
- Policy P350.6 Safety and Security
- Policy P350.7 Fencing and Retaining Walls
- Policy P350.8 Visual Privacy
- Policy P350.9 Significant Views
- Policy P350.10 Ancillary Accommodation
- Policy P350.11 Aged or Dependent Persons' Dwellings
- Policy P350.12 Single Bedroom Dwellings
- Policy P350.13 Strata Titling of Dwellings Constructed prior to Town Planning Scheme No. 6
- Policy P350.14 Use or Closure of Rights-of-Way.

(b) **Precinct-Based Streetscape Policies**

Yet to be prepared.

Comment

In a report to the February 2008 Council meeting, the draft revised Policies 1 to 13 of Policy P350 were fully described. Policy P350.14 ‘Use or Closure of Rights-of-Way’ was added prior to presentation to the June 2008 Council meeting. At the February meeting, the Council directed that Policy P350.1 ‘Sustainable Design’, a significant policy within the Policy Manual was to be further expanded to better reflect the City’s position on this matter. After the expanded Policy P350.1 had been completed to the Council’s satisfaction, all of the City-Wide Residential Policies were endorsed in June 2008 for consultation purposes.

The June report contained a description of other modifications and improvements to the Policy Manual that had been undertaken for various reasons prior to the Policy Manual being endorsed for consultation. The events which led to those modifications and improvements are itemised below:

- (a) A dedicated Council Members’ Concept Forum on 5 February 2008, when Council Members had the opportunity to comment on each policy as it was presented. The Notes from the Concept Forum were provided as Attachment 10.0.1(c) to the June 2008 Council Agenda.
- (b) Design Advisory Consultants’ comments arising from a special briefing on 25 February 2008. The Notes of the ‘Special’ DAC meeting were provided as Attachment 10.0.1(d) to the June 2008 Council Agenda.
- (c) Internal review at a special Planning Officers’ briefing in 21 February 2008. This internal review included a separate examination of each policy to ensure compatibility with the 2008 version of the Residential Design Codes which became operative on 29 April 2008, after the draft Policy Manual had been completed and presented to the February Council meeting. The changes to the R-Codes necessitated further revisions to each of the policies prior to them being endorsed by Council in June.
- (d) In the course of preparing the Policy Manual, several relevant departments of the City administration were also consulted and provided comment on their respective areas of expertise.

- (e) General formatting and text improvements throughout the Policy Manual, including the method of numbering the policies. This has since been further refined and simplified, as now contained in the final Policy Manual.

Details relating to the further changes arising from the recent community consultation are contained in the 'Consultation' section of this report, below.

Consultation

(a) **Community consultation requirements**

The Council endorsed the draft Policy Manual for community consultation in June 2008, in accordance with clause 9.6 of TPS6 and Policy P104. As prescribed in these documents, the required minimum extent of advertising for a Planning Policy is as follows:

Consultation period: Not less than 21 days

Method of advertising: Notice published in two consecutive issues of a local newspaper circulating within the Scheme area. The *Southern Gazette* newspaper is the usual paper used for this purpose.

However, as part of the June resolution, the Council required the consultation in this instance to be considerably greater than the minimum prescribed methods and duration, having regard to the strategic importance of the Policy Manual. The resolution required that "public advertising of the draft revised Policy Manual be undertaken in accordance with the following:

Consultation period: Not less than 60 days;

Method of advertising:

- Notice published in the 'City Update' column of two consecutive issues of the 'Southern Gazette' newspaper;
- Notice published once in a Saturday issue of the 'Western Australian' newspaper;
- Notice displayed in the City's Public Notice Board; and
- A media release in a local newspaper.

Display of Policy Manual:

'Out for Comment' page of the City's web site; and a copy available for reference in the foyer of the Civic Centre and in the City's Libraries and Heritage House;

Groups to be consulted:

At the commencement of the community advertising process, the following agencies and groups be provided with a copy of the draft revised Policy Manual and invited to comment on any aspect of it:

Specialist City groups -

- The Community Sustainability Advisory Group
- The City's Design Advisory Consultants
- The City's Water Team

Community progress groups -

- Kensington Community Association Inc.
- Association of Residents and Ratepayers of Karawara

Other local governments -

- *Town of Victoria Park*
- *City of Canning*
- *City of Melville*

Government agencies -

- *Department of Water*
- *WestNet Energy (AlintaGas)*
- *Main Roads Western Australia*
- *Western Power Corporation*
- *Western Australian Planning Commission*
- *Office of Energy*

Professional interest groups -

- *Western Australian Local Government Association (WALGA)*
- *Urban Development Institute of Australia (Western Australia)*
- *Australian Association of Planning Consultants (WA)*
- *Housing Industry Association*
- *Royal Australian Institute of Architects.”*

(b) Community Consultation period

The draft Policy Manual was advertised in accordance with Policy P104 and Council resolution, between 5 July and 8 September 2008, a total of 66 days. During that period, the following submissions were received:

	Number of submissions
Members of the community	7
Council Members	2
Planning Officers	3
All others consulted	-
Total number of submissions	12

The submissions made comment in relation to the following policies:

	Number of comments
General Comments	1
Introduction	-
Policy P350.1 'Sustainable Design'	15
Policy P350.2 'Boundary Walls'	1
Policy P350.3 'Car Parking Access, Siting and Design'	7
Policy P350.4 'Additions to Existing Dwellings'	2
Policy P350.5 'Trees on Development Sites and Street Verges'	4
Policy P350.6 'Safety and Security'	2
Policy P350.7 'Fencing and Retaining Walls'	-
Policy P350.8 'Visual Privacy'	2
Policy P350.9 'Significant Views'	-
Policy P350.10 'Ancillary Accommodation'	1
Policy P350.11 'Aged or Dependent Persons' Dwellings'	2
Policy P350.12 'Single Bedroom Accommodation'	-
Policy P350.13 'Strata Titling of Dwellings Constructed prior to Town Planning Scheme No. 6'	1
Policy P350.14 'Use or Closure of Rights-of-Way'	1
Total number of comments	39

(c) **Comments from submitters**

The submitters' comments are summarised in **Attachment 10.0.1(a)** Schedule of Submissions. While the total number of submissions, twelve, was relatively low, the comments on particular policies were extremely valuable. Many comments have been upheld and it is recommended that the respective policies be modified accordingly. Where it is recommended that comments are not upheld, the review of the policy provisions in relation to those suggestions has also been extremely useful, and in some cases has resulted in some minor improvement of wording or clarification of intent within the policy. **Attachment 10.0.1(b)** comprises the modified policies, with the modifications presented in red font for the purpose of this report. The following is a summary of the main recommended changes to those policies where the related submission is upheld by City officers:

Policy P350.1 'Sustainable Design'

- Rationale: Minor changes to the description of Perth's climate.
- Rationale: Inclusion of the need to reduce the 'per person' share of finite resources.
- Clause 2: Objectives (a) and (c) transposed to reflect importance.
- Clause 5(a): Inclusion of eaves as an encouraged method of passive cooling.
- Clause 5(a): Inclusion of the need to reduce reliance on solid fuel heaters.
- Clause 5(b): Inclusion of ventilation as a means of cooling.
- Clause 5(b): Inclusion of solar panels as a means of water heating.
- Clause 5(d): Inclusion of adaptive re-use of existing buildings as a means of reducing waste and environmental impact.
- Clause 5(d): Inclusion of 'open air' clothes drying as a means of reducing waste and environmental impact.

With respect to this Policy, it has been suggested that additional research could take place to investigate such policies and strategies as the European Economic Union's "Energy Performance of Buildings" directive; Britain's "Code for Sustainable Homes"; and California's "Green Buildings Standards Code"; among others. While these are all excellent initiatives for the City to examine, the constantly developing approach to sustainability world-wide, means that such research is on-going.

It has also been suggested that the provision of certain sustainable design elements be nominated as mandatory. Clause 5 of the Policy already encourages the employment of numerous sustainable design techniques, and has been further expanded in response to submissions, as shown in **Attachment 10.0.1(a)** and **10.0.1(b)**. While the Policy encourages the use of various kinds of sustainable design measures, it would not be appropriate for the Council to unilaterally seek to enforce the installation of one, or a limited number, of these. It is also considered that State Government would be the appropriate level of government to legislate for any mandatory approach to sustainable building design. Progress has already been made in this regard through the incorporation of energy-efficiency requirements into the Building Code of Australia. It is therefore considered that the existing Policy should be adopted and trialled for a period of twelve months, to test its reception by the community and the development industry. Meanwhile, the policy now being presented will provide substantial and beneficial influence towards sustainable design for residential buildings.

Other issues to be considered in relation to any future mandatory approach to sustainable design, are the administration of any such provisions, related officer training and other implications. These issues will need to be examined in detail at that time.

Policy P350.2 'Boundary Walls'

- Clause 5: Clarification regarding relationship to R-Codes.

Policy P350.3 'Car Parking Access, Siting and Design'

- Clause 5(b): Clarification that the parking templates relate to a B85 design vehicle as defined in Australian Standard AS2890.1.
- Clause 7(a): Clarification that verge levels are not to be modified unless with Council approval.
- Clause 10(b): Clarification that the parking templates relate to a B85 design vehicle as defined in Australian Standard AS2890.1.
- Clause 10(b): Clarification that parking templates relate to single-maneuvres and are to facilitate entry and exit in forward gear.
- Clause 10(b): Clarification of design criteria where an applicant designs car bays other than based on Policy 3, with an alternative authority.
- Clause 13(g): Provide for non-matching garages, provided that they are set back 6.0m from a secondary street.
- Figures 1-6: All diagrams are based on B85 design vehicle as defined in Australian Standard AS2890.1 and designed for single forward movements.

Policy P350.4 'Additions to Existing Dwellings'

- Clause 4: Modification to the definition of 'patio' to match proposed Amendment No. 16 to TPS6. (Refer to Agenda Item 10.3.1 October 2008 Council meeting).

Policy P350.5 'Trees on Development Sites and Street Verges'

- Clause 7(a): Clarification as to why retention of trees less than 3.0 metres from a site boundary is not mandatory.

Policy P350.6 'Safety and Security'

- No change is proposed.

Policy P350.7 'Fencing and Retaining Walls'

- No comments received and no change proposed.

Policy P350.8 'Visual Privacy'

- Clause 4: Modification to the definition of 'sensitive area' to include side-facing habitable room windows visible from the street.

Policy P350.9 'Significant Views'

- No comments received and no change proposed.

Policy P350.10 'Ancillary Accommodation'

- Minor modification to delete inappropriate reference to 'plot ratio' for Ancillary Accommodation.

Policy P350.11 'Aged or Dependent Persons' Dwellings'

- No change is proposed.

Policy P350.12 'Single Bedroom Dwellings'

- No comments received and no change proposed.

Policy P350.13 'Strata Titling of Dwellings Constructed prior to Town Planning Scheme No. 6'

- Clause 6(d): Modified to require 'open air' clothes drying for ground floor units where possible.

Policy P350.14 'Use or Closure of Rights-of-Way'

- No change is proposed.

Policy and Legislative Implications

Policy P350 'City-Wide Residential Policies', being the first part of the Residential Design Policy Manual, is a major statutory document comprising policies on various aspects of residential development. The document will constitute a Planning Policy for the purposes of clauses 1.5(e), 1.6(2)(b), 7.5(f) and 9.6 of Town Planning Scheme No. 6. The Policy Manual has been prepared in fulfilment of the No. 6 Scheme Objective set out in clause 1.6(2)(b) of TPS6.

This Policy Manual will be a document guiding all residential development within the City of South Perth and will be taken into consideration by developers, the Council and by City Officers when considering design elements of residential development applications.

Once the Policy Manual has been adopted by the Council, clause 9.6 of TPS6 requires that notice of final adoption of the policies is to be published once in a newspaper circulating within the Scheme area. The policies become operational following publication of this notice.

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.*

This matter also relates to Goal 5 "Organisational Effectiveness". Goal 5 is expressed in the following terms: *To be a professional, effective and efficient organisation.*

Sustainability Implications

Policy P350, comprising the first part of the Residential Design Policy Manual, consists of 14 individual policies relating to a wide range of design aspects of proposed residential buildings within the City. These policies will have a significant impact on the growth and character of the district. In particular, Policy P350.1 'Sustainable Design' and Policy P350.5 'Trees on Development Sites and Street Verges' will have a direct impact on environment sustainability aspects of the City.

Each policy has been thoroughly examined by officers within the Planning department and by other relevant departments of the City, including the City Sustainability Coordinator, has been advertised for community inspection and comment, and has been further reviewed having regard to submissions received. Consequently, it is considered that Policy P350 'City-Wide Residential Policies', forming the first part of the Residential Design Policy Manual, is now in a form which is suitable for use for some considerable time, subject to minor modifications from time to time. The attached document should now be adopted and implemented.

Comments by the City Sustainability Coordinator:

Policy P350.1 'Sustainable Design': While this draft policy is focussed on residential building design for sustainability, it should be noted that *all* buildings require the application of sustainable design. Globally and nationally, many changes in regard to sustainability issues such as climate change and energy efficiency, have come to the fore in very recent times, and it can only be anticipated that many more changes will occur in the future. These changes will impact the whole community. A case in point, is the Commonwealth Government's proposed Carbon Pollution Reduction Scheme which if legislated, will over

time, require all sectors of the community to address. As mentioned in the draft policy P350.1, the built environment contributes around 40% of Australia's carbon emissions, therefore Policy P350.1 will necessarily be reviewed and adjusted frequently, to encompass the required and appropriate response to sustainable building design.

OFFICER RECOMMENDATION ITEM 10.0.1

That Council, under the provisions of clause 9.6 of the City of South Perth Town Planning Scheme No. 6, adopts Policy P350 'City-Wide Residential Policies', forming part of the Residential Design Policy Manual, containing the Introduction and fourteen individual policies comprising **Attachment 10.0.1(b)**, to supersede the following existing Policies:

- (a) Policy P373_T 'Views';
- (b) Policy P376_T 'Residential Boundary Walls';
- (c) Policy P377_T 'Proposed Addition of Grouped Dwellings to Existing Single Houses';
- (d) Policy P378 'Height of Fences and Other Obstructions';
- (e) Policy P381_T 'Strata Titling of Residential Units Constructed Prior to Gazettal of the No. 5 Town Planning Scheme';
- (f) Policy P383_T 'Trees on Development Sites and Adjoining Verges';
- (g) Policy P384_T 'Visitor Car Parking Requirements for Grouped and Multiple Dwelling Developments';
- (h) Policy P385_T 'Aged or Dependent Persons' Dwellings';
- (i) Policy P387_T 'Dividing Fences Exceeding 1.8 metres in Height';
- (j) Policy P388_T 'Development of Land Adjoining Rights-of-Way';
- (k) Policy P389_T 'Ancillary Accommodation';
- (l) Policy P391_T 'Visual Privacy';
- (m) Policy P397 'Battle-Axe Residential Development: Matching Materials Not Required'.

MOTION

Cr Ozsdolay moved the officer recommendation, Sec Cr Wells

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Ozsdolay opening for the Motion

- commend officers on amount of work done on Design Policy Manual
- had briefings / given opportunity for input into new policies
- endorse policies as presented

AMENDMENT

Moved Cr Grayden, Sec Cr Smith

That the officer recommendation be amended by the deletion of Policy P350.14 'Use or Closure of Rights-of-Way'.

Cr Grayden opening for the Amendment

- current version of P350.14 does not take into account circumstances of the right-of-way at the end of Riverview Street between Riverview and Angelo Streets (ROW15), and any other similar rights of way within the City
- actual circumstances include freehold ownership of the right-of-way, the long term public use and ongoing maintenance of the right of way by the City as a footpath.
- a request for information has not yet been responded to and any decision on a city-wide policy should only be made when the Council is in full possession of all relevant information.
- proposed policy P350.14 is limited in its focus to allow Council to support an application to close
- main concern is limited definitions of “obsolete” “limited access” etc
- believe policy needs to be broader to encompass all situations that may arise
- believe we can include these concerns in a modified policy / suggest delete and review

Cr Smith for the Amendment

- support comments by Cr Grayden
- need access in some rights-of-way
- some rights-of-way used as footpaths / by gofers etc
- policy does not look at particular access of all rights-of-way in area
- support amendment to review P350.14 to address all concerns raised

Note: A memorandum was circulated to Members at the commencement of the meeting detailing the history of Right-of-Way No.15 the particular right-of-way in question.

AMENDMENT

The Chief Executive Officer advised that if the Amendment to delete Policy 14 ‘Use or Closure of Rights-of-Way’ for review is supported and in order to retain a ROW policy the existing policy Policy P388_T ‘Development of Land Adjoining Rights-of-Way’ needs to be deleted from the Motion at clause (j) and the remaining clauses re-numbered accordingly.

The Mover and Seconder concurred with this suggestion.

The Mayor put the Amendment.

CARRIED (13/0)

Cr Ozsdolay closing for the Amended Motion

- a lot of time put into preparing policies
- urge Councillors to adopt policies City-Wide Residential Policies
- urge Councillors support amended Motion.

COUNCIL DECISION ITEM 10.0.1

The Mayor put the Amended Motion

That Council, under the provisions of clause 9.6 of the City of South Perth Town Planning Scheme No. 6, adopts Policy P350 'City-Wide Residential Policies', forming part of the Residential Design Policy Manual, containing the Introduction and thirteen (13) individual policies, comprising **Attachment 10.0.1(b)**, as amended to delete Policy P350-14 "Use or Closure of Rights-of-Way, to supersede the following existing Policies:

- (a) Policy P373_T 'Views';
- (b) Policy P376_T 'Residential Boundary Walls';
- (c) Policy P377_T 'Proposed Addition of Grouped Dwellings to Existing Single Houses';
- (d) Policy P378 'Height of Fences and Other Obstructions';
- (e) Policy P381_T 'Strata Titling of Residential Units Constructed Prior to Gazettal of the No. 5 Town Planning Scheme';
- (f) Policy P383_T 'Trees on Development Sites and Adjoining Verges';
- (g) Policy P384_T 'Visitor Car Parking Requirements for Grouped and Multiple Dwelling Developments';
- (h) Policy P385_T 'Aged or Dependent Persons' Dwellings';
- (i) Policy P387_T 'Dividing Fences Exceeding 1.8 metres in Height';
- (j) Policy P389_T 'Ancillary Accommodation';
- (k) Policy P391_T 'Visual Privacy';
- (l) Policy P397 'Battle-Axe Residential Development: Matching Materials Not Required'.

CARRIED (13/0)

Reason for Change

Policy P350-14 deleted from the City-Wide Residential Policies forming part of the Residential Design Manual as it was felt the policy on right-of-way closures needed further review to better encompass all situations that may arise with the use or closure of rights-of-way within the City.

10.1 GOAL 1 : CUSTOMER FOCUS

Nil

10.2 GOAL 2: COMMUNITY ENRICHMENT

10.2.1 Safer Australia Day Strategy 2009

Location: City of South Perth
Applicant: Council
File Ref: RC/105
Date: 6 November 2008
Author: Sebastian Camillo
Manager Environmental Health and Ranger Services
Reporting Officer: Steve Cope, Director Development and Community Services

Summary

To consider the adoption of a strategy to manage the Australia Day Lotterywest Skyworks 2009 event within the City of South Perth and to approve the parking restrictions and road closures applicable for the event.

Background

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

The strategy focused on the following areas:

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

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

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

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

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

The Safer Australia Day Strategy 2006 was a great improvement on the previous year’s original strategy and achieved the desired outcome. The Safer Australia Day Strategies for both 2007 and 2008 were also improved to take into account minor changes for continuous improvements from the previous year’s strategy.

Comment

It is proposed that the Safer Australia Day Strategy 2009 will be conducted along the same format and operations as last year’s strategy with the exception of the Youth Activity Area and the introduction of a Kids Zone. The City has been successful in a Lotterywest Grant Application which will fund more activities and range of fun physical activities, some of them never-before-seen in W.A. The strategy will consist as follows;

Safer Australia Day Strategy 2009

1. Public Transport

Residents in Manning, Como, Karawara and Waterford have in previous years been offered free transport to and from the foreshore. The service is provided to middle aged and elderly residents that would not usually be able to drive to the foreshore and enjoy the Australia Day Lotterywest Skyworks celebration.

The City officers will again commence negotiations with Southern Coast Bus Company for the provision of up to twelve buses to transport residents from Manning, Como, Karawara and Waterford to the foreshore and back. In previous years buses were provided by Southern Coast Bus Company and it is expected that they will again support the City in providing this free public transport to the event. This service is generally very well patronised by the residents of the City and in previous years has transported up to 1,000 people to and from the event safely.

2. Local Laws

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

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

Since the introduction of these local laws, there has been a dramatic reduction of large items being brought to the foreshore. In previous years large items such as lounges and inflatable swimming pools would be brought down to the foreshore and created nuisance obstructions or litter as they would inevitably be left for the City to cleanup after the event.

3. Crowd Control/Youth Activity Area

The Western Australian Police Service (WAPS) and City's Rangers will commence patrolling the restricted areas and Sir James Mitchell Park (SJMP) from approximately 6.00am on the morning of 26 January 2009. The rangers will focus on illegal parking and large objects being taken to the foreshore early.

Management of the crowd will also be assisted by the exclusion zone on Sir James Mitchell Park and Queen Street Jetty areas. This will provide access to the various Emergency Services and Hazard Management Agencies (HMA's) including the Police Command Posts. These restriction zones will divide the large crowd into segments and assist with patrolling and rapid responses from the various HMA's.

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

Youth/Family Activity Areas - Lotterywest Skyworks 2009 will mark the launch of an exiting new Australia Day experience for families on the South Perth Foreshore, provided by the City and funded by Lotterywest.

An enclosed area in the order of 100 metres by 100 metres at the Coode Street end of Sir James Mitchell Park will be transformed into a safe family fun zone brimming with activities and performances for kids and their families, including free rides never-before-seen in WA. This area will be secured and managed by staff and security personnel specifically for families to relax in the shade or enjoy a barbecue while their children play. Children will also be encouraged to present a painting, sculpture or artwork on what they love about Australia to the Family Zone on the day. A big art tent within the zone will be filled with paint brushes and fun materials so art pieces can be painted on the day. The best pieces will be awarded fantastic prizes including the chance for the winning artwork to become the promotional design for next year's Family Zone.

The Youth Activity Zone, will be an enclosed area and will again operate as in previous years with a large number of fun physical activities, food and water give-aways. There will also be volunteer youth out-reach workers on hand to provide professional guidance and assistance to youth during the event.

4. Road Closures (Access Restricted Area)

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

The City may declare general no parking zones, in accordance with the City's Parking Local law, section 7.4 which states as follows:

General No Parking Zones

- (a) General No Parking Zones are established as prescribed in Schedule 4;
- (b) Where the City establishes a general no parking zone, the City must erect a sign at entry points to the general no parking zone indicating:
 - (i) the area that is a general no parking zone; and
 - (ii) the dates and times during which the area is a general no parking zone.
- (c) Where the City establishes a general no parking zone and erects signs at each entry point to the general no parking zone then it is an offence to park on any road or nature strip within the general no parking zone.
- (d) A driver must not park a vehicle on the road or a nature strip in a general no parking zone.
- (e) A driver commits an offence under this clause notwithstanding the fact that there are no signs in the immediate vicinity of the area in which the driver parked the vehicle indicating that the area in which the driver parked the vehicle is a general no parking zone.

Schedule 4 of the Parking Local Laws states the general no parking locations and effective time as follows:

“From 6:00 a.m. on the 26th of January to 6:00 p.m. on the 27th of January each year, the area contained within the Wards of Civic and Mill Point in the City of South Perth which area is bounded by and includes South Terrace to the south, Canning Highway to the east and the Swan River foreshore to the west and north is declared to be a General No Parking Zone for the purposes of this local law”.

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

The Coode Street boat ramp will be is closed to support the closure of the Perth Water to boats because of the fireworks. The Coode Street boat ramp area is used predominantly for disabled parking and also for Police, State Emergency Services and Ambulance parking. To provide vehicle and pedestrian safety, Police Traffic Branch and Emergency Services supports the exclusion of vehicles parking on the road verge within the access restricted area. The exclusion of parked cars enables clear vision for pedestrians and access throughout the restricted area by authorised emergency vehicles.

The City will need to employ the services of traffic management officers to secure the road closures as mentioned in this report. Indicative costs for this service have been included in the 2008/2009 Skyworks budget.

5. Traffic Management (Parking Restricted Area)

The parking restricted area would extend from the access restricted area (as per item 4) to South Terrace, to Canning Highway and to Ellam Street and be effective from 8.00 am to 10.00 pm.

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

The Police Traffic Branch and Emergency Services support the exclusion of vehicles parking on the road verge on one side of the road within the parking restricted area which enables clear vision for pedestrians and access throughout the restricted area by authorised emergency vehicles. These restrictions introduced since the commencement of the Safer Australia Day Strategies in 2005 have been very successful in clearing the traffic and pedestrian congestion at the end of the event.

6. Waste Management

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

7. Media and Communications

The Safer Australia Day Strategy 2009 provides for a significant number of new initiatives which when combined are designed to more effectively manage the event. Such a significant change will require an effective media and

communications campaign. The City will undertake some of this campaign directly and work closely with the event organisers and their radio and TV media partners to ensure the various elements of the City's Strategy is effectively communicated.

Consultation

In developing the amended Safer Australia Day Strategy 2009, consultation has occurred with officers of the following external organisations:

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

Policy and Legislative Implications

Nil

Financial Implications

Funding has been allocated in the 2008/09 Budget for the implementation of this strategy. Additional grant funding is being provided by Lotterywest and Local Drug Action group.

Strategic Implications

The Safer Australia Day Strategy 2009 relates to Goal 2 of the City's Strategic Plan, Community Enrichment. In particular, reference is made to Strategic 2.7 which involves the development of strategic directions for events, arts, leisure and heritage that encourages a vibrant and participative community.

Sustainability Implications

The Safer Australia Day Strategy 2008 will embrace and implement the City's Sustainability Strategy in the areas of Waste Management.

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.2.1
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That...

- (a) Council adopts the Safer Australia Day Strategy 2009 as detailed in report Item 10.2.1 of the November 2008 Council Agenda;
- (b) the General 'No Parking' clause in section 7.4, schedule 4 of the City's Parking Local Law 2003 (as amended) be approved for:
 - (i) the Temporary Road Closures, bounded by Labouchere Road to Angelo Street to Douglas Avenue to Mill Point Road to Ellam Street, from 8.00am to 10.00pm; and
 - (ii) the Parking Restrictions, bounded from Labouchere Road corner of Angelo Street to South Terrace to Canning Highway to Ellam Streetas described in report Item 10.2.1 of the November 2008 Council Agenda.

CARRIED EN BLOC RESOLUTION

10.2.2 Proposed Additional Flood Lighting to Challenger Reserve

Location: Challenger Reserve, Lot: 300 Challenger Avenue, Manning
 Applicant: South Perth United Football Club Inc (Soccer)
 File Ref: PR/102 - W
 Date: 6 November 2008
 Author: Matthew Hunt, Recreation Development Coordinator
 Reporting Officer: Steve Cope, Director Development & Community Services

Summary

To consider approval for the proposed installation of one additional floodlighting at Challenger Reserve by the South Perth United Football Club Inc (Soccer).

Background

To account for growth and development of the South Perth United Soccer Club and junior participation opportunities herein, the Club has requested permission to erect a floodlight on the Eastern side of Challenger Reserve bordering Elderfield Road. City of South Perth Planning Officers have identified that a Development Application for Planning Approval is not required in this instance due to specific objectives of the Town Planning Scheme.

Site details are as follows:

Address	Lot 300 Challenger Avenue
Lot Type	Freehold
Road Name	Challenger
Suburb	Manning
Scheme	Metropolitan Region Scheme
Zoning	Parks and Recreation



Approximate location of existing flood light towers.

Approximate location of proposed flood light tower.

Comment

(a) Description of the Proposal

The City has been impacted by an industry expected, yet substantial growth in junior soccer participation and subsequent ground usage requests over the past two years. As a result, many of these juniors are not being accommodated within the City due to ground availability and suitability, reflecting the specific needs of this Club.

The Club's request for consideration of installation was highlighted through informal on site discussions and primary consultation with the Club and by the Club to residents. The new lighting is proposed so as to allow the juniors from the soccer club to continue training into the evening during the winter months, preventing congestion at earlier time slots and significant safety risks with unsuitable training conditions. The Club will be accountable for all costs for the planning, erection and maintenance of the proposed tower.

Challenger Reserve is already serviced by flood lighting suitable for large ball sports, so the proposed development will not generate significant change for local residents from the situation that currently exists. In addition to this, the nearby tennis court lights designed for small ball sports are illuminated to similar cut off times, at the city's discretion.

As with standard floodlighting applications through and by the City, such conditions on the installation, maintenance and ownership would apply including:

- Submit a confirmed electrical consultants report outlining that the power supply both on the grounds and at the facility can cater for maximum potential demand required;
- Ensure a Sub-Meter power box is installed on site for measurement and accountability of expenditure to the Club;
- Further detailed specifications of the project to the City and obtain appropriate approvals;
- Confirmation of spill light analysis prior to design acceptance from the City including potential use of hoods on light towers to prevent reflective glare to community members;
- Liaise with the City at all stages of the project and to ensure that the works do not impact on other regular and or casual users of the facility;
- That the lights will be on a timer that can turn the lights off automatically after use by the designated period;
- The applicant (SPUFC) bear all pre-site requirements and complete installation, maintenance and operating costs with no cost to the City.
- The use of sustainable luminaries and control equipment into the floodlights which incorporates and results in both energy and lamp life savings.
- Should valid objections occur over spill levels, then the Club would be required to make the necessary modifications to the floodlight to ensure that these objections are satisfied
- All costs including supply, installation and any conditions imposed by the City is met by the club.
- At the initial completion of the flood light the club is required to undertake the testing of lumen levels to ensure that the installation complies to the specifications supplied by the manufacturer.

(b) Relevance to State Funding Opportunities

The Department of Sport and Recreation (DSR) annually invites applications for Western Australian Government financial assistance to assist community groups and local governments to develop basic, sustainable infrastructure for sport and recreation. The program aims to increase participation in sport and recreation with an emphasis on physical activity, through rational development of good quality, well designed and well utilised facilities. Priority is given to projects that lead to facility sharing and rationalisation.

Invitations were forwarded to all local sporting clubs, organisations and relevant community groups through a direct mail out, two electronic invites and through promotion in the Southern Gazette and Spirit of the South to make submissions, in addition to Department of Sport and Recreation advertising in the West Australian on Wednesday 2 July 2008 that the Community Sporting and Recreation Facilities Fund (CSRFF) 2009/2010 Funding Round was open.

The applicant Club did not seek City financial or resource support on this project due to their own strategic planning and Club priorities at the time. The club is willing to progress this request of their own accord.

Consultation

(a) Neighbour Consultation

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Policy P104 ‘Neighbour and Community Consultation in Town Planning Processes’. Properties directly facing the Eastern side of Challenger Reserve from Elderfield Road were targeted through direct consultation from the Club to ensure that all potentially affected landowners had an opportunity to submit comments in relation to the proposed development. These properties along Elderfield Road and Kilkenny Circle potentially affected by the lights were provided with a hand delivered letter and diagram to inspect the site, meet with the Club and or make comment on the proposed plan to submit and application to install floodlighting, during a 14-day period. During the comment period three submissions and one verbal comment to the Club were received. The comments of the submitters, together with an Officer response, are summarised as follows:

Submitters Comment	Officer Response
<ul style="list-style-type: none"> Council in 1990's informed residents no soccer activity would be allowed on the area of Challenger Reserve fronting Elderfield Road. 	<p>Area is classified as A Class reserve with Environmental catchment. Zoned for Parks and Recreation with sporting activities always a consideration for the City.</p>
<ul style="list-style-type: none"> Concerns with increased traffic through Elderfield Road and calming devices already in place 	<p>City to liaise with the Club with regard to using existing bays on western side of the field which at times can be underutilised. City will advocate Travelsmart options with the Club.</p>
<ul style="list-style-type: none"> Lack of enforcement of floodlighting curfews 	<p>The lights would only be allowed to operate up to 8pm. Adjacent Tennis Club lights permitted to operate to 10pm. Resident feedback will be noted and action if necessary.</p>
<ul style="list-style-type: none"> Council in 1990's outlined that no verge parking along Elderfield road would be permitted. Already dangerous with cars blocking pathways. 	<p>Verge parking is currently not permitted a section of Elderfield Rd adjacent to Challenger Reserve. The City can consider extending the no parking area. In addition the Club has advised that it can work with parents and members to encourage parking in the designated parking area on the western side of the reserve.</p>
<ul style="list-style-type: none"> Residents concerned as they were told the area was a dog lead free area only 	<p>The area currently is a dog lead free zone as well as being classified as an active reserve and as such should be able to accommodate the needs of all users including sporting clubs. The City invests resources into facilities on the basis of optimal usage.</p>
<ul style="list-style-type: none"> Residents want free access to the reserve at all times 	<p>The reserve should be able to accommodate the needs of all parties.</p>
<ul style="list-style-type: none"> City web site identifies that the Club will be relocated and increased use at Challenger Reserve 	<p>The Club has considered moving to accommodate growth however feels that remaining on Challenger Reserve is the best option.</p>
<ul style="list-style-type: none"> Resident in one residence does not want a light pole obstructing their view of open space. 	<p>The Club has spoken with this resident and has agreed to move the position of the pole to reduce the visual impact.</p>

(b) Manager, Environmental Health

The Manager, Environmental Health was invited to comment in relation to the lighting and the potential impact on the surrounding residents arising from the proposal. His comments are as follows:

The flood lighting is to be installed so as not to cause a nuisance by light spill into the neighbourhood/residential areas and in accordance with the requirements of section 49 of the *Environmental Protection Act 1986* (the Act). Section 49 of the Act refers to “unreasonable emission” as:

“an emission or transmission of noise, odour or electromagnetic radiation which unreasonably interferes with the health, welfare, convenience, comfort or amenity of any person”.

Flood lighting falls into the definition of *electromagnetic radiation* for the purposes of the Act and therefore any unreasonable light spill into neighbourhood/residential areas is considered pollution. Where there is any potential for light spill, light spill guards will need to be installed to capture and redirect light to the specific areas requiring illumination.

(c) Manager, City Environment

The Manager City Environment, was invited to comment in relation to the lighting and the potential impact on the park, arising from the proposal. His comments are as follows:

“The park is used for active sports such as junior Soccer primarily in winter. The park is also utilised for passive recreational activities such as off lead dog exercise. The park is currently gazetted as an off lead dog exercise area. Officers believe that these activities can continue to coexist harmoniously with conciliation from both sides. It is noted that there are still many hours each day when the reserve is free of active sport. The new lights could prove to be an added benefit as they could be left on for exclusive dog exercise after training has completed. Also the lighting of the area would be beneficial to passive users early in the evening as an added security opportunity to the facility. There has been very positive comments following the installation of floodlights on Ernest Johnson Oval”.

(d) Coordinator, Parks Operations

“A significant benefit identified in this project, particularly with the anticipated increase in the number of people participating in the clubs’ activities is the ability to spread sporting activity over a larger area on the reserve, therefore reducing wear on smaller sections of the playing surface.”

(e) Club Development Officer

“With the anticipated increase in the number of people participating in the clubs’ activities there is an the ability to spread sporting activity over a longer period of time which inturn will increase the number of volunteers the club will receive with parents being able to help out with coaching, managing and committee duties after work which will result in parents being involved in their Childs sport and create sustainable sporting clubs for future generations. It also provides an opportunity for residents to participate in a sport in South Perth without having to go outside the area to another club which offers suitable training solutions. Extra lighting provides added visibility and reassurance that all members are participating in a safe environment with volunteer coaches having more visibility around the large playing area”.

(f) Manager Planning Services

“Noting that one new light pole and light fitting, as labelled on the illustration in this report, is proposed in Challenger Reserve, and the Reserve is already serviced by flood lighting suitable for large ball sports, the proposed development will not generate a significant change from the situation that currently exists in terms of the amenity impact for local residents from a planning perspective. However, when the building licence application is lodged with the City's Development Services, the proposal will be reviewed by a Planning Officer and relevant comments will be made.”

Policy and Legislative Implications

This report relates to Policy P222 - Support of Community and Sporting Groups; and the City of South Perth No.6 Town Planning Scheme.

Financial Implications

Nil directly, from the initial request for support and approval for submission. The applicant (SPUFC) bear all pre-site requirements and complete installation, maintenance and operating costs with no cost to the City.

Strategic Implications

This report is complimentary to:

Goal 2: Community Enrichment, Strategy 2.2:

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

Goal 2: Community Enrichment, Strategy 2.7:

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

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

Sustainability Implications

Strong, thriving sporting clubs make up a major part of the social infrastructure of the community. The social and physical benefits that come from an active involvement in organisations such as sporting clubs contribute greatly to the resilience and sustainability of the community.

Conclusion

It is considered that approval should be granted for the Club, subject to the relevant Building Approval documentation for installation of the flood light.

The development will enhance the amenity of the reserve allowing the public to utilise the grounds for longer hours during winter months. The flood lighting is also considered to provide a range of secondary benefits such as increased safety and promotion of the oval as a place of interest for other sporting groups and community members alike.

OFFICER RECOMMENDATION ITEM 10.2.2

That approval be granted for the South Perth United Football Club Inc (Soccer) to install one (1) floodlight tower on the eastern side of Challenger Reserve bordering Elderfield Road, subject to:

- (a) relevant City of South Perth administrative permits and Building Licence;
- (b) the following standard requirements which are imposed on all floodlighting applications to the City:
 - (i) receipt of a confirmed electrical consultants report confirming that the power supply both on the grounds and at the facility can cater for maximum potential demand required;
 - (ii) installation of a Sub-Meter power box for measurement and accountability of expenditure to the Club;
 - (iii) further detailed specifications of the project to the City required to obtain appropriate approvals;
 - (iv) confirmation of spill light analysis prior to design acceptance from the City including potential use of hoods on light towers to prevent reflective glare to community members;
 - (v) the Club liaises with the City at all stages of the project and to ensure that the works do not impact on other regular and or casual users of the facility;
 - (vi) installation of a timer to ensure that can turn the lights off automatically;
 - (vii) the applicant bears all pre-site requirements and complete installation, maintenance and operating costs with no cost to the City;
 - (viii) the use of sustainable luminaries and control equipment into the floodlights which incorporates and results in both energy and lamp life savings;
 - (ix) should valid objections occur over spill levels, the Club would be required to make the necessary modifications to the floodlight to ensure that these objections are satisfied; and
 - (x) once the floodlights are installed, the club is required to undertaken the testing of lumen levels to ensure that the installation complies to the specifications supplied by the manufacturer.

MOTION

Cr Best moved the officer recommendation, Sec Cr Burrows

FORESHADOWED MOTION

Cr Ozsdolay foreshadowed he would be moving that consideration of the proposed additional flood lighting to Challenger Reserve be deferred to the next meeting of Council in order to allow for further consultation if the current Motion is lost.

**OFFICER RECOMMENDATION AND
COUNCIL DECISION ITEM 10.2.2**

The Mayor put the Motion

That approval be granted for the South Perth United Football Club Inc (Soccer) to install one (1) floodlight tower on the eastern side of Challenger Reserve bordering Elderfield Road, subject to:

- (a) relevant City of South Perth administrative permits and Building Licence;
- (b) the following standard requirements which are imposed on all floodlighting applications to the City:
 - (i) receipt of a confirmed electrical consultants report confirming that the power supply both on the grounds and at the facility can cater for maximum potential demand required;
 - (ii) installation of a Sub-Meter power box for measurement and accountability of expenditure to the Club;
 - (iii) further detailed specifications of the project to the City required to obtain appropriate approvals;
 - (iv) confirmation of spill light analysis prior to design acceptance from the City including potential use of hoods on light towers to prevent reflective glare to community members;
 - (v) the Club liaises with the City at all stages of the project and to ensure that the works do not impact on other regular and or casual users of the facility;
 - (vi) installation of a timer to ensure that can turn the lights off automatically;
 - (vii) the applicant bears all pre-site requirements and complete installation, maintenance and operating costs with no cost to the City;
 - (viii) the use of sustainable luminaries and control equipment into the floodlights which incorporates and results in both energy and lamp life savings;
 - (ix) should valid objections occur over spill levels, the Club would be required to make the necessary modifications to the floodlight to ensure that these objections are satisfied; and
 - (x) once the floodlights are installed, the club is required to undertaken the testing of lumen levels to ensure that the installation complies to the specifications supplied by the manufacturer.

CARRIED (12/1)

Note: Manager Community, Culture and Recreation retired from the meeting at 8.38pm

10.2.3 Proposed Statue of Sir James Mitchell

Location:	City of South Perth
Applicant:	Council
Date:	4 November 2008
Author:	Cheryl Parrott, Manager Library and Heritage
Reporting Officer:	Michael J Kent, Director Financial and Information Services

Summary

This report outlines a proposal to commission a life sized bronze statue of Sir James Mitchell to be located in Sir James Mitchell Park.

Background

The Public Art Policy P201 provides a policy framework that enables the City to celebrate the identity and history of the community and enhance the environment through the development and support of artworks in public places.

The approaching 50th Anniversary of the proclamation of the City of South Perth provides a fitting opportunity to create a new public artwork to recognise this important occasion. Given that the City's premier park is named after Sir James Mitchell, the park features prominently in many of the City's strategies and actions, is the location of many high profile events and the fact that little is known or promoted about Sir James Mitchell, the 50th Anniversary presents an ideal opportunity to celebrate his contribution to the state of Western Australia and the City.

Brief history of Sir James Mitchell

Sir James Mitchell was born near Dardanup in 1866, as a young man he worked for the West Australian Bank and became the manager in Northam in 1890. From 1892 he engaged in farming in Northam, in October 1905 he won the seat of Northam in the Legislative Assembly and by 1909 was Minister for Lands and Agriculture, in 1919 he became Premier of Western Australia (until 1924).

In 1933 Sir James Mitchell was appointed Lieutenant Governor, and in 1948 became Governor of Western Australia (Sir James actually served as Governor for 18 years because no Governor was appointed over him after his appointment as Lieutenant-Governor in 1933). He died in 1951.

On 19 August 1950 a recommendation was made to the South Perth Roads Board that the area known as Perth Water Foreshore be named 'Sir James Mitchell Park', providing it was possible to secure His Excellency's acquiescence. At the next meeting of South Perth Roads Board on 23 August 1950 it was resolved to adopt the recommendation. A letter sent to the South Perth Roads Board from Sir James Mitchell accepting that the park be named in his honour, is not dated. No record or reference of an official naming ceremony of Sir James Mitchell Park has been found.

It is envisaged that this project should be initiated as part of the 50th Anniversary celebrations of the City of South Perth. Planning and commissioning of the statue would occur during 2009 to allow for an official unveiling in the anniversary year.

Comment

It is proposed that the City undertake to commission a life sized bronze statue of Sir James Mitchell to be located prominently in Sir James Mitchell Park. The project would be staged over two financial years and would involve seeking expressions of interest from suitably qualified and experienced artists, selecting and short listing two artists to research the subject, develop their concept and make presentations to Council. The preferred artist would be contracted to commence work and complete the project with a specified timeframe.

The City's procedure for selecting a preferred artist commences with the establishment of a Working Group comprising representatives from the relevant City Departments and an Arts Consultant would be appointed to work with the group to provide specialist advice throughout the project. A Project Brief will be developed by the Working Group, and Expressions of Interest sought via advertising in the press and specialist art publications. Two artists will be selected to research Sir James Mitchell and develop concept designs which will be presented for consideration.

The artist or team of artists will be responsible for developing concept plans, creating and installing the work and providing detailed maintenance guidelines to ensure appropriate ongoing maintenance of the artwork.

Consultation

Discussion has occurred with the Chief Executive Officer, Manager Community Culture and Recreation, and the Manager Library and Heritage.

Policy and Legislative Implications

Policy P201 “Public Art”.

Financial Implications

A total financial input toward the creation of a statue of Sir James Mitchell is estimated to be \$120,500, with these costs being incurred over two financial years.

Stage 1 would occur during the 2008/09 financial year. Associated costs for the first stage include advertising for artists, engaging an art consultant to advise through the assessment process and payment to two short listed artists to research and develop their works for final assessment. It is anticipated the expenditure for Stage 1 is up to \$12,200. No funds are included in the current budget for these works and a budget re-allocation would be necessary.

Stage 2 would occur during the 2009/10 financial year and would involve expenditure up to \$108,300 to cover the consultant and artists fees, manufacture and installation of the statue. This amount would need to be included in the 2009/10 budget.

Strategic Implications

This project fosters a sense of community by increasing appreciation of South Perth’s heritage and aligns with the City’s Strategic Plan Goal 2 - Community Enrichment and in particular Strategy 2.7: *‘Develop strategic direction for events, arts including public arts, leisure, recreation and heritage that encourages a vibrant and participative community.*

OFFICER RECOMMENDATION ITEM 10.2.3

That....

- (a) as part of the 50th Anniversary celebrations of the City of South Perth the City initiate the process of commissioning an artist to produce a life sized bronze statue of Sir James Mitchell to be erected in Sir James Mitchell Park at an estimated cost of \$120,500;
- (b) an amount of \$12,200 be allocated* from the 2008/2009 Budget Closing Position via the following Budget Amendment to allow for the project to commence.

Account Number	Account	Type	Amendment	Adopted Budget	Amended Budget
TBA	SJMP Statue	Cap Expenditure	\$12,200	\$0	\$12,200

* An Absolute Majority is Required

- (c) an amount of \$108,300 be included in the 2009/2010 budget to allow for completion of the project.

MOTION

Cr Gleeson moved the officer recommendation. Lapsed for want of a Seconder. LAPSED

MOTION

Moved Cr Cala, Sec Cr Hearne

That as part of the 50th Anniversary celebrations of the proclamation of the City of South Perth, the City undertake the process of advertising for 'Expressions of Interest' for suggestions of a civic art piece or similar statement in Sir James Mitchell Park, to mark this occasion.

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Cala opening for the Motion

- acknowledge staff's good intentions in getting something up and running to recognise 50th Anniversary of City of South Perth
- to adopt a definitive option for the type of civic art or the person chosen for a statue, if that is the chosen form, is too premature at this stage
- process requires community engagement through such bodies as the South Perth Historical Society and other interested groups
- project is too important and potentially costly to present to the community as a "take it or leave it initiative", no matter how good intentioned
- believe a Strategy needs to be put in place - opportunity to seek ideas from local schools
- advertise for 'expressions of interest' - flush out good ideas
- Sir James Mitchell not my first choice - a 'wall of honour' recognising pioneers of South Perth as a suggestion would be preferable
- good opportunity to engage with community and respect community ideas
- ask Councillors support alternative Motion

Cr Hearne for the Motion

- nothing against Sir James Mitchell - but believe the State should recognise him
- Sir James Mitchell Park is a facility for a lot of people
- promote historical society - perhaps a photo display could be part of recognition of park
- develop a strategy so that visitors go away from the park knowing what the history of the area is all about
- support the alternative Motion

Cr Gleeson against the Motion

- acknowledge receiving a memo from administration seeking ideas for 50th anniversary
- attended Mill Point Rotary presentation on proposal for Chinese Gardens on Sir James Mitchell Park - good idea recognising history of area - a multi-million dollar project
- do we put a statue of an unknown person in the park or a statue of the person the park was named after - which is the obvious statute to be put there
- at the end of the day it will be a piece of artwork or a statue

Cr Smith point of order - the Councillor cannot pre-empt that there will be a statue or a piece of artwork approved for the park.

Mayor Best upheld the point of order.

- agree there should be public consultation
- support officer recommendation because park is named *Sir James Mitchell Park*

Cr Smith for the Motion

- oppose all statues across the board
- if we are to recognise anyone it should be Sir Walter Murdoch who lived in the area, but he has already been recognised at the University
- support Cr Cala’s alternative Motion of opening up to public consultation
- acknowledge tram restoration by Historical Society underway and Sir James Mitchell Park location a possibility
- lets be more imaginative other than a statue

Cr Cala closing for the Motion

- in celebrating the last 50 years lets not pull a name out of the pack
- this is an important celebration
- a piece of artwork or statement needs to reflect the history of South Perth
- ask Councillors support the alternative Motion

COUNCIL DECISION ITEM 10.2.3

The Mayor put the Motion

That as part of the 50th Anniversary celebrations of the proclamation of the City of South Perth, the City undertake the process of advertising for ‘Expressions of Interest’ for suggestions of a civic art piece or similar statement in Sir James Mitchell Park, to mark this occasion.

CARRIED (13/0)

Reason for Change

Elected Members were of the opinion that the proposal to produce a life sized bronze statue of Sir James Mitchell to be erected in Sir James Mitchell Park to mark the 50th Anniversary of the City of South Perth is too premature and should be opened up to public engagement.

10.3 GOAL 3: ENVIRONMENTAL MANAGEMENT

10.3.1 Proposed Residential Dwelling and Use to include Bed and Breakfast Lot 20 (No. 3) Philp Avenue, Como
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Location:	Lot 20 (No. 3) Philp Avenue, Como
Applicant:	Dale Alcock Homes Pty Ltd.
Lodgement Date:	14 August 2008
File Ref:	11.2008.377 PH1/3
Date:	3 November 2008
Author:	Laurence Mathewson, Trainee Planning Officer
Reporting Officer:	Steve Cope, Director Development and Community Services

Summary

To consider an application for planning approval for a residential dwelling that includes a proposed use for “Bed and Breakfast Accommodation”. The proposal conflicts with Council Policy, the provisions of the City’s Town Planning Scheme No. 6 and the Residential Design Codes of Western Australia (R-Codes) 2008.

It is recommended that the proposal **be refused**.

Background

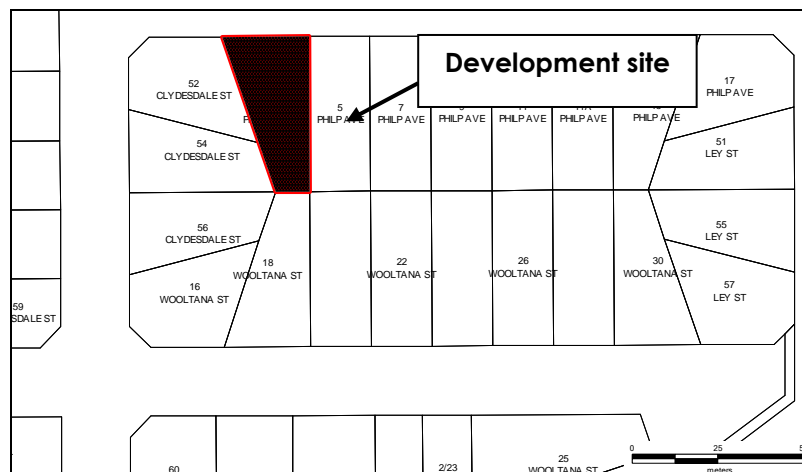
The development site details are as follows:

Zoning	Residential
Density coding	R15
Lot area	799 sq. metres
Building height limit	7.0 metres
Development potential	1 dwelling
Plot ratio	Not applicable

This report includes the following attachments:

- Confidential Attachment 10.3.1(a)** Plans of the proposal.
Attachment 10.3.1(b) House rules.

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 two categories described in the delegation:

2. Major Developments

This power of delegation does not extend to approving applications for planning approval in the following categories:

- (a) *None residential development which, in the opinion of the delegated officer, is likely to have a significant impact on the City;*
- (b) *Residential development which is 9.0 metres high or higher, comprises 10 or more dwellings;*
- (c) *Development of the kind referred to in items (a) and (c) above, comprising a mixture of non-residential and residential components; and*
- (d) *Development not of the kind referred to in items (a) and (c) above, but which, in the opinion of the delegated officer, is contentious or is of significant community interest.*

And:

3. Developments involving the Exercise of a Discretionary Power

- (b) *Applications which, in the opinion of the delegated officer represent a significant departure from the Scheme, Residential Design Codes or relevant Planning Policies.*

Council should have regard to both the significant community interest which the development application has generated and the extent of amenity impact (if any) arising from the proposed “Bed and Breakfast Accommodation” use within a residential area.

Comment

(a) Description of the proposal

The subject site is currently developed with a with a 1950’s style Single House. The proposal involves a new single-storey residential dwelling with a proposed a proposed ‘bed and breakfast’ use. No signs are proposed as part of the development application.

“Bed and Breakfast Accommodation” is defined in the City of South Perth Town Planning Scheme No. 6, as follows:

“Bed and Breakfast Accommodation” means a dwelling, used by a resident of the dwelling, to provide accommodation for persons away from their normal place of residence on a short-term commercial basis and includes the provision of breakfast.

The proposal does not comply with certain aspects of the Town Planning Scheme No. 6 (TPS6), relevant Council Policies and the *Residential Design Codes of WA 2008* (the R-Codes) this will be discussed in more detail below.

(b) Boundary wall

A boundary wall is proposed as part of this application. A portion of the proposed boundary wall extends 2.2 m beyond the adjoining dwelling, and is therefore visible from the outdoor living area of the same adjoining property. City Policy P350 “*Residential Design Policy Manual*” requires the amenity of the adjoining property to be taken into account when assessing residential boundary walls. Clause 5(a)(iii) of P350(1.2) “*Residential Boundary Walls*” states:

“A proposed boundary wall will not be approved where the City considers that such wall would adversely affect the amenity of an adjoining property or the streetscape in relation to the following amenity factors.

(iii) Visual impact of building bulk where the proposed boundary wall is situated alongside an outdoor living area of an adjoining lot.”

The portion of the boundary wall that is visible from the outdoor living area of the adjoining lot will result in an unacceptable visual impact on the amenity of the adjoining property (No. 5 Philp Avenue). The proposed boundary wall therefore **does not comply** with Clause 5 of P350(1.2) “*Residential Boundary Walls*”.

(c) Crossover

Upon advice from the City Environment Department, the proposed crossover must maintain a minimum distance of 3.0 metres from the edge of the proposed crossover to the centre of the existing street tree. **The applicant has earlier provided plans that** showed a minimum distance of only 2.4 metres. Further to a question raised at the Major Developments Concept Forum on 5 November in relation to considering a reduced setback of 2.4 metres noting that there are three street trees present on the road verge. The City Environment Department provided further advice in response to that question stating that the Liquid Amber Tree has adventurous roots and therefore a reduced setback of 2.4 metres would not be appropriate. Furthermore, City Environment advised that the presence of three street trees on the road verge should not be a factor when determining the appropriate setback distance.

Revised drawings received by the City on 12 November 2008 demonstrate compliance with this requirement showing an increased setback distance of 3.0 metres, in accordance with City Environment Department requirements.

(d) Landscaping

When assessing landscape compatibility within the focus area the City is to have due regard to Policy P370_T “*General Design Guidelines for Residential Development*” the policy objectives include:

(a) To preserve or enhance desired streetscape character, and to promote strong design compatibility between existing and proposed residential buildings.

When determining whether a development application demonstrates compliance with the policy objectives, the City is to take into account:

- *Site landscaping in front of buildings (extent and characteristics); and*
- *Vehicle pavement visible from the street.*

Due to the location of car parking bays within the front setback area the amount of vehicle paving is not consistent with that of other properties within the focus area. Therefore the landscaping **does not comply** with City Policy P370_T “*General Design Guidelines for Residential Development*”.

(e) **Car parking**

There is no prescribed car parking ratio for the “Bed and Breakfast Accommodation” use. In this situation Clause 6.3(2) of TPS6 requires car parking bays to be provided to the number determined by the Council, having regard to the likely demand. The City’s practice in dealing with ‘bed and breakfast’ proposals has been to require one parking bay for every bedroom used by paying guests in addition to the two parking bays required for a new residential development. With three guest rooms proposed, the applicant is therefore required to demonstrate the provision of on-site parking for 5 car bays. The applicant has provided five on-site car-parking bays, however of the three **guest** car parking bays provided, only one is located behind the front setback area.

Under Clause 4.3(1)(j) of TPS6 Council does have discretion to permit unroofed car parking bays within the front setback area, provided that:

- the parking bays and associated accessways are screened by dense landscaping at least 1.5 metres in width;*
- such bays and accessways will not have an excessively dominant visual impact on the streetscape or adjoining properties; and*
- pedestrian access from the street is not impeded.*

Although landscaping has been provided by the applicant, the location of bays within the front setback area is not consistent with the residential character of the existing streetscape, it is therefore considered that the location of the bays within the front setback will have a dominant visual impact. The provision of car parking bays within the front setback area therefore **does not comply** with Clause 4.3(1)(j) of TPS6.

(f) **Appropriateness of use**

TPS6 does not specify prescriptive requirements for “Bed and Breakfast Accommodation”. However TPS6 Table 1 shows that “Bed and Breakfast Accommodation” is a DC Use (Discretionary Use with Consultation) in a residential zone. This discretion is based upon submissions received during the consultation period and the likely amenity impact of the development proposal.

The amenity of the area is central to consideration of this application for change of use. It is apparent that the proposed use will accommodate guests on a short term basis including business people and holidaymakers. There is a likelihood of the guests arriving and leaving at different times of the day and night, parties and other gatherings held by guests could also impact the amenity of adjoining residential properties.

The City therefore acknowledges that a practical and effective management plan can assist in maintaining the amenity of the area, as a result the applicant has prepared a set of “house rules” for guests (**Attachment 10.3.1(b)** refers). The “house rules” outline the behaviour expected of guests during their stay, an example of the “house rule” is provided below:

“No parties or get-togethers are permitted in guest suites but small gatherings such as business breakfasts, cocktail parties may be permitted in the guest lounge / dining area by prior arrangement with owner.”

The applicant has indicated that contravention of the “house rules” may result in the termination of the guest’s stay. The house rules provided by the applicant are therefore deemed to address any concerns related to the amenity impact of the proposed ‘bed and breakfast’ use.

(g) Signage

No signage is proposed by the applicant for this application. If the applicant requests a sign at a later date, a sign application will be required. In the past the City has specified that signage for a “Bed and Breakfast Use” should not exceed 0.2 sq. m, and should be non-illuminated. Given the strong residential character of the street, the low density R15 development and lack of through-traffic, these requirements are considered appropriate.

(h) Other planning controls:

The development application complies with the following planning controls:

- (a) Primary and rear setbacks;
- (b) Side setbacks;
- (c) Building height limit;
- (d) Open space;
- (e) Outdoor living area;
- (f) Ground and finished floor levels; and
- (g) Visual privacy requirements.

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

Having regard to the preceding comments, in terms of the general objectives listed within Clause 1.6 of TPS6, it is considered that the proposal not meet the following objective:

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

The property will be used principally as a dwelling as defined under the Residential Design Codes, however the location of car-parking bays within the front setback area is not consistent with the requirement to “*maintain the City’s predominantly residential character and amenity*”.

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

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

- (a) *the objectives and provisions of this Scheme, including the objectives and provisions of a Precinct Plan and the Metropolitan Region Scheme;*
- (b) *the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment which has been granted consent for public submissions to be sought;*
- (i) *the preservation of the amenity of the locality;*

- (n) *the extent to which the 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.*

The proposed development is not consistent with the matters listed above, specifically in relation to the proposed residential boundary wall, crossover, extent of landscaping and paving, and car-parking bays within the front setback area.

Consultation

(a) Design Advisory Consultants’ comments

DAC comment was not sought in relation to this development proposal.

(b) Neighbour consultation

Area 2 neighbour consultation has been undertaken for this proposal to the extent and in the manner required by Policy P104 “Neighbour and Community Consultation in Town Planning Processes”. The owners of properties at Nos. 2, 4, 5 and 6 Philp Avenue, Nos. 52, 54 and 56 Clydesdale Street and Nos. 18 and 20 Wooltana Street, were invited to view plans and submit comment during a 14-day period. A total of 9 neighbour consultation notices were mailed to individual property owners. A strong community response was received and during the advertising period the City received 11 submissions. All submissions were opposed to the development proposal. Below is a summary of submissions and the officer’s response.

Submitter’s Comments	Officer Response
<u>Residential boundary wall</u> - Adjoining property owner was concern about the proposed boundary wall and its impact on their amenity.	The section of the boundary wall visible from the outdoor living area of the adjoining property does not comply with Clause 5(a)(iii) of P350 “Residential Design Policy Manual” and will have an unacceptable visual impact on the adjoining property. The comment is UPHELD
<u>Parking and increased traffic congestion</u> - Development proposal will increase traffic congestion and on-street parking, increased traffic flow will have a negative impact on residents and young children in the street.	Parking to be contained on-site and the number of guests on-site will not exceed three people, therefore the traffic impact is seen to be minimal, and furthermore there will be no parking within the street reserve. The comment is NOTED .
<u>The proposal is “not in keeping with the R15 single dwelling coding”</u> - Changing the use of the site will impact upon the residential amenity and is not consistent with the neighbourhood character.	The low density coding of R15 assigned to the subject lot and its site area allows a single dwelling to be built on it. A “Bed and Breakfast” use on a low density coded lot is therefore perceived to have a greater impact on the neighbourhood than if it were proposed on either a medium or high density coded lot. Furthermore, the location of 2 car parking bays within the front setback is not considered to be consistent with the existing residential streetscape character. The comment is UPHELD .

Submitter's Comments	Officer Response
<u>Noise</u> - Increasing the number people occupying the development site, and those people will be on holiday having less regard for neighbours in terms of the noise level and its timing.	The noise impact of the proposed use is likely to have a greater impact within a low density coded area than in either a medium or high density coded area. However it should also be noted that the applicant has provided in-house rules which are seen to play an important role in minimising the impact in respect to noise. The comment is NOTED .
<u>Car parking</u> - Inadequate number of on-site car parking bays for a development of this type. The number of car parking provided onsite is not in keeping with the residential character of the street.	The location of cars within the front setback area is not in-keeping the R15 Residential character of the street. The comment is UPHELD .
<u>Property prices</u> - Existence of a "Bed and Breakfast Accommodation" will have a detrimental effect on the value of property in the area.	Property prices are not a valid planning consideration. The comment is NOT UPHELD .
<u>Proposed use</u> - Concern that this proposal may not be used for the proposed 'bed and breakfast' use but some other unapproved use.	Any change to the approved use would require necessary approvals from the City of South Perth. Any unapproved use will be investigated as a compliance issue. The comment is NOT UPHELD .

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 a minor impact on this particular area, to the extent of payment of the required planning fee by the applicant.

Strategic Implications

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

Sustainability Implications

Sustainability implications have been taken into consideration.

Conclusion

The certain aspects of the proposal do not comply with City policy, the development application is therefore recommended for refusal.

**OFFICER RECOMMENDATION AND
COUNCIL DECISION ITEM 10.3.1**

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for a change of use to include “Bed and Breakfast Accommodation” on Lot 20 (No. 3) Philp Avenue, Como **be refused** for the following reasons:

- (a) The proposed boundary wall will impact the amenity of the adjoining property and therefore does not comply with Clause 5(a)(iii) of P350(1.2) “*Residential Design Policy Manual*”.
- (b) The proposed development does not comply with City Policy P370 “*General Design Guidelines for Residential Development*” specifically in relation to the extent of landscaping and paving within the front setback area.
- (c) Noting the low density coding R15 of the lot, the proposal is likely to have a detrimental impact on the focus area and therefore conflict with Clause 1.6(2)(f) “Scheme Objectives” of TPS6.
- (d) Having regard to the matters identified in the reasons above, the proposed development conflicts with the “Scheme Objectives” identified in Clause 1.6 of TPS6.
- (e) Having regard to the matters identified in the reasons above, the proposed development conflicts with the “Scheme Objectives” identified in Clause 7.5 of TPS6.
- (f) **Standard Advice Notes**
651 (Appeal rights).

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

CARRIED EN BLOC RESOLUTION

**10.3.2 Proposed Additions / Alterations to Single House - Lot 3 (No. 22)
Hazel Street, Como**

Location:	Lot 3 (No. 22) Hazel Street, Como
Applicant:	Australian Renovation Group
Lodgement Date:	19 June 2008
File Ref:	11.2008.274 HA6/22
Date:	3 November 2008
Author:	Pam Holland, Planning Officer
Reporting Officer:	Steve Cope, Director Development and Community Services

Summary

To consider an application for planning approval for additions / alterations to a single-storey Single House on Lot 3 (No. 22) Hazel Street, Como, which was refused under delegation. The proposal conflicts with Council Policy P370_T, and sub-clause (2)(f) of Clause 1.6 of the City’s Town Planning Scheme No. 6, which states:

- (a) Carports shall be sited behind the front setback line where existing dwellings do have this space behind the front setback line to accommodate car parking.
- (b) Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development.

It is recommended that the delegated Notice of Decision (Refusal) be upheld.

Background

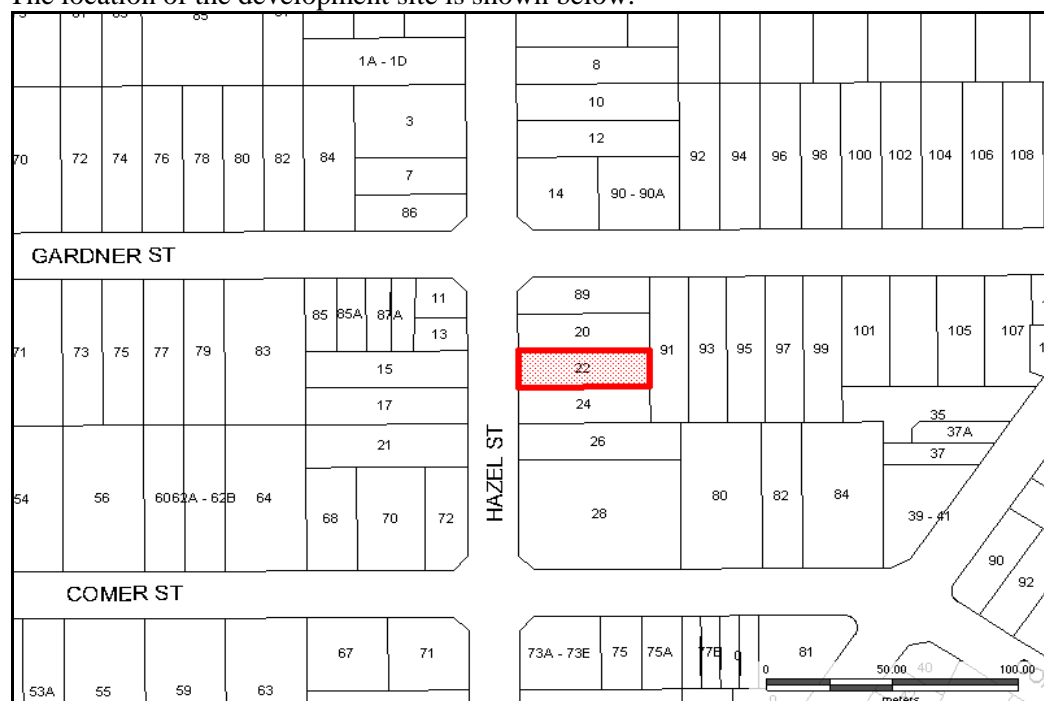
The development site details are as follows:

Zoning	Residential
Density coding	R15 / R25
Lot area	825 sq. metres
Building height limit	7.0 metres
Development potential	1 Single House
Plot ratio	Not applicable

This report includes the following attachments:

- Confidential Attachment 10.3.2(a)** Plans of the proposal.
- Attachment 10.3.2(b)** Notice of Determination (Refusal).
- Attachment 10.3.2(c)** Planning Consultant's report.

The location of the development site is shown below:



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

1. **Development involving the Exercise of a Discretionary Power**
This power of delegation does not extend to approving applications for planning approval involving the exercise of discretionary power in the following categories:
 - (b) *Applications which, in the opinion of the delegated officer, represent a significant departure from the Scheme, the Residential Design Codes or relevant Planning Policies.*

In relation to Item 1 above, in this application, the departure from the requirements of the Scheme, the Residential Design Codes and Planning Policy P 370_T are considered to be significant and unacceptable (see comments below).

Comment

(a) Description of the proposal

The proposal involves:

- (i) the removal of an existing single garage and replacing it with two additional bedrooms, kitchenette and a loft room over;
- (ii) internal alterations to create an additional (third) study, and second laundry in a redesigned bathroom; and
- (iii) removal of an existing pergola* within the front setback and replacing it with a single carport and store, with an additional uncovered parking bay, as depicted in the submitted plans of **Confidential Attachment 10.3.2(a)**.

*It should be noted that the current structure in front of the garage and within the front setback was approved as an open pergola in April 1986, and has been roofed with metal decking **without approval**, within the past 10 years. Although the planning consultant refers to a carport in his report at **Attachment 10.3.2(c)**, there is currently no approved “carport” on the site, and any reference to an existing carport should be ignored.

The inclusion of additional bedrooms, kitchenette and laundry suggested that the extension could be used as a Residential Building, but the owners of the property have submitted a signed statement that the proposed additions would not be used to accommodate unrelated persons.

(b) Policy P 370_T “General Design Guidelines for Residential Development”

The objectives of Policy P370_T seek to enhance the residential amenity standards generally, with the Policy provisions offering specific guidance as to Council’s expectation in this respect. The specific relevant policy provision for parking is expressed in the following manner:

“11. PARKING

- (d) In the case of existing dwellings which do have space behind the front setback line to accommodate car parking, the siting of carports within the front setback area will **not** be permitted **unless**:*
 - (i) such siting is consistent with the established streetscape character attributable to the existence of other carports within the front setback area, in the section of the street which the new carport is proposed to be located; and*
 - (ii) the design and construction materials of the proposed carport are compatible with the existing dwelling.”*

There is currently a single garage behind the front setback line with a paved area in front of it able to take another vehicle in tandem.

In relation to (i) above, in this section of the street (focus area being both sides of Hazel street between Gardner and Comer Streets) there is only one carport within the front setback out of the ten properties having Hazel Street as their frontage. This proposal is therefore not consistent with the established streetscape character, and does not comply with 11(d)(i) of the Policy.

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

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

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

The east side of Hazel Street, including the subject site, is zoned Residential R15/R25 and has not been subject to redevelopment. The west side of Hazel Street is zoned R20/R30 and has been significantly redeveloped with grouped dwellings designed to incorporate garages under rooflines. The character of each side of the street within the focus area is therefore markedly different, and this application has been considered in relation to the character of the east side of the street only.

It is considered that locating a carport within the front setback on the east side of Hazel Street is not in harmony with the character and scale of existing residential development on that side of the street.

(d) Residential Design Codes Clause 6.5.4: Vehicular access

Clause 6.5.4 Acceptable Development requirement A4.2 states:

Primary or secondary street formed driveways, where their provision is necessary, are limited as follows:

- *No single driveways wider than 6 m at the street frontage boundary and driveways in aggregate no greater than 9 m for any one property.*

The submitted site plan shows the existing driveway as 5.2 metres at the street front boundary, and on the proposed development plan, the driveway is to be widened to 6.4 metres to provide access for a second vehicle to park in a paved, uncovered area beside the proposed carport.

Clause 6.5.4 Performance Criteria requirement P4 states:

Vehicular access provided so as to minimise the number of crossovers, avoid street trees, to be safe in use and not detract from the streetscape.

As discussed in (c) above, it is considered that the location of the proposed carport and uncovered car space, together with the over-width driveway, will detract from the existing streetscape of the east side of Hazel Street.

This application clearly does not comply with the requirements of R-Codes, Clause 6.5.4.

(e) Other Matters to be Considered by Council: Clause 7.5 of Town Planning Scheme 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:

- (c) *the provisions of the Residential Design Codes and any other approved Statement of Planning Policy of the Commission prepared under Section 5AA of the Act;*
- (d) *any other policy of the Commission or any planning policy adopted by the Government of the State of Western Australia;*
- (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.*

(f) Applicant’s justification

Applicant’s Justification	Officer Comment
Since there is already a carport and pergola within the front setback area for the subject property, provision of the draft Policy P350 that requires car parking structures to be situated behind the setback line does not apply.	Council has never given approval for roofing a part of the approved pergola and using it as a carport. COMMENT NOT UPHELD.
Improved streetscape through the proposed carport’s open design..	The approved pergola is open design, and setback 4 metres, where the proposed carport is only setback 1.5 metres. The proposed car parking structure will detract from the streetscape character. COMMENT NOT UPHELD.
Improved streetscape by being similar materials and colours as the house	The existing and proposed structures are similar materials and colours to the house, painted white. COMMENT NOTED.
Improved streetscape by the carport being only 3.8 metres wide.	The existing pergola structure currently used as a carport is 3.7 metres wide. The location of the proposed carport is of concern to City Officers. COMMENT NOT UPHELD.
Apart from the subject site there are 6 properties (out of 10 in the focus area) with structures in the front setback, or reduced setbacks.	There is 1 property on the west side of Hazel Street within the focus area with a reduced setback of approximately 3.0m. The subject site is the only other proposed reduced setback on the east side. The other properties that the applicant may have identified are the ones at the corner of Comer Street. Since Hazel Street is the secondary street for these properties, in accordance with Clauses 6.2.1 A1.1 (ii) and 6.2.3 of the R-Codes. COMMENT NOT UPHELD.
The proposed carport complies with the requirements of Clause 6.2.3 A3.4 and P3 of the R-Codes.	Although Clause 6.2.3 A3.1 requires carports and garages to be located behind the primary street setback line. They are allowed to be within the front setback provided they also satisfy the requirements of Policy P370_T in relation to streetscape compatibility. COMMENT NOT UPHELD.
The existing (flat roofed) carport has a front setback of 2.8m and the proposed carport is only 1.3m closer.	The existing (flat roofed) carport within the front setback area has not been approved by the City. Additionally, the proposed carport with a gable roof and 1.5m setback will have a greater and undesirable impact on the streetscape character. COMMENT NOT UPHELD.

Consultation

(a) Neighbour consultation

Neighbour consultation has been undertaken for this proposal to the extent and in the manner required by Policy P104 “Neighbour and Community Consultation in Town Planning Processes”. The owners of properties at No. 20 Hazel Street were invited to inspect the application and to submit comments during a 14-day period. During the advertising period, no submissions were received.

Policy and Legislative Implications

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

Financial Implications

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.*

Sustainability Implications

Sustainability implications have been taken into consideration.

Conclusion

The proposal will have a detrimental impact on the residential streetscape, and does not comply with the relevant Scheme objectives. It is considered that the application should be refused.

OFFICER RECOMMENDATION ITEM 10.3.2

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, the **refusal** determination issued at the delegated officer level for additions / alterations on Lot 3 (No. 22) Hazel Street, Como be upheld.

STATEMENT : MODIFIED OFFICER RECOMMENDATION

The Chief Executive Officer advised that the officer recommendation at Item 10.3.2, as tabled at the commencement of the meeting, has been modified to specifically ‘list’ the reasons for refusal.

MODIFIED OFFICER RECOMMENDATION ITEM 10.3.2

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for proposed additions / alterations to Single House on Lot 3 (No. 22) Hazel Street, Como **be refused** for the following reasons:

- (a) The location of the proposed carport conflicts with Policy P370_T “General Design Guidelines for Residential Development”, specifically in relation to Clause 11(d) which requires the siting of carports behind the front setback line, where existing dwellings do have this space behind the front setback line to accommodate car parking bays.
- (b) Having regard to the matter identified above, the proposed development conflicts with subclause (2)(f) of Clause 1.6 “Scheme Objectives” of the Town Planning Scheme No. 6 (TPS6).
- (c) Having regard to the matter above, the proposed development conflicts with the matters (c), (d) and (n) of Clause 7.5 “Matters to be Considered by Council” of TPS6.
- (d) **Standard Advice Notes**
651 (Appeal rights).

MOTION

Cr Trent moved the officer recommendation, Sec Cr Wells

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Trent opening for the Motion

- issues of non-compliance covered in the report
- ask Councillors support officer recommendation

FORESHADOWED MOTION

Cr Hasleby foreshadowed that he would move that the application be approved if the current Motion is Lost.

Cr Hasleby against the Motion

- listened with interest to applicants / heard Deputation
- additions/alterations proposed deemed to have detrimental impact on properties/streetscape
- perplexed with officers' rationale as properties opposite do nothing for streetscape
- owners of 22 Hazel Street are wanting to improve their property and in doing so appearance of entire street will be improved
- Council discretion should be used to approve application
- policy not departed from as proposal a vast improvement on existing dwelling
- proposed additions/alterations in character with Hazel Street
- setback area issue is main focus of why proposal has been refused
- owners are asking nothing more than a 'level playing field'
- to say their proposal to improve/enhance their particular dwelling is detrimental to streetscape is beyond me
- ask Councillors not support officer recommendation.

Cr Best against the Motion

- visited the site and spoke with the applicants
- main reason for refusal is down to design of carport
- do not agree with refusal for this reason
- against the Motion

Cr Cala against the Motion

- difficult when dealing with additions/alterations to existing house
- carport is forward as much as it is as applicants have tried to preserve windows
- in trying to maintain amenity it has been necessary to press towards the front
- looking at elevations and proposal believe it will not be a blight on the street
- side parking has been an issue and driveway increased to accommodate this
- designer has tried to address issues in best possible way to make use of house functional
- believe a lot of thought has gone into design to resolve planning problems
- as a Council need to look on each application on its merits
- suggest that we approve proposal for additions/alterations to 22 Hazel Street

Cr Hearne against the Motion

- garage is the problem / want to build where you need to park the car
- garage may not be useable - could it be extended to make it useable
- would like to see matter deferred to address this issue -
- would reluctantly support foreshadowed Motion for approval
- do not believe proposal will adversely affect streetscape
- against officer recommendation

Cr Ozsdolay against Motion

- streetscape issue not relevant
- to the right of 22 Hazel Street is a solid wall
- left of 22 Hazel Street there is a corner block with a solid fence
- support making allowances in relation to carport
- support additions/alterations proposed re 22 Hazel Street believe it will enhance streetscape

Cr Trent closing for the Motion

- officers assessed in accordance with Council policies, TPS etc
- acknowledge we have discretion to approve modifications proposed
- report identifies why proposal cannot be approved
- support officer recommendation

The Mayor put the Motion.

LOST (3/10)

MOTION

Moved Cr Hasleby, Sec Cr Cala

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 additions / alterations to Single House on Lot 3 (No. 22) Hazel Street, Como **be approved** subject to **Standard Conditions**.

Cr Hasleby opening for the Motion

- issues raised have been addressed
- design is functional - in maximising use of property have had to make concessions
- proposal should be considered on its merits
- ask Councillors support alternative Motion

Cr Cala for the Motion

- proposed additions/alterations sustainability orientated to maximise northern light
- support recommendation for approval

COUNCIL DECISION ITEM 10.3.2

The Mayor put the Motion

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for proposed additions / alterations to Single House on Lot 3 (No. 22) Hazel Street, Como **be approved** subject to **Standard Conditions**.

CARRIED (13/0)

Reason for Change

Council were of the opinion that the proposed additions/alterations would not be detrimental to the amenity/streetscape of Hazel Street.

Note: Consideration of Item 10.3.3 WITHDRAWN at request of applicant

10.3.3 Application for Planning Approval for Retrospective Additions to 3 Multiple Dwellings. Lot 10 (No. 6) Parker Street, South Perth
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Location: Lot 10 (No. 6) Parker Street, South Perth
 Owner / Applicant: Robert Auguste
 Lodgement Date: 19 May 2008
 File Ref: 11.2008.220 PA2/6
 Date: 12 November 2008
 Author: Matt Stuart, Senior Statutory Planning Officer
 Reporting Officer: Steve Cope, Director Development and Community Services

Summary

To consider a retrospective application for planning approval for modifications to a building exceeding the height limit, exceeding the plot ratio limit and exceeding minimum wall setbacks, to 3 Multiple Dwellings in a five-storey building at Lot 10 (No. 6) Parker Street, South Perth. The modifications conflict with the City's Town Planning Scheme No. 6 and the 2008 R-Codes in relation to plot ratio, building height and wall setbacks. Consequently it is recommended that the application be refused.

Background

The development site details are as follows:

Zoning	Residential
Density coding	R60
Lot area	572 sq. metres
Building height limit	9.75 metres
Development potential	3 Multiple Dwellings
Plot ratio limit	0.7:1

This report includes the following attachments:

Attachment 10.3.3(a) Site photographs.
Confidential Attachment 10.3.3(b) Plans of the proposal.
Attachment 10.3.3(c) Applicant's supporting letters.

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:

2. Large scale development proposals

- (i) *Proposals involving non-residential development which, in the opinion of the delegated officer, are likely to have a significant effect on the City; and*
- (ii) *Proposals involving buildings 9.0 metres high or higher based upon the Scheme definition of the term “height”. This applies to both new developments and additions to existing buildings resulting in the building exceeding the nominated height.*

NOTE: Any proposal in this category shall be referred to the Design Advisory Consultants prior to referral to a Council meeting for determination.

3. The exercise of a discretionary power

- (i) *Proposals involving the exercise of a discretionary power which, in the opinion of the delegated officer, should be refused. In this instance, the reason for refusal would be a significant departure from the Scheme, relevant Planning Policies or Local Laws; and*
- (iii) *Proposals representing a significant departure from the Scheme incorporating the Residential Design Codes, relevant Planning Policies and Local Laws where it is proposed to grant planning approval.*

4. 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.

6. Amenity impact

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

In relation to item 6 above, the extent of amenity impact arising from the proposal is considered unacceptable (see comments below).

Comment

(a) Background

Development on the site (a five-storey building) has been subject to City and Council consideration since July 2001, where there have been six planning applications, five building applications and a number of minor and major amendments.

The main building was conditionally approved by Council on 21 December 2004, and amended several times since.

The subject site is currently in the final stages of construction, as depicted in the site photographs of **Attachment 10.3.3(a)**, and awaiting strata clearance from the City for subdivision and sale.

(b) Description of the proposal

The application seeks retrospective approval for modifications to approved plans regarding additional building height and additional plot ratio area, to 3 Multiple Dwellings within a 5-storey building, as depicted in the submitted plans at **Confidential Attachment 10.3.3(b)**.

The proposal complies with the Town Planning Scheme No. 6 (**TPS6**), the Residential Design Codes of WA 2008 (the **R-Codes**) and relevant Council Policies with the exception of the non-complying variations discussed in more detail below.

(c) Building height

As background, it is noted that the applicant did not conform with planning approvals and carried out a series of unauthorised works over a long period, contrary to Clause 7.1(1) (Requirement for Planning Approval) of the Scheme, and therefore committed an offence under s.218 of the *Planning and Development Act 2005*, and cl. 9.2 of TPS6 (enforceable by s. 223 of the Act and cl. 9.2 of TPS6).

Retrospective building height application

The drawings submitted with the retrospective application are in conflict with Clause 6.2(1)(b)(v)(A)(II) of the City's Town Planning Scheme No. 6, which requires external walls projecting above the building height limit to be contained within a notional hip roof shape situated immediately above the exterior walls of the building.

The prescribed building height limit for this site is 9.75 metres plus a 25 degree notional roof envelope, however the constructed building projects beyond that envelope [see **Figure 1** below as an extract of amended plans at **Confidential Attachment 10.3.3(b)**].

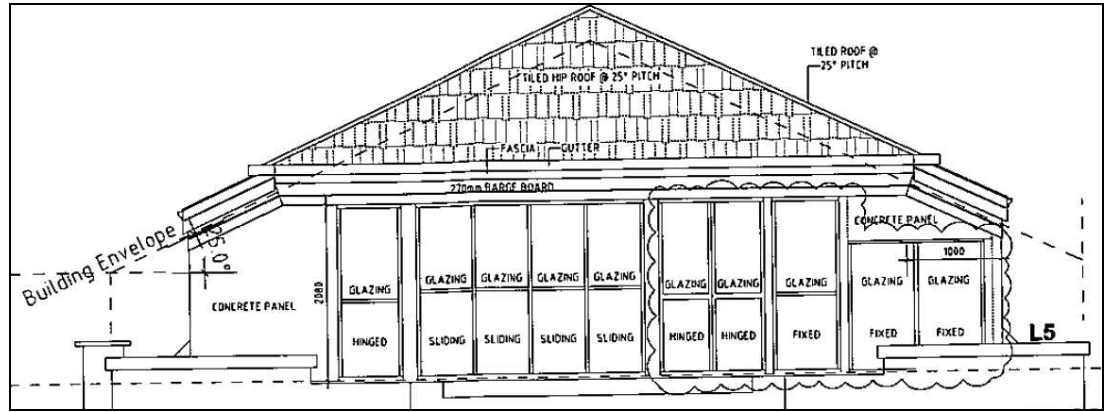


Figure 1: Building height envelope and as-constructed building height - Front elevation.

In examining the building height issue, it is also noted that the approved south-western and north-eastern side walls to Level 5 (see **Figure 2** below), are not as high as the as-constructed wall [see **Figures 3-5** below and **Confidential Attachment 10.3.3(b)**].

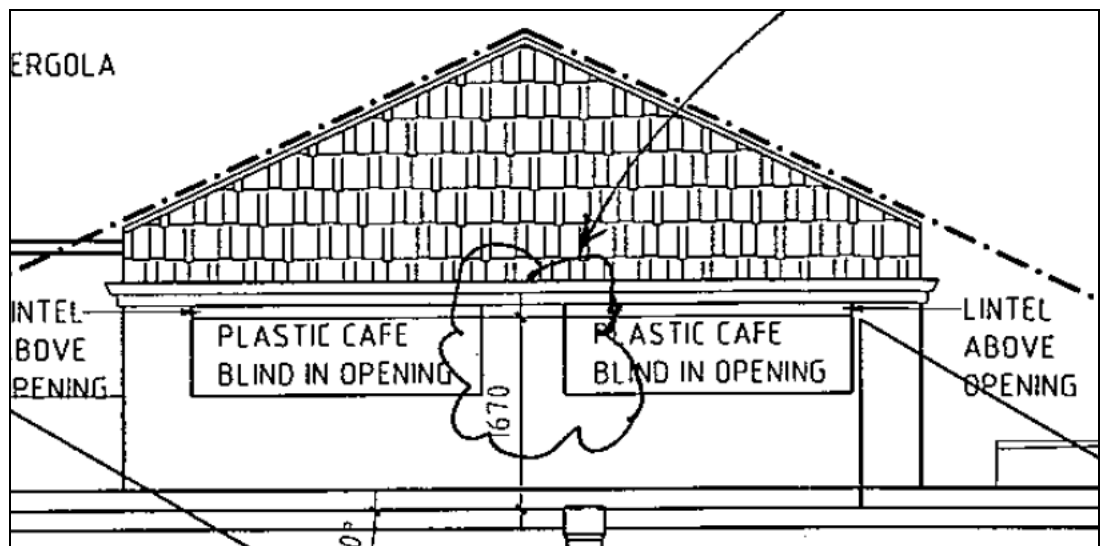


Figure 2: Approved Level 5 side wall - Side elevation.

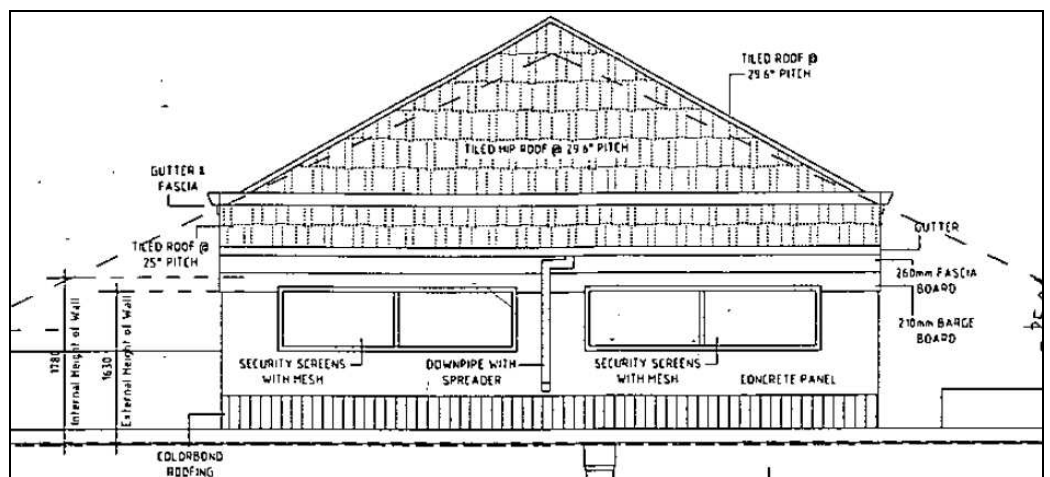


Figure 3: As-constructed Level 5 side wall - Side elevation.



Figure 4: As-constructed Levels 4 and 5 “Balconies” - Site photograph.

By raising the side wall (see **Figure 5**), the effect is to increase the internal head clearance of the covered “Balcony”, thereby making the space more usable as a Habitable Room, which is subject to plot ratio control. This point is discussed in depth in part (d) which follows.



Figure 5: Unauthorised over-height modification (internal) to concrete wall panel.

In assessing the as-constructed plans, the external wall building height limit is 9.75 metres above highest point underneath the building, or RL 30.43 metres as a Relative Level expression. Taking into account of the aforementioned notional 25 degree roof pitch, building height limit of the “Balcony” wall is RL 30.94 metres. However, as the amended plans demonstrate the constructed wall extends to RL 30.99 metres (+5cm), the development does not comply with Clause 6.2 "Maximum Building Height Limit" of Town Planning Scheme No. 6.

The applicant's opinion, refer **Attachment 10.3.3(c)**, is that the additional height is the result of the addition of a barge-board and fascia-board, which is purported to be part of the roof and therefore exempt from the building height control. This opinion is not shared by City Planning and Building Officers. It is the officers' opinion that, the additional unauthorised height brings about conflict with various Scheme Objectives in Clause 1.6 of the Scheme (covered in part (o) below; notably an adverse effect on residential character and amenity).

The building height limit is a planning control designed to prevent buildings being too tall, by comparison with other buildings within the precinct, whereby an adverse effect on streetscape and the amenity of the neighbourhood could arise. The officers consider that an addition of a decorative board to the face of a wall does not have the effect of reducing the height of the building, nor ameliorating the adverse visual impact of the additional height.

The applicant also refers to the financial implications relating to resolving the unauthorised structures, however financial circumstances are not a relevant planning consideration in relation to compliance with the statutory building height limit. Furthermore, the structures in question were built without consultation or approval of the City.

Noting that the constructed building clearly exceeds the approved and permitted building height limit, it is important to note also that Clause 7.8 of TPS6 (Discretion to Permit Variations from Scheme Provisions), sub-clause (2) states [emphasis added]: *"The power conferred by sub-clause (1) if this clause shall not be exercised by the Council with respect to: (a) Building Height Limits referred to in Clause 6.2;"*

Accordingly, as building heights are controlled by the Scheme a variation is not able to be approved by Council.

(d) Plot ratio and enclosure of balconies

The plot ratio permitted is 0.7 (400 sq. metres), whereas the actual plot ratio is 0.82 (469 sq. metres), being an excess of 69 sq. metres. In this respect the development does not comply with the plot ratio element of the R-Codes.

When the City approved the main building in July 2001, the structures were designed at the limit of plot ratio floorspace, and therefore the creation of any additional floorspace is not possible.

In assessing the as-constructed plot ratio, it is noted that the landowner / applicant has sought to increase habitable floorspace with a useable "Void" and by enclosing the "Balcony" on Levels 4 and 5, both for Unit 3 (the landowner's future private residence). In doing so, the development exceeds the plot ratio limits.

However, it is important to note that the definition of "Plot Ratio" excludes "... balconies and verandahs open on at least two sides".

Level 4 “Balcony”

Guidance from the SAT

Previous State Administrative Tribunal determinations relate to the enclosure of balconies, and the effect of enclosure on plot ratio calculations. In relation to *Drake and City of South Perth & Anor [2005] WASAT 271* (No. 13 Heppingstone Street, South Perth), the SAT found that:

“... a balcony is relevantly "open" if it is open above its balustrade and any necessary obscure glazed privacy screen for at least its longest face, is a useful "rule-of-thumb"...”

Also in this decision, the SAT found that the percentage of opening is relevant because [emphasis added]:

*“The openings occupy approximately 30 per cent of its western face. On balance, taking into account both its northern and western faces, the Tribunal considers that it is reasonably open to characterise **terrace 13 on level 2 is an "open balcony"**. If its northern face were not completely open, the Tribunal is likely to have come to a different view.”*

In considering the degree of openness in this case, the SAT also referred to one particular balcony having a “... heavy appearance ...”, and in conjunction with other factors, this added to the issue of enclosure and therefore plot ratio.

Using this SAT decision for guidance in assessing the balconies in application, it is considered that the faces of the “Balconies” are not open and therefore contribute to plot ratio due to:

- Not being open above the balustrade and any necessary glazed privacy screen; and
- The proportion of openings is between 19 percent (side elevation) and 35 percent (rear elevation); and
- The heavy appearance from the full-width and full-height, thick metal security screens.

This matter is subject to further comment in below sections of this report.

Deleted Void and Additional Door

In response to requests from the applicant for advice on modifications to the Level 4 “Balcony”, on 15 March 2007 the applicant was advised by the City that (emphasis added):

*“... with respect to the proposed modifications to the approved Void space on Level 4. You propose to add a floor space of approximately 1.0 sq. metre and a door between the area marked “Entry” and the south-east facing balcony. **This proposal will add to the approved Plot Ratio Area of the development which has already been utilised to its maximum permissible limit. Hence this change cannot be approved.**”*

The applicant subsequently carried out unauthorised works by removing voids and walls, contrary to clause 7.1(1) (Requirement for Planning Approval) of the Scheme.

Heavy Security Screens to Side and Rear Faces

The applicant has installed thick and coarse metal security mesh of heavy appearance to openings in the “Balcony” walls, as seen from the inside in **Figure 6**, and from the outside in **Figure 4**. It is considered that this (in part) converts the space to a Habitable Room, which should therefore be subject to plot ratio control.



Figure 6: Enclosure of “Balcony” with security mesh.

Cafe Blinds to Side and Rear Faces

It is noted that café blinds were proposed to be installed, as per **Figure 2** plans, which would serve to further enclose the “Balcony” openings. As part of the latest set of plans however, the applicant indicated that it is not now intended to fit plastic blinds.

Future Glazing of Side and Rear Faces

During the site inspection of 7 April 2008, it was noted that the “Balcony” openings have been fitted with window frames capable of the installation of glass; this does not have planning approval. If the window frames were fitted with glass, then the level of enclosure would be absolute, again adding to plot ratio. As part of the latest set of plans, the applicant indicates that it is intended to “permanently fix” the frames, without detailing the technique or demonstrating permanence. It is considered that it is a requirement that the frames be either removed, or permanently fixed using a technique to such a necessary degree that there can be no doubt that the frames can be fitted with glazing.

Air-Conditioning of “Balcony”

Also during the final site inspection of 7 April 2008, it was noted by City staff that an air-conditioning spur duct and vent has been installed above the Level 4 “Balcony”, as seen in **Figure 7**. The various plans submitted since 2001 have always depicted the air-conditioning duct as either a void (which was removed without planning approval) or a “Bulkhead Above”, as seen in **Confidential Attachment 10.3.3(b)** plans. It is considered that the use of this nomenclature is questionable given the potential function and use of this room.



Figure 7: Air-conditioning spur duct and vent to Level 4 “Balcony”.

As part of the latest set of plans, the applicant indicates the intention to close-off the duct but does not propose to physically remove it. This is considered to be unacceptable, given the ability to reopen the vents. It is considered that it is reasonably foreseeable that the space could be converted to a Habitable Room, which is subject to plot ratio control.

Purpose of Two Shared Bathrooms

It is noticed that Level 4 to Unit 3 (the applicant’s future private residence) has only one bedroom, yet two shared bathrooms [see **Figure 8** below or **Confidential Attachment 10.3.3(b)**]. Clearly, these side-by-side bathrooms are not ensembles as they only have access from a shared hallway. The function of the two bathrooms is therefore not entirely clear, unless the Balcony is intended to be converted to a Bedroom; which would again contribute to plot ratio and cause the maximum permitted plot ratio to be exceeded.

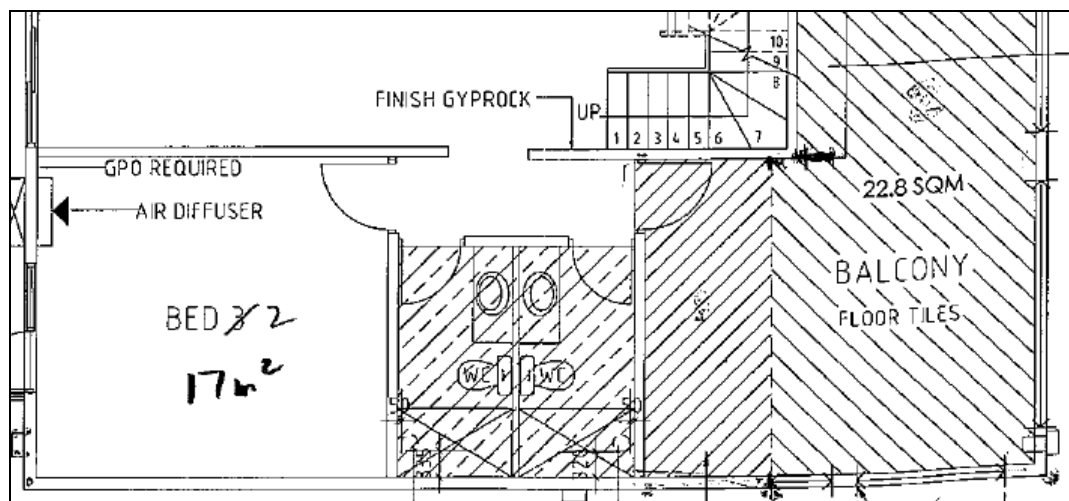


Figure 8: Level 4 to Unit 3 bathrooms.

Degree of Openness to Side and Rear Faces

It is noted that the “Balcony” is formed by concrete wall panels with 600mm - 1500mm wide columns, and upper and lower wall sections [see **Figure 9** below or **Confidential Attachment 10.3.3(b)**].

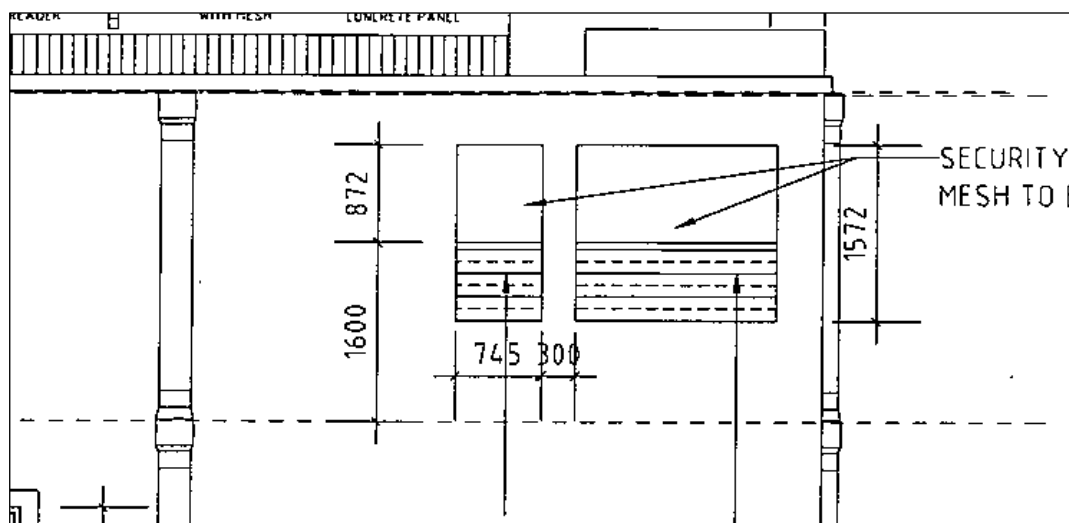


Figure 9: Thickness of Level 4 “Balcony” columns and upper / lower wall sections.

The applicant’s Planning Consultant, Vanguard Planning Services, stated in a letter dated 30 April 2007, that [emphasis added]:

“The extent to which a balcony is enclosed is determined by reference to all its sides. One useful “rule-of-thumb” which has been used in the past to determine if a balcony is relevantly “open”, is if it is open above its balustrade and any necessary obscure glazed privacy screen for at least its longest face... Another useful rule of thumb is the % of opening around the perimeter of the balcony...”

The opinion of the landowner’s planning consultant is the same as the SAT decision, and that of the City, which is that the “Balcony” is not sufficiently open, being between 15 percent (side elevation) and 35 percent (rear elevation);

Conclusion on Level 4 “Balcony”

Based of the matters of enclosure discussed above it is considered that the constructed “Balcony” on Level 4 can no longer be perceived by external viewers or by the future occupants as a balcony, but rather as a Habitable Room, which is subject to plot ratio control.

Taking into account the applicant’s submission, the SAT decision referred to above and the requirements of the City’s Town Planning Scheme, R-Codes and relevant policies, it is considered that the Level 4 “Balcony” adds to plot ratio due to:

- Not being open above its balustrade (and screening);
- Thick concrete columns and balustrades;
- The percentage of opening around the perimeter being quite limited;
- Heavy appearance with thick metal mesh to openings;
- Frames still capable for glazing;
- Installing air-conditioning ducting and vents;
- The functionally and oversupply of bathrooms;
- Removed void;
- Modified location of walls; and
- Modified floor layout.

Available Discretion

Noting that the constructed building clearly exceeds the approved and permitted plot ratio, it is important to note that in considering a variation, Clause 7.8 (Discretion to Permit Variations from Scheme Provisions), sub-clause (2) cites (emphasis added):

*“The power conferred by sub-clause (1) if this clause **shall not be exercised by the Council with respect to:** ...(c) the requirements prescribed under **the Residential Design Codes.**”*

The R-Codes do not specify Performance Criteria for plot ratio, however discretion can be exercised provided that Council has due regard to the “stated purpose and aims of the Scheme”, “the explanatory text of the Codes that corresponds to the relevant provision” and “orderly and proper planning” [Section 2.3.4(2) of the R-Codes].

If Council is satisfied with the applicant’s proposal after having properly considered the matters referred to above, the Council could approve the application.

It is considered that the applicant has not demonstrated that the plot variation has sufficient regard to the Scheme Objectives (i.e. purpose and aims), nor is it considered that they have been met, as covered in Section (o) of this report.

When considering every application for planning approval, “orderly and proper planning” is a matter which must be properly considered by the Council. This is a matter listed in Clause 7.5(b) of TPS6 as requiring due and proper consideration when Council is dealing with any application for planning approval. In pursuance of orderly and proper planning, the Council should ideally adopt a consistent approach to the application of statutory provisions of the Scheme and the R-Codes. Plot ratio is a site control which has been applied in a consistent manner for the past 40 years or longer. While discretion can be exercised by the Council to permit the prescribed plot ratio area to be exceeded, in the interests of orderly and proper planning and consistent decision-making, this discretionary power should only be exercised with extreme caution. Unless a particular proposal is unique and unlikely to lead to other applications for a similar concession, it is not considered advisable to support a conflict with the maximum prescribed plot ratio. In the present instance, the case for

not approving the current application due to the plot ratio conflict, is considered to be more compelling due to the existing building already exceeding the prescribed plot ratio limit.

The further excess of plot ratio area which would be brought about by approval of the current proposal, would be exacerbated if the current application leads to the submission of other similar applications from other apartment owners in the same development or within the wider precinct. This outcome would not be in the interests of orderly and proper planning.

In light of the preceding comments, it is considered that the current application should not be approved. Such an approval would represent a distortion of the manner in which plot ratio control is intended to be exercised based upon the definition of this term in the R-Codes. If the enclosure of the balconies had been shown on the originally submitted drawings, thus requiring inclusion in plot ratio calculations, it would have been necessary to reduce the floor area of the building elsewhere.

Therefore, as the built plot ratio area is non-complying, a note is recommended to reinstate the balconies from habitable rooms to the satisfaction of the City, and thereby rectify this matter.

Level 5 “Balcony”

Additional Access Installed

An accessway and door protruding into the balcony has been installed without planning approval, which serves to increase the internal floorspace and provide convenient access from the inside of the building (a Habitable Room), rather than from the outside of the building (the front Balcony). This (in part) converts the space to a Habitable Room, which is subject to plot ratio control.

Heavy Security Screens on Side and Rear Faces

Similar to the Level 4 “Balcony”, the Level 5 “Balcony” has a duplicated issue in relation to the thick and coarse metal security mesh of heavy appearance, to openings in the “Balcony” walls. It is considered that this (in part) converts the space to a Habitable Room, which is subject to plot ratio control.

Cafe Blinds on Side and Rear Faces

Like the Level 4 “Balcony”, there is a similar issue with the Level 5 “Balcony” in relation to café blinds. Again, as part of the latest set of plans the applicant has indicated the intension not to fit plastic blinds; this is considered to be a requirement of any determination.

Future Glazing on Side and Rear Faces

Like the Level 4 “Balcony” there is a similar issue with, the Level 5 “Balcony” in relation to glazing. Again, as part of the latest set of plans, the applicant indicates the intention to “permanently fix” the frames, without detailing the technique or demonstrating permanence. It is therefore considered that it is a necessary requirement that the frames be either removed, or permanently fixed using a technique to such a degree that there can be no doubt that the frames can be fitted with glazing.

Reduced Windows on Side Face

In late 2006, City officers discovered by chance that the side face had openings that were constructed with a lesser size (see **Figure 10** below), as compared with the planning approval.

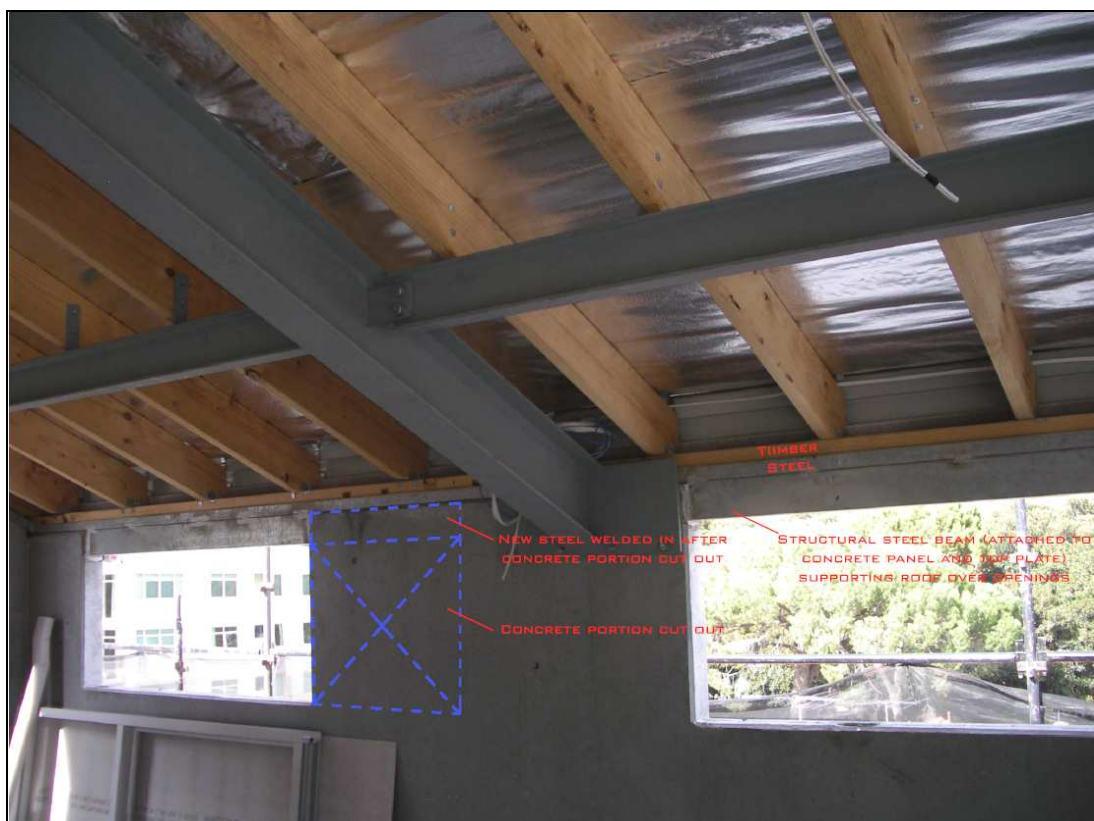


Figure 10 : Rectification of Level 5 “Balcony” openings.

On 21 May 2007, the applicant was advised by the City that [emphasis added]:
 “... *In relation to Point no. 4 of the email dated 24 January 2007 requiring deletion of the proposed walls around the previously approved south-west facing Balcony on level 5, your justification is noted. You have mentioned that these walls have been provided for structural reasons and the balcony is still sufficiently open to comply with the provisions of R-Codes. However, the City’s view is that the additions of ceiling height walls and solid concrete balustrading to the balcony are of a substantial nature and the balcony can not be approved as proposed.*”

After the City advised that the wall would not be approved, the landowner agreed to remove the solid section via amended plans, which was approved (REF: 11.2006.572) and subsequently carried out.

Degree of Openness to Side Face

As previously discussed in this report regarding building height and degree of openness, the side wall (south-west elevation) has been increased in height with cladding on the outside face, with only 19 percent of that face remaining open. This side is also not open above its balustrade and equally this wall cannot be regarded as an “open side”. This (in part) converts the space to a Habitable Room, which is subject to plot ratio control.

Degree of Openness to Rear Face

As previously discussed in this report regarding degree of openness, the rear wall (south-east elevation) is enclosed above its opening and has only 15 percent of that face remaining open. Therefore, this side is not open above its balustrade and this wall cannot be regarded as an “open side”. This (in part) converts the space to a Habitable Room, which is subject to plot ratio control.

Solid Section of Front Face

In late 2006, City officers discovered by chance that a wall had been installed to the Level 5 “Balcony” (as seen in **Figure 11** below), which was constructed without planning approval contrary to Clause 7.1(1) of the Scheme.



Figure 11: Enclosure of Level 5 “Balcony”.

Upon seeking retrospective approval, on 24 January 2007 the applicant stated that the section could not be removed “... for structural reasons”. After the City advised that the wall would not be approved, the landowner agreed to remove the solid section via amended plans, which was approved (REF: 11.2006.572) and subsequently carried out.

Glazing of Front Face

During a final site inspection for strata approval on 7 April 2008, the City again discovered that the front face of the Level 5 “Balcony” had been enclosed without planning approval, contrary to Clause 7.1(1) of the Scheme.

The face is currently fitted with substantial doors and frames for glazing (see **Figure 12** below). On 28 April 2008, the applicant applied for retrospective approval for the balcony enclosure, which is the subject (in part) of this Council report.



Figure 12: Enclosure of Level 5 “Balcony”.

Noting the advice of the applicant’s Planning Consultant and the SAT findings and like the Level 4 “Balcony” by glazing the front side of the “Balcony”, and with solid sections above, this side becomes enclosed and it is therefore considered that this (in part) converts the space to a Habitable Room, which is therefore subject to plot ratio control.

The applicant contends that this side can now be enclosed because it is proposed to remove the glazing to the rear face of the “Balcony”, and therefore transfer the “open” face to the rear. It is noted that the rear face has been enclosed without planning approval, contrary to Clause 7.1(1) of the Scheme.

As reported above, the degree of openness to the rear face is not adequate and therefore the rear face is not open and it is required that the front face be rectified to be compliant with the development previously granted by removal of the framing.

Conclusion - Level 5 “Balcony”

In summation, the “Balcony” on Level 5 has been converted to a Habitable Room due to:

- Not being open above its balustrade (and screening);
- Thick concrete columns and balustrades;
- The percentage of opening around the perimeter is very limited;
- Installing glass doors and glazing with solid sections above;
- Heavy appearance with thick metal mesh to openings;
- Frames still capable for glazing; and
- Modified floor layout by converting external access to internal access.

Based on matters of enclosure discussed above, it is considered that the constructed “Balcony” on Level 5 can no longer be perceived by the community or the future inhabitants as a balcony, but rather a Habitable Room, and therefore subject to plot ratio controls.

Available Discretion

As per the preceding Section (1.9) on available discretion, the further excess of plot ratio area which would be brought about by approval of the current proposal, would be exacerbated if the current application leads to the submission of other similar applications from other apartment owners; such an outcome would not be in the interests of orderly and proper planning.

In light of the preceding comments, the current application should not be approved. Such an approval would represent a distortion of the manner in which plot ratio control is intended to be exercised based upon the definition of this term in the R-Codes. If the enclosure of the balconies had been shown on the originally submitted drawings, thus requiring inclusion in plot ratio calculations, it would have been necessary to reduce the floor area of the building elsewhere.

Level 5 “Void”

The plans submitted to the City have always shown a “Void” on the northern side of Level 5 (adjacent to the master bedroom). This has previously been assessed by the City as not constituting floorspace (as is conventional), and has therefore not been included as plot ratio. Accordingly, previous planning approvals have been granted with a maximum permitted plot ratio, excluding this area marked as “Void”.

During a final site inspection for strata approval on 7 April 2008, City officers identified an as-constructed anomaly, which was constructed without planning approval contrary to Clause 7.1(1) of the Scheme. The applicant then provided amended plans on 11 November 2008 depicting the “Void” with floorspace, as seen in **Figure 13** below [and *Confidential Attachment 10.3.3(b)*].

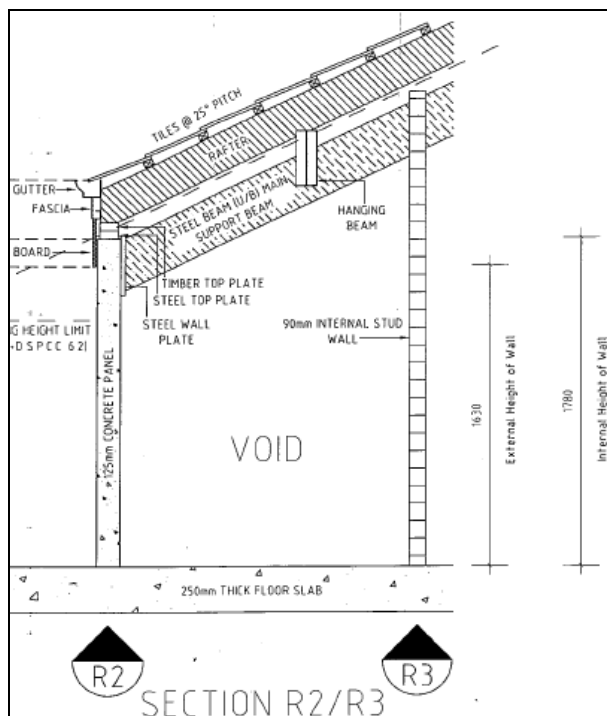


Figure 13: The “Void” with floorspace of Level 5.

The definition of plot ratio is stated in the R-Codes as being (emphasis added, p. A.6) “The ratio of the **gross total of all floors** of buildings on a site to the area of land in the site boundaries”. Accordingly, as additional floorspace has been constructed, the building has an additional 6.7 sq. metres of plot ratio, which in conjunction with the other issues outlined in this report, exceeds the permissible plot ratio.

In addition, there is a window installed to this room, which is indicated as “glazing fixed”, as seen in **Figure 14** below. The purpose of this window is not entirely clear as it is questionable to have a window to a room that is purported to be inaccessible.

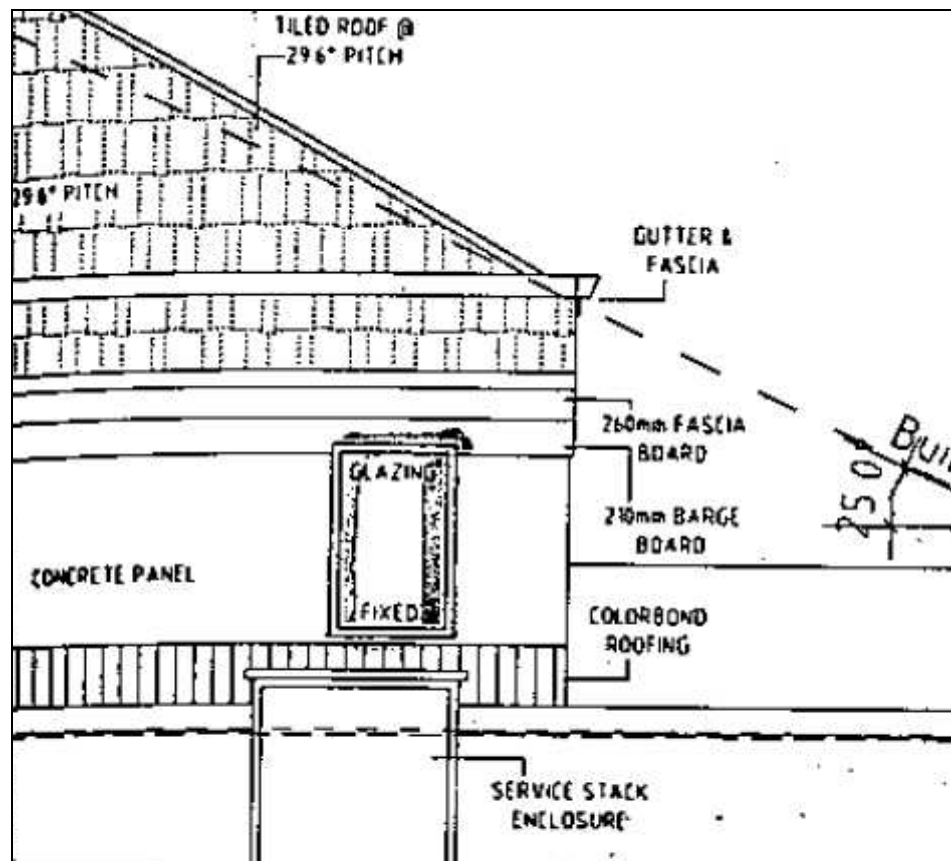


Figure 14: Level 5 side elevation - Window to “Void”.

Furthermore, site photographs below (**Figure 15 - 16**) clearly demonstrate that the window is actually a hinged awning which can be opened. The purpose, and physical ability to open, a hinged window in a room that is purported to be inaccessible is again perplexing.



Figure 15: Level 5 window to “Void” - Closed.



Figure 16: Level 5 window to “Void” - Open.

It is also noticed that the master bedroom on Level 5 is a small 14 sq. metres in area, and without any built-in robes (unlike the other two units). It would therefore be logical for future inhabitants to modify the “Void” into a functional walk-in robe, which would not draw the attention of the City.

It is considered reasonably foreseeable that the “Void” on Level 5 is in fact not a void, but rather a room with functional and hinged awning window, and if the room were used in this way the plot ratio limit of the building would be further exceeded.

As it is clear that the void is usable floorspace and balconies are enclosed Habitable Rooms, the resulting plot ratio neither complies with Acceptable Development standards, nor the Performance Criteria. As a consequence, a series of conditions are recommended to amend the void and balconies so as not to constitute plot ratio, and thereby rectify this matter.

- (e) **Open space**
No changes proposed.

(f) Street setbacks

No changes proposed.

(g) Boundary walls

No changes proposed.

(h) Wall setback - South

The previous approvals for this building related to walls on Level 4 and 5 without Major Openings, to which that design complies with. However, it has been established that the two “Balconies” on Level 4 and 5 have been converted to Habitable Rooms with Major Openings, therefore the required setbacks for the walls has increase significantly.

The southern wall to the modified “Balcony” on Level 4 is setback from the boundary by 2.4 metres instead of 3.3 metres, as required by Acceptable Development standards. Therefore, the proposed development does not comply with the wall setback element of the R-Codes.

Similarly, the southern wall to the modified “Balcony” on Level 5 is setback from the boundary by 2.4 metres instead of 4.1 metres, as required by Acceptable Development standards.

An alternative path for consideration of the side setback is assessment under the Performance Criteria 6.3.1P1 of the R-Codes. The applicant has not provided written justification addressing the Performance Criteria 6.3.1 P1 of the R-Codes of this element. The considered opinion of the Planning team is as follows::

- The proposed structure provides adequate ventilation and sun to the subject site;
- The proposed structure does not provides adequate sun and ventilation to the neighbouring property;
- Building bulk is significant as the changes have included an additional 23 sq. metres of “Balcony” on an upper level (Level 4) with setbacks significantly deviating from the requirements;
- Building bulk is significant as the changes have included an additional floor (Level 5) with setbacks deviating significant from the requirements; and
- Privacy is an issue in relation to the conversion to a Habitable Room and lack of privacy screens.

In assessing these wall setback issues, it is considered that the proposal does not comply with the Performance Criteria.

Therefore, the wall setbacks do not comply with either the Acceptable Development standards or the Performance Criteria.

(i) Visual privacy setbacks

The applicant had proposed to remove all of the approved visual privacy screen, however during the course of the application, this proposal was not supported by the City, and discontinued by the applicant.

However, during a final site inspection for strata approval on 7 April 2008, City officers discovered that the visual privacy screens that have been fitted to the Level 4 “Balcony”, are only temporary. The screens are made of plywood and affixed with simple and removable tek screws. As the materials used for this screening are not permanent, they cease to comply with Clause 6.8.1.A1(ii) of the R-Codes, which requires “... permanent vertical screening to restrict views within the cone of vision from any major opening of an active habitable space”.

The condition of visual privacy for the proposed development does not comply with the visual privacy element of the R-Codes.

(j) Solar access for adjoining sites

The maximum area of overshadow permitted is 489 sq. metres (50 percent); the proposed overshadow is 116 sq. metres (12 percent), therefore, the proposed development complies with the solar access element of the R-Codes.

(k) Finished ground and floor levels - Minimum

No changes proposed.

(l) Finished ground and floor levels - Maximum

No changes proposed.

(m) Car parking

No changes proposed.

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

Having regard to the preceding comments, in terms of the general objectives listed within Clause 1.6 of TPS6, the proposal is considered not to meet the following general Scheme Objectives:

- (a) Maintain the City's predominantly residential character and amenity;*
- (c) Facilitate a diversity of dwelling styles and densities in appropriate locations on the basis of achieving performance-based objectives which retain the desired streetscape character and, in the older areas of the district, the existing built form character;*
- (d) Establish a community identity and "sense of community" both at a City and precinct level and to encourage more community consultation in the decision-making process;*
- (e) Ensure community aspirations and concerns are addressed through Scheme controls; and*
- (f) Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development.*

(o) Other Matters to be Considered by Council: Clause 7.5 of Town Planning Scheme 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;*
- (c) the provisions of the Residential Design Codes and any other approved Statement of Planning Policy of the Commission prepared under Section 5AA of the Act;*
- (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;*
- (k) *the potential adverse visual impact of exposed plumbing fittings in a conspicuous location on any external face of a building;*
- (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;*
- (q) *the topographic nature or geographic location of the land; and*
- (x) *any other planning considerations which the Council considers relevant.*

Consultation

(a) Design Advisory Consultants' comments

The retrospective additions were not referred to the Design Advisory Committee, however the main development has been before the DAC four times.

Comment from the DAC is only addition advice that can be used to clarify issues in an architectural perspective. DAC provides input on the overall architectural design of the built form and its compatibility with the existing streetscape character. Referral to the DAC was not required for the retrospective additions as the overall architectural design of the built form is unchanged and the issues are planning related.

(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 properties at Nos 1-4, 2-4, 3-4 and 4-4 Parker Street were invited to inspect the application and to submit comments during a 14-day period. A total of 8 neighbour consultation notices were mailed to individual property owners and occupiers. During the advertising period, no submissions were received.

(c) Other City Departments

The Strategic Urban Planning Advisor (Strategic Planning), Development Services has made comment that the facia-board and barge-board is not part of the roof and is part of the wall, as discussed in previous sections.

The Team Leader, Building Services has made comment that the facia-board and barge-board is not part of the roof and is part of the wall, as discussed in previous sections.

Policy and Legislative Implications

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

Financial Implications

The issue has no impact on this particular area.

Strategic Implications

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

Sustainability Implications

Sustainability implications have been taken into consideration.

Conclusion

Over a period of time, the applicant has carried out unauthorised works contrary to the Act and the Scheme by constructing structures that are not compliant with planning and building approvals. These unauthorised works were detected by the City after the applicant requested strata clearance from the City. It is considered that the unauthorised works to the constructed building and the proposed amendments will have detrimental impact on the amenity of adjoining residential neighbours, is not consistent with orderly and proper planning, and does not meet relevant objectives and provisions of the Scheme and R-Codes. Accordingly, it is recommended that the application be refused.

OFFICER RECOMMENDATION ITEM 10.3.3

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for retrospective modifications regarding additional building height, additional plot ratio, reduced wall setbacks and removal of privacy screens, on Lot 10 (No. 6) Parker Street, South Perth **be refused** for the following reasons:

(a) Specific Reasons

- (i) The proposed development does not comply with Clause 1.6.2 (Scheme Objectives) of the City of South Perth Town Planning Scheme No. 6 (TPS6), specifically sub-clauses a, c, d, e, and f.
- (ii) The proposed development does not comply with Clause 7.5 (Matters to be Considered by Council) of the City of South Perth Town Planning Scheme No. 6 (TPS6), specifically sub-clauses a, b, c, f, i, j, k, n, p and x;
- (iii) The proposed development does not comply with Clause 6.2 (Building Height Limits) of the City's Town Planning Scheme No. 6, specifically the height of the walls.
- (iv) The proposed development does not comply with a maximum Plot Ratio of 0.7, in accordance with Clause 5.1(1) of the City of South Perth Town Planning Scheme No. 6. Furthermore, the applicant failed to demonstrate that the Plot Ratio control can be varied, in accordance with Clause 7.8(1) of the City of South Perth Town Planning Scheme No. 6.
- (v) The proposed development does not comply with Acceptable Development or Performance Criteria 6.3.1 (Buildings Set Back from the Boundary) of the Residential Design Codes of WA, specifically the following side setbacks:
 - (A) Level 4 (Balcony and Bed 3 - south) setback 2.4 metres in lieu of 3.3 metres; and
 - (B) Level 5 (Balcony - south) setback 2.4 metres in lieu of 4.1 metres.
- (vi) The proposed development does not comply with the Acceptable Development or Performance Criteria 6.8.1 (Visual Privacy) of the Residential Design Codes of WA, due to non-permanent visual privacy screening.

(b) Standard Advice Notes

651 Appeal rights - SAT

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

COUNCIL DECISION ITEM 10.3.3

Note: At the request of the applicant on 25 November 2008, consideration of Item 10.3.3 is withdrawn from the Agenda.

DECLARATION OF INTEREST : ITEM 10.3.4 : CR DOHERTY

The Mayor read aloud the following “Impartiality Interest” from Cr Doherty:

As I live at 11 Birdwood Avenue in Como which is a block away from the site the subject of Report Item 10.3.4 (“Change of Use from Shop to Take-Away Shop” 2/262 Canning Highway Cnr Birdwood Avenue) on the November Council Agenda, I wish to declare an impartiality interest in common with other residents in the vicinity and as such I will not leave the Council Chamber during the discussion / debate on this matter at the Agenda Briefing on 18 November or the Council Meeting on 25 November 2008.

Note: Cr Doherty remained in the Council Chamber.

10.3.4	Proposed Change of Use: Shop to Take-Away Food Outlet. Lot 7 (Unit 2/262) Canning Highway cnr Birdwood Avenue, Como
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Location:	Lot 7 (Unit 2, No. 262) Canning Highway
Applicant:	Thanh Phan
Lodgement Date:	6 August 2008
File Ref:	11.2008.363 CA6/262
Date:	3 November 2008
Author:	Lloyd Anderson, Planning Officer
Reporting Officer:	Steve Cope, Director, Development and Community Services

Summary

To consider an application for a change of land use from Shop to Take-Away Food Outlet for an existing commercial tenancy which is situated at No. 2/262 Canning Highway Como. The now vacant tenancy was previously occupied by ‘4 U Gourmet’, while it is now proposed for the tenancy to be occupied by ‘Empire Pizza’. The recommendation is for approval with standard and specific conditions.

Background

The development site details are as follows:

Zoning	Regional Road / Highway Commercial
Density coding	R80
Lot area	1736 sq. metres
Building height limit	10.5 metres
Development potential	1429.21 sq. metres
Plot ratio	0.5

This report includes the following attachments:

- Confidential Attachment 10.3.4(a)** Plans of the proposal.
- Attachment 10.3.4(b)** Applicant’s supporting letter.
- Attachment 10.3.4(c)** Riley Consulting - Traffic report for the site.
- Attachment 10.3.4(d)** Greg Rowe and Associates - Report for the site.

The location of the development site is shown below. The commercial tenancy that is the subject of this development application is the second from Canning Highway in a row of commercial tenancies on the corner of Canning Highway and Birdwood Avenue. The tenancy has frontage to Birdwood Avenue and is separated from an adjoining residential dwellings by Canning Highway and other shops on the site. A vacant lot (zoned Residential - R80) is situated directly opposite the development site.



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:

6. Amenity impact

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

In relation to item 6 above, the extent of amenity impact arising from the proposal is considered acceptable.

Comment

(a) Description of the proposal

Under Town Planning Scheme No. 6 (TPS6) a Take-Away Food Outlet is a “DC” Use which means:

“... is not permitted unless the Council has exercised its discretion by granting planning approval after giving special notice in accordance with Clause 7.3 of the Scheme.”

This special notice has been undertaken and further comments in this respect are provided in the “Consultation” section of this report.

The applicant indicates that the proposed Take-Away Food Outlet will operate during the following hours:

- Monday to Friday: 4:30pm to 10:00pm; and
- Friday and Saturday: 4:30m to 11:00pm.

It is proposed that the premises will be staffed by a total of 3 people in the following manner:

- 2 chefs; and
- 1 delivery driver.

The proposal complies with the TPS6, however Council needs to consider the amenity impacts, car parking and traffic issues that may arise with respect to the proposal.

(b) Amenity and character

Council has to be satisfied that the proposal will not adversely affect the amenity of the surrounding residential property owners. Some concern is held that the proposed hours of trade will have the capacity to cause an adverse amenity impact on adjoining and other nearby property owners, and in this regard, it is considered prudent to restrict the hours of trade in order to mitigate any potential adverse amenity impact on nearby property owners. It is recommended that the Take-Away Outlet should not trade beyond 10:00pm on weekdays and 10:30pm on weekends. Both the applicant and responding neighbour have agreed to the proposed hours of trade.

Conditions relating to trading hours have been successful in the past. The commercial property on the corner of Canning Highway and Brandon Street (car wash) was approved by Council (MINUTES - ORDINARY COUNCIL MEETING 27 MAY 2003) with a condition relating to trading hours. The applicant appealed the decision to the Minister for Planning at that time and lost.

In addition the character and form of the existing building will remain largely unchanged which will have no significant impact on the adjoining properties.

(c) Car parking, access and egress

TPS6 does not specify a prescribed parking ratio for a Take-Away Food Outlet. In accordance with the provisions of Clause 6.3(2) of the Scheme, car parking bays have to be provided to the number determined by Council in each case, having regard to the likely demand.

The site has 25 approved car parking bays that comply with TPS6 requirements. In addition to the 25 car bays provided for on-site there are 24 car bays on Birdwood Avenue (9 bays to the south of Birdwood Avenue, 2 bays in front of adjacent houses and 13 bays provided to the north side of Birdwood Avenue). These bays have been constructed by the City of South Perth in front of the existing shops. Council needs to be satisfied that the 25 car bays on-site and the 24 bays on Birdwood Avenue being 49 in total cater for the proposed development and other uses surrounding the area.

“Riley Consulting” have conducted a “Traffic Statement” (**Attachment 10.3.4(c)** refers) relating to the site which states the following points worth considering:

- The existing and proposed land uses are retail land uses which will have the same traffic attraction.
- 30 car parking bays would be required to satisfy the peak demands for the site.
- The proposed use generates a demand for car parking in the evening and night which would differ from other uses on the site and within the locality.

In addition to this report, Greg Rowe and Associates submitted a report at **Attachment 10.3.4(d)** discussing development requirements relating to the site, which states the following points worth considering:

- 43 car parking bays are required at a rate of 1 bay per 20 square metres of gross floor area.

The above figure would be correct if all the uses of the site where “Shop”, however the proposal is for a “Take-Away Food Outlet” and there is no prescribed car parking figure. In the City officer’s opinion, the change of land use is not considered to be as significant as the development and is well catered for with respect to car parking (49 car bays are provided on-site and on-street). The “Greg Rowe and Associates” report (**Attachment 10.3.4(d)**) refers) suggests that 43 car parking bays would be required for the site meaning that if all the bays were full there would still be 6 car parking bays remaining. Staff parking and delivery staff parking will be minimal and to the rear of the property, this is recommended to form a condition of approval.

(d) Traffic

The report, “Riley Consulting Traffic Statement” at **Attachment 10.3.4(c)** states the increase in traffic generated by this proposal would represent a modest increase and not impact on the existing traffic operations. The proposal is seen to have minimal impact in respect to traffic.

(e) Signage

TPS6 requires an application for planning approval to be submitted in relation to any proposed sign. As signage is not proposed as part of this change in use application a condition, to the following effect be placed:

A separate application with complete set of detailed drawings to be lodged with the City for all proposed signage that is intended to be placed on the site or on the building.

This condition will allow the City to assess the proposed signage in accordance with Clause 6.12 of TPS6 and City’s Policy P382_T “Signs” at a later time.

(f) Canning Highway - Road widening

The Department for Planning and Infrastructure (DPI) has provided the following comments in relation to the proposal keeping in view the planned future road widening:

“The land owner agrees that any compensation for loss of revenue arising from the change of use from Shop use to Take-Away Food Outlet will not be sought from the Council or Western Australian Planning Commission when the reserved land is required for upgrading of Canning Highway.”

Since DPI has no objection to the proposal on regional transport planning grounds, subject to the above conditions being placed on the planning approval, no concerns have been expressed in relation to the proposed change of use.

(g) Setback from Canning Highway

Table 5 of TPS6 requires a setback of 19 metres from Canning Highway to provide for future widening. The existing building has a nil setback therefore is within the road widening section.

(h) Other planning controls

As shown on the plans, **Confidential Attachment 10.3.4(a)**, the existing building is being used for the purposes of the proposed Take-Away Food Outlet use. Planning controls in relation to plot ratio, building height, setbacks, boundary walls, ground and floor levels, landscaping and bicycle parking will not apply.

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

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

- (a) *Maintain the City's predominantly residential character and amenity;*
- (f) *Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development.*

With regards to Objectives (a) and (f), the character and the built form of the proposed Take-Away Food Outlet will remain largely unchanged as the existing building will be utilised for the purpose.

- (g) *Protect residential areas from the encroachment of inappropriate uses;*
- (j) *In all commercial centres, promote an appropriate range of land uses consistent with:*
 - (i) *the designated function of each centre as set out in the Local Commercial Strategy; and*
 - (ii) *the preservation of the amenity of the locality.*

With respect to (g) and (j) the site being a corner is seen to be the most appropriate location for this type of use. There are many corner blocks along Canning Highway with commercial uses of this nature.

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

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

- (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.*

In regards to matters (b) and (i), the proposal meets the requirements for orderly and proper planning through its use of the rear of the lot for car parking and the restrictions on trading hours as recommended.

- (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.*

With respect to matters (s), (t), (w) the amenity, car parking and traffic sections of this report comment on these requirements.

(f) Conclusion

The proposal broadly meets the objectives of the Scheme. The matters relating to amenity, character and traffic generation have been adequately addressed in the development application. It is recommended that the application be conditionally approved.

Consultation

(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 properties at Nos. 262, 257 (Units 1-2), 259 (Units 1-3), 261 (Units 1-2), 262, 263, 264, 266 Canning Highway and 1 (Units 1-2) were invited to inspect the application and to submit comments during a 14-day period. A total of 18 neighbour consultation notices were mailed to individual property owners. During the advertising period, one submission was received in support of the application but subject to conditions relating to trading hours. The comments of the submitters, together with officer responses, are summarised as follows:

Submitter’s Comment	Officer Response
Considering the residential amenity of the street, the hours of operation no later than 10:00pm Monday to Thursday and 10:30pm on Friday and Saturday	The recommendation proposes restricting the hours of operation to no later than 10:00pm Monday to Thursday and 10:30pm on Friday and Saturday. The applicant does not intend to operate on Sundays. The comment is NOTED .
Parking and traffic impact on residential amenity.	Section (c and d) of this report provides the required information. The comment is NOTED .

(c) Manager, Engineering Infrastructure

The Manager, Engineering Infrastructure has documented the requirements with respect to on-site parking bays, crossovers, ground levels and stormwater drainage.

(d) Senior Health Officer, Environmental Health

The Environmental Health Department has provided detailed comments concerning the design of the bin enclosure. Refer to Important Notes recommended to be placed on the approval.

(e) Other Department comments

The Team Leader, Building Services had no comments to make on the proposal at this stage; however, if approved, the proposal will be the subject of a building licence application which will be thoroughly examined at a later stage.

Policy and Legislative Implications

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

Financial Implications

The issue has no impact on this particular area.

Strategic Implications

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

Sustainability Implications

Sustainability implications have been taken into consideration.

OFFICER RECOMMENDATION ITEM 10.3.4

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for a change of use from Shop to Take-Away Food Outlet on Lot 7 (No 262) Canning Highway, Como **be approved**, subject to:

(a) Standard Conditions

425 colours and materials 661 Validity of approval

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

(b) Specific Conditions

- (i) A maximum of three people working at any one time.
- (ii) The hours of operation being limited to 10:00pm Monday to Thursday and 10:30pm on Fridays and Saturdays.
- (iii) Staff parking and delivery staff parking required to be to the rear of the property.
- (iv) The land owner agrees that any compensation for loss of revenue arising from the change of use will not be sought from the Council or Western Australian Planning Commission when the reserved land is required for upgrading of Canning Highway.
- (v) A separate application being lodged for any signage with full details and plans of the signage being proposed.

(c) Standard Advice Notes

648 building licence required 649A minor variations - seek approval
651 appeal rights - SAT

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

(d) Specific Advice Notes

Engineering Infrastructure

An effective drainage system needs to be installed consisting of a “below ground structure” to capture and retain stormwater with soakage into the subsoil. The most likely structural form would be precast concrete culverts although other forms such as the “Atlantis Cell” or “Invisible Structures” would suffice providing the system was designed to accept the “worst case” scenario for the accepted storm event.

Environmental Health

(i) Bin enclosure

A suitable bin enclosure(s) will need to be provided which complies with the requirements of the City's *Health Local Law 2002*. The location of the refuse enclosure / area is to be to the satisfaction of Council's Manager, Environmental Health Services. The refuse receptacle area is to be provided with the following:

- (A) A tap connected to an adequate supply of water;
- (B) Suitably screened from view from the street by a wall / fence that is smooth and impervious and constructed of approved materials not less than 1.5 metres in height;

- (C) An access way of not less than 1.0 metre in width for 240 litre mobile garbage bin or 1.5 metre width for 1100 litre mobile garbage bin, fitted with a self-closing gate;
- (D) Smooth, impervious floor of not less than 74 mm thickness, evenly graded and adequately drained to a minimum 100 mm diameter industrial graded floor waste;
- (E) Easy access to allow for the removal of containers;
- (F) Internal bin areas to be sealed from other internal rooms and be provided with mechanical ventilation capable of exhausting not less than 5 litres of air per second per 1.0 square metre of floor area, ducted to the outside air;
- (G) The minimum size of the bin enclosure is to the satisfaction of the City's Manager, Environmental Health and Regulatory Services at a general rate of 1.5 sq. metres per 240 litre bin or 2.5 sq. metres per 1100 litre bin.

(ii) Noise

All mechanical ventilation services, motors and pumps, e.g. air conditioners, swimming pools, to be located in a position so as not to create a noise nuisance as determined by the *Environmental Protection Act 1986* and *Environmental Protection (Noise) Regulations 1997*.

MOTION

Cr Hasleby moved the officer Recommendation, Sec Cr Hearne

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Hasleby opening for the Motion

- concerns raised about traffic management
- do not believe traffic concerns should be part of this particular proposal
- whether traffic flow has increased or not in this area should be considered in the future
- in relation to traffic management - perhaps consider traffic control lights
- proposal should be approved and conditions adopted

Cr Gleeson for the Motion

- know about Pizza Shops / operating times etc
- there certainly is a traffic problem but on Canning Highway not Birdwood Avenue
- Pizza Shop will be closed in the day - therefore no traffic problems in the day
- support the Motion

Cr Doherty point of clarification - in respect to a recent memo circulated in response to questions raised at the November Council Agenda Briefing it was indicated that an electrical sub-station was approved under delegated authority after the owner agreed to remove some of the old outbuildings to ensure no loss of car parking. Can you tell me if this has been complied with?

Manager Development Assessment said that the outbuildings have yet to be demolished.

Cr Doherty point of clarification - Can we approve this application tonight in context even though the work as not commenced?

Director Development and Community Services responded that the demolition of the outbuildings will be dealt with as per of the Building Licence application process.

Note: Following further discussion on Item 10.3.4 and with the concurrence of the Mover and Seconder the following additional **Specific Condition** was added to the officer recommendation:

Specific Condition

(b)(vi) the outbuildings be demolished prior to commencing the use of this particular take-away food outlet.
and

Specific Condition (b)(i) amended by the number three being changed to read five in support of the applicant's request and as discussed during Deputations at the November Agenda Briefing on 18 November, 2008.

**OFFICER RECOMMENDATION AND
COUNCIL DECISION ITEM 10.3.4**

The Mayor put the Motion

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for a change of use from Shop to Take-Away Food Outlet on Lot 7 (No 262) Canning Highway, Como **be approved**, subject to:

(a) Standard Conditions

425 colours and materials 661 Validity of approval

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

Note: Following a request by SAT to review conditions, at the February 2009 Council Meeting, Conditions (b)(i) and (b)(iv) **Deleted**; and Condition (b)(ii) amended to show hours of operation from **9.00am**.

(b) Specific Conditions

- (i) ~~A maximum of five people working at any one time.~~
- (ii) ~~The hours of operation being limited to 10:00pm Monday to Thursday and 10:30pm on Fridays and Saturdays.~~
 - (ii) **The hours of operation being limited to the hours between:**
 - (a) **9:00am and 10:00pm Sunday to Thursday; and**
 - (b) **9:00am and 10:30pm Fridays and Saturdays**
- (iii) Staff parking and delivery staff parking required to be to the rear of the property.
- (iv) ~~The land owner agrees that any compensation for loss of revenue arising from the change of use will not be sought from the Council or Western Australian Planning Commission when the reserved land is required for upgrading of Canning Highway.~~
- (v) A separate application being lodged for any signage with full details and plans of the signage being proposed.
- (vi) The outbuildings be demolished prior to commencing the use of this particular take-away food outlet.

(c) Standard Advice Notes

648 building licence required 649A minor variations - seek approval
651 appeal rights - SAT

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

(d) **Specific Advice Notes**

Engineering Infrastructure

An effective drainage system needs to be installed consisting of a “below ground structure” to capture and retain stormwater with soakage into the subsoil. The most likely structural form would be precast concrete culverts although other forms such as the “Atlantis Cell” or “Invisible Structures” would suffice providing the system was designed to accept the “worst case” scenario for the accepted storm event.

Environmental Health

(i) **Bin enclosure**

A suitable bin enclosure(s) will need to be provided which complies with the requirements of the City's *Health Local Law 2002*. The location of the refuse enclosure / area is to be to the satisfaction of Council's Manager, Environmental Health Services. The refuse receptacle area is to be provided with the following:

- (A) A tap connected to an adequate supply of water;
- (B) Suitably screened from view from the street by a wall / fence that is smooth and impervious and constructed of approved materials not less than 1.5 metres in height;
- (C) An access way of not less than 1.0 metre in width for 240 litre mobile garbage bin or 1.5 metre width for 1100 litre mobile garbage bin, fitted with a self-closing gate;
- (D) Smooth, impervious floor of not less than 74 mm thickness, evenly graded and adequately drained to a minimum 100 mm diameter industrial graded floor waste;
- (E) Easy access to allow for the removal of containers;
- (F) Internal bin areas to be sealed from other internal rooms and be provided with mechanical ventilation capable of exhausting not less than 5 litres of air per second per 1.0 square metre of floor area, ducted to the outside air;
- (G) The minimum size of the bin enclosure is to the satisfaction of the City's Manager, Environmental Health and Regulatory Services at a general rate of 1.5 sq. metres per 240 litre bin or 2.5 sq. metres per 1100 litre bin.

(ii) **Noise**

All mechanical ventilation services, motors and pumps, e.g. air conditioners, swimming pools, to be located in a position so as not to create a noise nuisance as determined by the *Environmental Protection Act 1986* and *Environmental Protection (Noise) Regulations 1997*.

CARRIED (13/0)

10.4 GOAL 4: INFRASTRUCTURE

Nil

10.5 GOAL 5: ORGANISATIONAL EFFECTIVENESS

10.5.1 Applications for Planning Approval Determined Under Delegated Authority.
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Location:	City of South Perth
Applicant:	Council
Date:	3 November 2008
Author:	Rajiv Kapur, Manager, Development Services
Reporting Officer:	Steve Cope, Director Development 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 October 2008.

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 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 October 2008, forty-four (44) development applications were determined under delegated authority, refer **Attachment 10.5.1**.

Policy and Legislative Implications

The issue has no impact on this particular area.

Financial Implications

The issue has no impact on this particular area.

Strategic Implications

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

Sustainability Implications

Reporting of Applications for Planning Approval Determined Under Delegated Authority contributes to the City's sustainability by promoting effective communication.

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.5.1
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That the report and **Attachments 10.5.1** relating to delegated determination of applications for planning approval during the month of October 2008, be received.

CARRIED EN BLOC RESOLUTION

10.5.2	Use of the Common Seal
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Location:	City of South Perth
Applicant:	Council
File Ref:	GO/106
Date:	6 November 2008
Author:	Kay Russell, Executive Support Officer
Reporting Officer:	Cliff Frewing, Chief Executive Officer

Summary

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

Background

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

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

Comment

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

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

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

Register

The Common Seal Register is maintained on an electronic data base and is available for inspection. Extracts from the Register on the use of the Common Seal are provided each month for Elected Member information.

Note: During the month of October 2008 the Common Seal was not used.

Consultation

Not applicable.

Policy and Legislative Implications

Clause 21 of the City's Standing Orders Local Law 2007 describes the requirements for the safe custody and proper use of the common seal.

Financial Implications

Nil.

Strategic Implications

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

Sustainability Implications

Reporting of the use of the Common Seal contributes to the City's sustainability by promoting effective communication.

<p>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.5.2</p>

That the report on the use of the Common Seal for the month of October 2008 be received.

CARRIED EN BLOC RESOLUTION

10.5.3 Council Meeting Schedule 2009

Location: City of South Perth
 Applicant: Council
 File Ref: A/ME/2
 Date: 3 November 2008
 Author: Kay Russell, Executive Support Officer
 Reporting Officer: : Cliff Frewing, Chief Executive Officer

Summary

The purpose of this report is to adopt the Council Meeting / Agenda Briefing Schedule for the 2009 year.

Background

It is customary to set the Council meeting calendar as early as possible so that meeting dates are known and dates can be advertised to the public well in advance. Typically, Council meets on the fourth Tuesday in each month with the Agenda Briefing on the preceding Tuesday. Town Planning Briefings are typically arranged for the first Wednesday in each month.

Exceptions to the above are:

- In December the ordinary scheduled Council meeting date is usually brought forward by one week to accommodate the Christmas period.
- During January each year when the Council is in recess any urgent matters that may arise, that the Chief Executive Officer does not have authority to deal with, will be the subject of a Special Meeting of Council. Clause 3.1 of the Standing Orders Local Law. 'Calling and Convening Meetings' refers. During this period, the Chief Executive Officer will continue to manage the day-to-day operations of the local government as he is empowered to do in accordance with the *Local Government Act*.

Comment

A resolution is required to adopt the Council Meeting / Agenda Briefing Schedule for the year 2009. The dates of all of these meetings, open to the public, are known well in advance and can therefore be advertised early in the new year. The 'standard' meeting schedule for 2009 is as follows:

Council Agenda Briefings 2009		Ord. Council Meetings 2009	
Month	Date	Month	Date
January	Recess	January	Recess
February	17.2.2009	February	24.2.2009
March	17.3.2009	March	24.3.2009
April	21.4.2009	April	28.4.2009
May	19.5.2009	May	26.5.2009
June	16.6.2009	June	23.6.2009
July	21.7.2009	July	28.7.2009
August	18.8.2009	August	25.8.2009
September	15.9.2009	September	22.9.2009
October	20.10.2009	October	27.10.2009
November	17.11.2009	November	24.11.2009
December	8.12.2009	December	15.12.2009

The changes proposed for January and December have been custom and practice at the City of South Perth and this report is proposing continuation of this practice. There is minimal public impact expected.

Special Council Meetings

Special Council meetings are generally called on a needs basis and as a result, it is not possible to predict in advance when such meetings will be held. In 2009, there are two exceptions to this and these occurrences are detailed as follows:

- **Anniversary Commemorative Meeting**

On 1 July 2009, the City will celebrate its 50th anniversary. It has been suggested that a Special 50th Anniversary Commemorative Council Meeting be held to celebrate this achievement.

- **Local Government Elections - Swearing-In Ceremony**

In addition, as the 2009 Local Government Elections are scheduled to occur on 17 October 2009 a Special Swearing In Ceremony will need to be held the following week. A meeting date of Monday 26 October 2009 will be tentatively set aside for this purpose.

Consultation

It is proposed to advertise the Council Meeting / Agenda Briefing Schedule for the year 2009 in the Southern Gazette newspaper and to update the internet 'Schedule of Meetings' accordingly. In accordance with normal practice the contents of Agendas for all meetings are included on the internet 'Minutes / Agendas' and displayed on the noticeboards in the Libraries, at Heritage House and outside the Civic Centre Administration Offices.

Policy Implications

Adopting the Council Meeting schedule for the forthcoming year is in common with past practice and in line with the *Local Government Act Regulations* which state that: *at least once each year a local government is to give local public notice of the dates, time and place at which Ordinary Council Meetings/Briefings open to the public are to be held.*

Financial Implications

N/A

Strategic Implications

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

Sustainability Implications

Reporting on the Council / Briefing meeting schedule for 2009 contributes to the City's sustainability by promoting effective communication.

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.5.3
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That the Council Meeting Schedule for 2009, as detailed in Report Item 10.5.3 of the November 2008 Council Agenda be adopted and advertised for public interest.

CARRIED EN BLOC RESOLUTION

10.5.4 Disposal of Land to South Perth Hospital. Portion of Pt Lot 1 at Eastern End of Burch Street, South Perth.

Location:	Portion of Pt Lot 1 at eastern end of Burch Street, South Perth
Applicant:	South Perth Hospital
File Ref:	CP.505 11/349
Date:	7 November 2008
Author:	Sean McLaughlin, Legal and Governance Officer
Reporting Officer:	Cliff Frewing, Chief Executive Officer

Summary

In 2007, South Perth Hospital whilst in the process of reviewing its expansion proposals (for which approval had been given in June 2006) found that essential infrastructure which had not been shown on the approved drawings, needed to be provided to support the intended expansion. The hospital board advised the City that this infrastructure could not be easily accommodated on the existing hospital site. Therefore the board submitted a request to purchase a small portion of land at the eastern end of Burch Street, adjoining the hospital site which is owned by the City.

Council gave in-principle agreement to the request at its ordinary meeting in July 2007, however before this could occur rezoning was necessary as the subject land was part of a reserve dedicated to "Parks and Recreation" under the City's Town Planning Scheme No. 6 - thus a Scheme amendment was required to rezone the area to "Private Institution" to accommodate the proposed use. [The July 2007 report to Council is a comprehensive report which sets out the history of the proposal and the hospital's plans for expansion.]

Council initiated the process for obtaining a Scheme amendment at its ordinary meeting in November 2007 with public consultation as required under the Scheme and upon consideration of public submissions at its ordinary meeting in April 2008, it recommended to the Western Australian Planning Commission that the amendment should proceed.

The Minister for Planning and Infrastructure duly approved the Scheme amendment which was published in the *Government Gazette* on 1 August 2008.

Once the Scheme amendment was obtained, the way was clear to proceed with the disposal of the land to the hospital in accordance with section 3.58 of the *Local Government Act*.

The purpose of this report is to enable Council to resolve to initiate the procedure for the disposal of the land to the hospital pursuant section 3.58 of the *Local Government Act* which involves a limited period of public consultation and consideration prior to a final resolution by Council authorising the sale.

Background

Background information relating to the hospital's request and including a description of the subject land and previous proposals for hospital expansion, which is provided below, is taken from the Planning Officers' **July 2007 Report**.

Land purchase request

The subject land at the eastern end of Burch Street is owned by the City. In relation to the land purchase request, the South Perth Hospital submitted a letter of enquiry to the City on 2 February 2006. Since that time, the Hospital and the City have been communicating intermittently regarding the extent and details of the proposal. By letter dated 18 May 2007, the Hospital confirmed that it wished to proceed with the purchase.

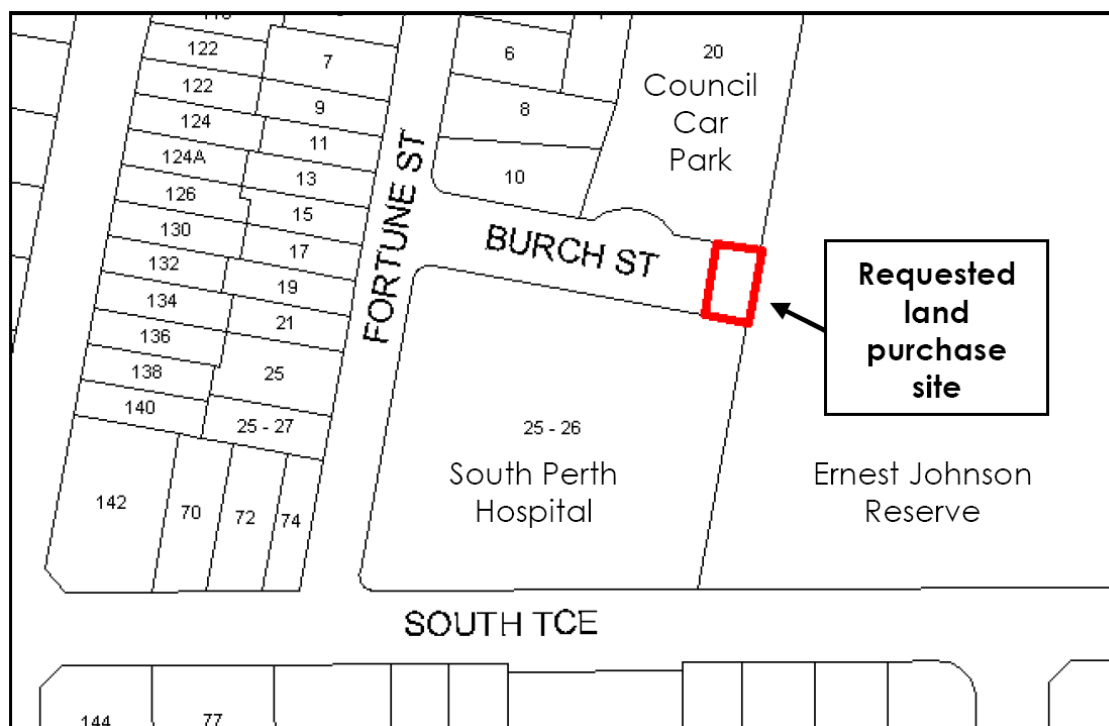
The need for upgraded fire service equipment is one of the factors that led to the hospital's request to purchase the land. This need came to light as a result of comparatively recent advice from the Fire and Emergency Services Authority (FESA). At an earlier stage, in the context of the development approval issued in September 2005, FESA had advised that the existing available water pressure was adequate for fire service needs. However that department provided contrary advice more recently. The more recent FESA advice brought to light the need for the hospital to have its own fire service water tanks and pumps.

Description of the subject land

The details of the land which is the subject of the purchase request are as follows:

Title particulars	Portion of Pt Lot 1 on Certificate of Title Vol. 2063 Fol. 417. The balance of this lot comprises the Ernest Johnson car park.
Ownership	City of South Perth under freehold title.
Zoning	Private Institution
Density coding	Not applicable.
Lot area	Approximately 249 sq. metres.
Building ht. limit	7.0 metres.
Permitted land use	Uses related to Private Institution zoning
Existing land use	Public open space containing two large mature trees, grass, steps leading to the Ernest Johnson Reserve, and a 'No Standing' sign. Public utility services below ground level.

The location of the subject land is shown below:



The subject land is bounded by the South Perth Hospital to the south and a Council car park to the north. In the east - west direction, the site extends from the eastern end of Burch Street to the Ernest Johnson Reserve. The land in question is some 0.8 metres lower than the level of the adjoining Ernest Johnson Reserve. The change of level is managed by a gravel rock retaining wall. Concrete steps situated on the subject land provide pedestrian access to the higher level of the adjacent reserve.

Currently, the subject land is an area of grassed open space, partly occupied by two large mature trees. The land has been used in this manner for the past 14 years. Until early 1993, a paved access road was situated on the subject land. This access road extended down the east side of the Hospital and provided a link between South Terrace and the Ernest Johnson car park. The access road was removed when the strip of Council-owned land adjoining the eastern side of the Hospital was sold to the Hospital for expansion of the operating theatres. The subject land remains as a portion of the lot comprising the Ernest Johnson car park.

Previous development approvals and future application for Hospital expansion

At the September 2005 meeting, the Council granted planning approval for two storey additions to the Hospital.

The Hospital Board subsequently decided not to proceed with the September 2005 proposal and submitted a revised proposal comprising single storey additions and alterations, which was approved at the June 2006 Council meeting. In order to remain valid, the June 2006 approval would require construction to be substantially commenced by 27 June 2008. However the Hospital Board has decided not to proceed with that particular proposal.

In April 2007, in response to Council resolutions when the previous development proposals were approved in September 2005 and June 2006, the Hospital submitted the 'South Perth Hospital Master Plan' prepared by Planning Consultants. The Master Plan refers to the Hospital's request to purchase the subject land to accommodate infrastructure.

No further approvals have been granted since June 2006. However from recent discussions, it is anticipated that a further development application will need to be submitted with various modifications including the addition of the required infrastructure on the hospital site.

Once the Hospital acquires the subject land, at the conclusion of the prerequisite statutory processes, another development application would need to be lodged for the proposed infrastructure, brick fencing and associated works.

Attachment 10.5.4(a) - Plan 1: 'Hospital Land Purchase Proposal' shows the location of the desired infrastructure on a plan of the subject land proposed for sale.

Comment

Section 3.58 Procedure

Where a local government proposes to dispose of land it owns (or manages under a management order), it must initiate the public consultation procedure set out in section 3.58 of the *Local Government Act*.

The procedure involves giving local public notice of the proposal including details of the market value of the disposition. Once the section 3.58 consultation procedure is concluded and any submissions received are considered by Council, the City may then arrange for the sale of the land to the hospital.

The City obtained a valuation report from Landgate in March 2007. Landgate advised that general commercial sales in the vicinity indicated a rate per square metre ranging from \$911 to \$2300 - in view of the situation of the subject land it adopted a value of \$1,000 per sq. metre. Accordingly, Landgate advised that the then value was \$250,000 based on an agreed area of 249 sq. metres.

Due to the delay caused by the need to rezone the land, a further valuation was required once the Scheme amendment was gazetted - s.3.58 of the LGA requires that a valuation be obtained not more than six months before the proposed disposition.

A subsequent valuation report dated 20 October 2008 which was obtained from Landgate notes that the South Perth area has experienced slight growth over the intervening period - it now adopts a value of \$1,200 per square metre. The final value of the proposed disposition is now \$300,000. The two valuation reports from Landgate are at **Attachment 10.5.4(b)**.

Costs payable by Hospital

It was noted in the July 2007 report that if Council agreed in principle to the sale of the land and decided to initiate the prerequisite processes, the Hospital would be responsible for meeting all related costs, fees and charges. These would include the following:

- Scheme Amendment: Planning fee, plus cost of site notices;
- Purchase of the land: Purchase price, plus any further valuation fees; the hospital would also be required to meet any costs associated with the statutory process for disposal of City property, including advertising costs;
- City infrastructure: Removal / relocation of existing steps and reinstatement of retaining wall and link mesh fence and relocation of parking sign;
- Drainage from Ernest Johnson Reserve: The Hospital is responsible for the cost of any remedial drainage works necessitated by the proposed Hospital works;
- Public utility infrastructure: Removal / relocation of existing cabling and associated access pits (costs to be determined by and payable to State agency);
- Trees and other planting: Costs relating to any additional screen planting outside perimeter fence and measures to protect or replace existing trees on the land;
- Land survey and transfer of title;
- Any other associated State agency fees and charges.

Consultation

Consultation will occur in accordance with the section 3.58 procedure.

Legislative and Policy Implications

The legislative and policy implications are described in the report.

Financial Implications for the City

The financial implications described in the report, include:

- (a) the Hospital's reimbursement of all costs incurred by the City; and
- (b) the revenue received by the City from the sale of the land.

Strategic Implications

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

Sustainability Implications

Any sustainability implications arising out of the report are consistent with the City's Sustainability Strategy 2006-2008.

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.5.4
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That Council authorises the Chief Executive Officer to initiate the procedure set out in section 3.58 of the *Local Government Act* for the disposition of the land, shown on the plan at **Attachment 10.5.4(a)**, to the South Perth Hospital.

CARRIED EN BLOC RESOLUTION

10.6 GOAL 6: FINANCIAL VIABILITY

10.6.1 Monthly Financial Management Accounts - October 2008

Location: City of South Perth
Applicant: Council
File Ref: FM/301
Date: 5 November 2008
Author / Reporting Officer: Michael J Kent, Director Financial and Information Services

Summary

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

The attachments to this financial performance report are part of the suite of reports that were recognised with a Certificate of Merit in the recent Excellence in Local Government Financial Reporting awards.

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 more than 100 pages of 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 report 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.

Local Government (Financial Management) Regulation 35 requires significant variances between budgeted and actual results to be identified and comment provided on those 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). Notwithstanding the statutory requirement, the City provides comment on other 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 from when the first budget amendment is recognised. This schedule reflects a reconciliation of movements between the 2008/2009 Adopted Budget and the 2008/2009 Amended Budget including the introduction of the capital expenditure items carried forward from 2007/2008.

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: Non Infrastructure Operating Revenue/Expenditure **Attachment 10.6.1(2)**
- Summary Operating Revenue/Expenditure Infrastructure Service **Attachment 10.6.1(3)**
- Summary of Capital Items - **Attachment 10.6.1(4)**
- Schedule of Significant Variances - **Attachment 10.6.1(5)**
- Reconciliation of Budget Movements - **Attachment 10.6.6(A) and 10.6.6(B)**
- Rate Setting Statement - **Attachment 10.6.1(7)**

Operating Revenue to 31 October 2008 is \$29.00M which represents 100% of the \$28.94M year to date budget. Following the incorporation of the adjustments approved in the Q1 Budget Review, actual performance is (as expected) on, or very near, revised budget expectations at month end. Comment on the specific items contributing to the small favourable variances may be found in the Schedule of Significant Variances **Attachment 10.6.1(5)**.

Operating Expenditure to 31 October 2008 is \$11.30M which represents 98% of the revised year to date budget of \$11.51M. Operating Expenditure to date is 2% under budget in the Administration area and in the Infrastructure Services area and 5% under for the golf course.

There are some favourable variances in the administration areas that relate to budgeted (but vacant) staff positions - but these are partly offset by increased use of consultants to assist in maintaining service delivery in the face of the ongoing staff shortage. An increased staffing cost for the Collier Park Hostel is currently being experienced due to the continuing need to use temporary staff and higher care standards required for more frail residents. Most other items in the administration areas are close to or slightly under budget expectations to date. Variances in the Infrastructure area relate primarily to timing differences whilst operational and maintenance programs are initiated, designs are prepared and contractors secured for road and path works. Golf Course expenditure remains favourable largely due to vacant staff positions.

The salaries budget (*including temporary staff where they are being used to cover vacancies*) is currently around 10% under the budget allocation for the 216.3 FTE positions approved by Council in the budget process - after agency staff invoices were received at month end. Increased use of external consultants is assisting in covering for current vacancies which exist in areas such as Engineering, Building Services, Human Resources, Information Technology and Planning - but costs overall are within approved budget allocations.

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 \$0.35M at 31 October against a year to date budget of \$0.20M. The favourable variance (and indeed 2/3 of the capital revenue received to date) relates to lease premiums and refurbishment levies on units at the Collier Park Village that have been leased since June. This variance will be considered in the Q2 Budget Review after the December accounts are finalised. A budget amendment has also been incorporated for an unbudgeted private contribution towards environmental works and for validated adjustments to previously billed underground power service charges.

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

Capital Expenditure at 31 October 2008 is \$5.52M which represents 100% of the year to date budget - and some 29.4% of the full year budget. Approximately 44% of this year to date capital expenditure relates to payment of cash calls on the UGP project. The year to date result suggests that the City's staged capital program approach of creating both a 'Deliverable' capital program and a 'Shadow' capital program is delivering a positive outcome to this stage of the year in that organisational capacity and expectations are now perhaps more appropriately matched.

The table reflecting capital expenditure progress versus the year to date budget by directorate has been re-introduced back into this report now that the September quarter has concluded - because from that time onwards, it presents meaningful information. Updates on specific elements of the capital expenditure program and comments on the variances disclosed therein are provided bi-monthly from the finalisation of the October numbers for similar reason.

Each month, a summary of the progress of the revised capital program (including the carry forward works approved by Council at the August meeting) by directorate is provided as below:

Directorate	YTD Budget	YTD Actual	% YTD Budget	Total Budget
CEO Office	61,000	60,841	100%	1,551,000
Financial & Information Services	82,500	75,910	91%	411,500
Planning & Community Services	210,500	233,284	111%	1,622,344
Infrastructure Services	2,683,825	2,631,190	98%	9,419,464
Golf Course	100,000	96,224	96%	278,800
Underground Power	2,380,000	2,425,908	102%	5,500,000
Total	5,517,825	5,523,357	100%	18,783,108

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 to address any significant variances and it 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.

Financial Implications

The attachments to this report compare actual financial performance to budgeted financial performance for the period. This provides for timely identification of and responses to variances which in turn promotes dynamic and prudent financial management.

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*'. Such actions are necessary to ensure the City's financial sustainability.

Sustainability Implications

This report primarily addresses the 'financial' dimension of sustainability. It achieves this on two levels. Firstly, it promotes accountability for resource use through a historical reporting of performance - emphasising pro-active identification and response to apparent financial variances.

Secondly, through the City exercising disciplined financial management practices and responsible forward financial planning, we can ensure that the consequences of our financial decisions are sustainable into the future.

<p>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.1</p>

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 34;
- (c) the Schedule of Movements between the Adopted and Amended Budget provided as **Attachments 10.6.1(6)(A)** and **10.6.1(B)** be received; and
- (d) the Monthly Rate Setting Statement provided as **Attachment 10.6.1(7)** be received;

CARRIED EN BLOC RESOLUTION

10.6.2 Monthly Statement of Funds, Investments and Debtors at 31 October 2008

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	5 November 2008
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; and
- statistical information regarding the level of outstanding Rates and General Debtors.

Background

Effective cash management is an integral part of proper business management. Current money market and economic volatility make this an even more significant management responsibility. The responsibility for management and investment of the City's cash resources has been delegated to the City's Director Financial and 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. Because significant holdings of money market instruments are involved, an analysis of cash holdings showing the relative levels of investment with each financial institution is also 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. Data comparing actual investment performance with benchmarks in Council's approved investment policy (which reflects best practice principles for managing public monies) provides evidence of compliance with approved investment principles. 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 and to highlight any emerging trends that may impact on future cash flows.

Comment

(a) Cash Holdings

Total funds at month end of \$39.55M compare very favourably to \$36.64M at the equivalent stage of last year. Reserve funds are some \$5.3M higher than at the equivalent stage last year due to higher holdings of cash backed reserves to support refundable monies at the CPV and accumulated funds relating to the civic buildings refurbishment.

Municipal funds are \$2.2M lower due the capital program being much more advanced at this time in the current year - including cash outflows for the UGP project cash calls (\$2.3M). The free cash position is still good - with collections from rates currently 0.3% ahead of last year's excellent result. Convenient and customer friendly payment methods are in place and the Rates Early Payment Incentive Prizes (all prizes donated by local businesses) have encouraged positive early cash collections. These actions have been complemented by timely and effective follow up debt collection actions by the City's Financial Services officers.

Monies brought into the year (and our subsequent cash collections) are invested in secure financial instruments to generate interest until those monies are required to fund operations and projects later in the year. As previously noted, astute selection of appropriate financial investments has meant that the City does not have any exposure to higher risk investment instruments - an issue noted very positively by our auditor's field staff in conducting our annual audit.

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 \$14.7M (compared to \$16.9M at the same time in 2007/2008). **Attachment 10.6.2(1).**

(b) Investments

Total investment in money market instruments at month end was \$40.55M compared to \$35.95M at the same time last year. This is largely due to higher holdings of Reserve Funds at this time.

The portfolio currently comprises at-call cash and term deposits only. Bank accepted bills are permitted - but are not currently used given the volatility of the corporate environment at present. Analysis of the composition of the investment portfolio shows that approximately 83.5% of the funds are invested in securities having a S&P rating of A1 (short term) or better. The remainder are invested in BBB+ rated securities. The City's investment policy requires that at least 80% of investments are held in securities having an S&P rating of A1.

This ensures that credit quality is maintained. Investments are made in accordance with Policy P603 and the Dept of Local Government Operational guidelines for investments. All investments currently have a term to maturity of less than 1 year - which is considered prudent in times of changing interest rates as it allows greater flexibility to respond to future positive changes in rates.

Invested funds are responsibly spread across various approved financial institutions to diversify counterparty risk. Holdings with each financial institution are within the 25% maximum limit prescribed in Policy P603. The counter-party mix across the portfolio is shown in **Attachment 10.6.2(2).**

Interest revenues (received and accrued) for the year to date total \$0.92M - significantly up from \$0.69M at this time last year. This result is attributable to higher reserve cash holdings and timely, effective treasury management - despite the falls in interest rates. Rates are currently quite volatile even for safe 'vanilla' financial instruments such as term deposits - and the date on which an investment is placed can be a critical determinant of the rate of return as banks try to manage capital and meet re-financing commitments.

To this stage of the year, interest revenues have remained strong - being more than 95% of interest revenue targets. However, with the RBA reducing official rates by a further 75 basis points on 4 November, reality is that the City may have to revise its interest revenue targets downwards slightly at the Q2 Budget Review - which would be the first downwards revision required during the last 12 years.

At present, the targets will remain as stated upon budget adoption because we are still achieving close to expectations. However, investment performance will be monitored in the light of decreasing interest rates until Christmas when revised targets may need to be developed and brought back to Council in the Budget Review - along with details of any potential budget closing position impact.

Throughout the year it is necessary to balance between short and longer term investments to ensure that the City can responsibly meet its operational cash flow needs. The City actively manages its treasury funds to pursue responsible, low risk investment opportunities that generate additional interest revenue to supplement our rates income whilst ensuring that capital is preserved.

The average rate of return on financial instruments for the year to date is 7.55% with the anticipated yield on investments yet to mature currently at 7.31% - but this is likely to fall further after recent official interest rate cuts. Investment results so far reflect careful and prudent selection of investments to meet our immediate cash needs. At-call cash deposits used to balance daily operational cash needs are now providing a return of only 5.75% since early October - and may be decreased again in the immediate future.

(c) Major Debtor Classifications

Effective management of accounts receivable to convert the debts to cash is also an important part of business management. Details of each of the three major debtors classifications (rates, general debtors and underground power) are provided below.

(i) Rates

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 October 2008 represent 72.3% of total rates levied compared to 72.0% at the equivalent stage of the previous year. This is an outstanding result to date. Ratepayer feedback suggests that the rating and communication strategies used for the 2008/2009 rates strike have been well received - and this is reflected in the good foundation that has been established for successful rates collections during the year.

The range of appropriate, convenient and user friendly payment methods offered by the City, combined with the Rates Early Payment Incentive Scheme (generously sponsored by local businesses) is again being supported by timely and efficient follow up actions by the City's Rates Officer to ensure that our good collections record is maintained.

(ii) General Debtors

General debtors stand at \$1.44M at month end excluding UGP debtors - which compares to \$1.41M at the same time last year. This reflects a significant improvement in the comparative positions for general debtors over the last month - as a claim for some \$0.50M in pension rebates has now been processed and received from the Office of State Revenue.

(iii) Underground Power

Of the \$6.74M billed for UGP (allowing for adjustments), some \$3.84M was collected by 31 October with approximately 52.6% of those in the affected area electing to pay in full and a further 46.2% opting to pay the first instalment. The remaining 1.2% has yet to make a payment and is to be the subject of follow up collection actions by the City. As previously noted, a small number of properties have necessarily had the UGP charges adjusted downwards after investigations revealed eligibility for concessions that were not identified by the project team before the initial invoices were raised.

Residents opting to pay the UGP Service Charge by instalments are subject to interest charges which are currently accruing on the outstanding balances (as advised on the initial UGP notice). It is important to appreciate that this is **not** an interest charge on the 'yet to be completed UGP service' - but rather is an interest charge on the funding accommodation provided by the City's instalment payment plan (exactly like what would occur on a bank loan).

The City encourages ratepayers in the affected area to make other arrangements to pay the UGP charges - but it will, if required, provide an instalment payment arrangement to assist the ratepayer (including the specified interest component on the outstanding balance).

Consultation

This financial report is prepared to provide evidence of the soundness of the financial management being employed by the City whilst discharging our accountability to our ratepayers.

Policy and Legislative Implications

Consistent with the requirements of Policy P603 - Investment of Surplus Funds and Delegation DC603. Local Government (Financial Management) Regulation 19, 28 and 49 are also relevant to this report as is the DOLG Operational Guideline 19.

Financial Implications

The financial implications of this report are as noted in part (a) to (c) of the Comment section of the 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'*.

Sustainability Implications

This report addresses the 'financial' dimension of sustainability by ensuring that the City exercises prudent but dynamic treasury management to effectively manage and grow our cash resources and convert debt into cash in a timely manner.

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.2
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That Council receives the 31 October 2008 Statement of Funds, Investment and Debtors comprising:

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

CARRIED EN BLOC RESOLUTION

10.6.3 Listing of Payments

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	5 November 2008
Authors:	Michael J Kent and Deborah M Gray
Reporting Officer:	Michael J Kent, Director Financial and Information Services

Summary

A list of accounts paid under delegated authority (Delegation DC602) between 1 October 2008 and 31 October 2008 is presented to Council for information.

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.

After an invoice is approved for payment by an authorised officer, payment to the relevant party must be made and the transaction recorded in the City's financial records. All payments, however made (EFT or Cheque) are recorded in the City's financial system irrespective of whether the transaction is a Creditor or Non Creditor payment.

Payments in the attached listing are supported by vouchers and invoices. All invoices have been duly certified by the authorised officers as to the receipt of goods or provision of services. Prices, computations, GST treatments and costing have been checked and validated. Council Members have access to the Listing and are given the opportunity to ask questions in relation to payments prior to the Council meeting.

Comment

A list of payments made during the reporting period is prepared and 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 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.

The format of this report has been modified from October 2008 to reflect contemporary practice in that it now records payments classified as:

- **Creditor Payments**

These include payments by both Cheque and EFT. Cheque payments show both the unique Cheque Number assigned to each one and the assigned Creditor Number that applies to all payments made to that party throughout the duration of our trading relationship with them. EFT payments show both the EFT Batch Number in which the payment was made and also the assigned Creditor Number that applies to all payments made to that party. For instance an EFT payment reference of 738.76357 reflects that EFT Batch 738 made on 24/10/2008 included a payment to Creditor number 76357 (ATO).

- **Non Creditor Payments**

(one-off payments to individuals / suppliers who are not listed as regular suppliers in the City's Creditor Masterfile in the database).

Because of the one-off nature of these payments, the listing reflects only the unique Cheque Number and the Payee Name - as there is no permanent creditor address / business details held in the creditors masterfile. A permanent record does, of course, exist in the City's financial records of both the payment and the payee - even if the recipient of the payment is a non creditor.

Details of payments made by direct credit to employee bank accounts in accordance with contracts of employment are not provided in this report for privacy reasons nor are payments of bank fees such as merchant service fees which are direct debited from the City's bank account in accordance with the agreed fee schedules under the contract for provision of banking services.

Payments made through the Accounts Payable function will no longer be recorded as belonging to the Municipal Fund or Trust Fund as this practice related to the old fund accounting regime that was associated with Treasurers Advance Account - whereby each fund had to periodically 'reimburse' the Treasurers Advance Account.

For similar reasons, the report is also now being referred to using the contemporary terminology of a Listing of Payments rather than a Warrant of Payments - which was a terminology more correctly associated with the fund accounting regime referred to above.

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 Policy P605 - Purchasing and Invoice Approval and 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'*.

Sustainability Implications

This report contributes to the City's financial sustainability by promoting accountability for the use of the City's financial resources.

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.3
--

That the Listing of Payments for the month of October 2008 as detailed in the Report of the Director Financial and Information Services, **Attachment 10.6.3**, be received.

CARRIED EN BLOC RESOLUTION

10.6.4 Capital Projects Review to 31 October 2008

Location: City of South Perth
Applicant: Council
File Ref: FM/301
Date: 7 November 2008
Author/Reporting Officer: Michael J Kent, Director Financial and Information Services

Summary

A schedule of financial performance supplemented by relevant comments is provided in relation to approved capital projects to 31 October 2008. Officer comment is provided only on the significant identified variances as at the reporting date.

Background

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

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

Comment

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

Overall, expenditure on the (revised) Capital Program represents 100% of the year to date target - and 29.4% of the (revised) full year's budget.

The Executive Management Team acknowledges the challenge of delivering the remaining capital program and has recognised the impact of:

- contractor and staff resource shortages
- community consultation on project delivery timelines
- difficulties in obtaining complete bids for small capital projects.

It is therefore closely monitoring and reviewing the capital program with operational managers on an ongoing basis - seeking strategies and updates from each of them in relation to the responsible and timely expenditure of the capital funds within their individual areas of responsibility. The City has also implemented the 'Deliverable' & 'Shadow' Capital Program concept to more appropriately match capacity with intended actions and is using cash backed reserves to quarantine funds for future use on identified projects.

Comments on the broad capital expenditure categories are provided in **Attachment 10.6.1(5)** of this agenda - and details on specific projects impacting on this situation are provided in **Attachment 10.6.4(1)** and **Attachment 10.6.4(2)** to this report. Comments on the relevant projects have been sourced from those managers with specific responsibility for the identified project lines. Their responses have been summarised in the attached Schedule of Comments.

Consultation

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

Policy and Legislative Implications

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

Financial Implications

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

Strategic Implications

This report deals with matters of financial management which directly relate to the key result area of Financial Viability identified in the City's Strategic Plan Goal 6 - *'To provide responsible and sustainable management of the City' financial resources'*.

Sustainability Implications

This report addresses the 'Financial' dimension of sustainability. It achieves this by promoting accountability for resource use through a historical reporting of performance. This emphasises the pro-active identification of apparent financial variances, creates an awareness of our success in delivering against our planned objectives and encourages timely and responsible management intervention where appropriate to address identified issues.

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.4
--

That the Schedule of Capital Projects complemented by officer comments on identified significant variances to 31 October 2008, as per **Attachments 10.6.4(1)** and **10.6.4(2)**, be received.

CARRIED EN BLOC RESOLUTION

10.6.5 Self Supporting Loan - South Perth Hospital

Location: City of South Perth
Applicant: Council
File Ref: FM/301
Date: 10 November 2008
Author/Reporting Officer: Michael J Kent, Director Financial and Information Services

Summary

The City of South Perth has been approached by the South Perth Hospital seeking indicative 'in principle' support for a self supporting loan facility to the benefit of the South Perth Hospital in the 2009/2010 Budget - with the possibility of a second smaller self supporting loan in 2010/2011.

Background

The South Perth Hospital has operated within our municipality for some 51 years. It is an incorporated body with tax exempt status. All surpluses are invested back into the hospital. The Hospital plans to expand on its existing three operating theatres by constructing a further two theatres, making additions to the day surgery facility and undertaking an extensive refurbishment of the existing facility.

The overall project budget is \$11.5M with around 75% of that being provided by the Hospital's current cash reserves. The Hospital Board proposes that the remainder of the project budget be sourced via two self supporting loans from WA Treasury - guaranteed by the City of South Perth. The first would be for an amount of \$2.0M in 2009/2010 and the second of approximately \$0.8M in 2010/2011. The Hospital has provided audited financial statements and cash flow projections in support of its proposal and has indicated its intention to offer mortgage security to the City over three freehold properties owned by the Hospital and valued at approximately \$2.5M.

Whilst the funding accommodation is not required until the 2009/2010 year, the Hospital Board is, quite reasonably, seeking 'in principle' support from Council with respect to this proposal to allow it to move forward with project planning.

Comment

Local governments have the capacity to act as a guarantor for suitable and financially viable community or sporting groups in relation to self supporting loans for building upgrades or similar large capital projects. A self supporting loan is a loan taken out by a local government, on behalf of a nominated community group, that allows that entity to access competitively priced loan funds. The loan is guaranteed by the local government and secured with the lender against the future general revenue of the local government. All payments of principal and interest are initially met by the local government and then recovered from the community group immediately afterwards. Operating in this fashion, a self supporting loan should result in no financial impost on the community or the local government itself - other than a small amount of administration effort.

The self supporting loan liability - and the associated receivable amount, both are recorded in the City's financial statements and will therefore have an impact on the City's financial ratios and sustainability ratios. Whilst these ratios are likely to decline slightly after incorporating the proposed loans, they are still expected to be within reasonable bounds and within the in-force debt covenants. All borrowings undertaken by the City are required to comply with Policy P604 - Use of Debt as a Funding Option. This proposal will not cause

problems to either existing or proposed borrowings because self supporting loans are excluded from the calculation of debt covenants within that policy. (The policy focuses on City borrowings for its own purposes rather than self supporting loans which do not require a draw on City monies).

Financial projections and statements of financial position supplied by the Hospital indicate a capacity to service the requested loan facilities given the successful attainment of the revenue and expenditure assumptions used by the Hospital in its financial modelling.

At this stage, the Hospital is seeking only an 'in principle support' response from Council - but should the proposal proceed to subsequent stages such as inclusion in the City's 2009/2010 Annual Budget, the City will be required to follow the procedure set out in the *Local Government Act* in relation to borrowings. These legislative requirements are set out in Section 6.20 of the *Local Government Act* and will result in the intention to raise the loan being referred to Council through the budget development process for the final approval before the loan is formalised.

Given the role played in our community by the Hospital, it seems reasonable that to suggest that supporting the South Perth Hospital in this manner is consistent with our stated corporate goal of community enrichment.

Consultation

Consultation on this proposal has occurred between members of the South Perth Hospital Board and the City of South Perth Administration. Indicative loan costings have also been sought from WA Treasury for financial modelling purposes.

Policy and Legislative Implications

Progressing of this proposal beyond the 'in principle support' stage will require compliance with Section 6.20 of the *Local Government Act* and Policy P604 - Use of Borrowings as a Funding Source.

Financial Implications

Self supporting loans should be cost neutral to the organisation as noted in the comment section of this report. Progression of the loans would have an impact on the City's financial statements through certain financial and sustainability ratios as noted above. Debt covenants would not be impacted.

Strategic Implications

This report deals with a proposal that relates to two of the City's strategic goals - Financial Viability - *'To provide responsible and sustainable management of the City's financial resources'* and Community Enrichment - *'To foster a strong sense of community and a prosperous business environment.'*

Sustainability Implications

This report addresses both the 'Financial' and 'Social' dimensions of sustainability.

OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.5
--

That Council notes the application by the South Perth Hospital for the inclusion in the City's forward planning financial documents of a \$2.0M self supporting loan in 2009/2010 and a further \$0.8M self supporting loan in 2009/2010 and offers 'in principle support' for the funding accommodation subject to the relevant statutory processes being satisfactorily completed.

CARRIED EN BLOC RESOLUTION

11. APPLICATIONS FOR LEAVE OF ABSENCE

11.1 Application for Leave of Absence : Cr Burrows

I hereby apply for Leave of Absence from all Council Meetings for the period 7 to 14 December 2008 inclusive.

11.2 Application for Leave of Absence : Cr Wells

I hereby apply for Leave of Absence from the Council Meeting scheduled for 16 December 2008.

COUNCIL DECISION ITEMS 11.1 AND 11.2

Moved Cr Hearne, Sec Cr Hasleby

That....

- Cr Burrows be granted leave of absence from all meetings for the period 7 to 14 December 2008 inclusive; and
- Cr Wells be granted leave of absence from the Council Meeting scheduled for 16 December 2008.

CARRIED (13/0)

12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil

13. QUESTIONS FROM MEMBERS WITHOUT NOTICE

13.1. RESPONSE TO PREVIOUS QUESTIONS FROM MEMBERS WITHOUT NOTICE

Nil

13.2 QUESTIONS FROM MEMBERS WITHOUT NOTICE

13.2.1 Nature of Debate - Inappropriate Comments by MembersCr P Best

Summary of Question

I appreciate the nature of debate, however there were 'words' said earlier between two Members that I feel were inappropriate. I believe it is important we address this issue and suggest that these 'words' be withdrawn.

Summary of Response

The Mayor responded that at the point in the meeting referred to he had reminded the Members concerned that their conduct was unbecoming and unprofessional but stated that it was now up to the individuals involved as he could not force anyone to apologise.

Cr Smith stated he would not apologise or withdraw.

13.2.2 Bed & Breakfast PolicyCr K Trent

Summary of Question

I refer to a recent application for a B & B withdrawn to allow officers to prepare a Policy to cover B & B Accommodation. Can you provide an update on the status of the proposed policy for Bed and Breakfast Accommodation - I do not see a problem with obtaining policies from other Councils.

Summary of Response

Director Development and Community Services acknowledged the issue did arise recently when an application was received for B & B Accommodation in Manning. He further stated that some information has already been obtained and that a progress update on this issue will be circulated to Members via a Memorandum in due course.

13.2.3 Advising Council Members of Major Developments....Cr G Gleeson

Summary of Question

I refer to a recent development proposal at 2 Fourth Avenue, Kensington which was listed for discussion at the Major Development Briefing held on 5 November 2008 but then withdrawn by the applicant and to the fact that Mr Defrenne advised me that he knew about this development some months before the scheduled Briefing. I believe it is important that if a proposal goes out for public consultation it is given to Councillors at the same time. Why are the KCA and others in the community privy to this information and Councillors find out about it second hand?

Summary of Response

The Mayor responded that he was aware that the applicants for the proposal at 2 Fourth Avenue had spoken to the KCA and therefore Mr Defrenne as Vice President or the President would know about the proposed development as it was within the KCA neighbourhood. He further stated that a better consultation process in relation to major proposals could be investigated and sought feedback from Members in relation to the issue.

Following discussion it was agreed that Members be informed of any proposed major, controversial, complex or commercial developments proposed to come before Council.

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

The Mayor reported to Members that in accordance with Clause 3.8 of the City's Standing Orders Local Law, as follows:

In cases of extreme urgency or other special circumstance, matters may, by motion of the person presiding and by decision of the members present, be raised without notice and decided by the meeting.

and as Foreshadowed at Item 3.3 on the Agenda, that he sought to move a Motion of Condolence in relation to the sudden death of the Mayor of Swan.

COUNCIL DECISION - NEW BUSINESS OF AN URGENT NATURE ITEM 14

Moved Cr Trent, Sec Cr Gleeson

That Council accept the item of New Business introduced by the Mayor.

CARRIED (13/0)

14.1 Condolences : Mayor of Swan Charlie Gregorini

Moved Mayor Best, Sec Cr Gleeson

That the Council of the City of South Perth....

- (a) expresses its sincere condolences to the City of Swan and the family of Mayor Charlie Gregorini in respect of his sudden and tragic death; and
- (b) recognises Mayor Gregorini's long and distinguished service to the community of the City of Swan and his contribution to the development and administration of local government in this State.

CARRIED (13/0)

CONDOLENCES

Councillors Gleeson and Hasleby and the CEO, Cliff Frewing also extended their own personal condolences and tributes to the late Charlie Gregorini.

15. MEETING CLOSED TO PUBLIC

15.1 Matters for which the Meeting May be Closed.

15.2 Public Reading of Resolutions that may be made Public.

16. CLOSURE

The Mayor thanked everyone for their attendance and closed the meeting at 10.07pm.

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 December 2008

Signed _____

Chairperson at the meeting at which the Minutes were confirmed.

17. RECORD OF VOTING

25/11/2008 7:21:40 PM

Item 7.1.1 Motion Passed 13/0

Yes: Mayor James Best, Cr Bill Gleeson, Cr Ian Hasleby, Cr Brian Hearne, Cr Peter Best, Cr Travis Burrows, Cr Les Ozsdolay, Cr Kevin Trent, Cr Susanne Doherty, Cr David Smith, Cr Rob Grayden, Cr Roy Wells, Cr Colin Cala

No: Absent: Casting Vote

25/11/2008 7:22:12 PM

Item 7.2.1 - 7.2.5 Motion Passed 13/0

Yes: Mayor James Best, Cr Bill Gleeson, Cr Ian Hasleby, Cr Brian Hearne, Cr Peter Best, Cr Travis Burrows, Cr Les Ozsdolay, Cr Kevin Trent, Cr Susanne Doherty, Cr David Smith, Cr Rob Grayden, Cr Roy Wells, Cr Colin Cala

No: Absent: Casting Vote

25/11/2008 7:50:53 PM

Item 8.4.1 Motion Passed 13/0

Yes: Mayor James Best, Cr Bill Gleeson, Cr Ian Hasleby, Cr Brian Hearne, Cr Peter Best, Cr Travis Burrows, Cr Les Ozsdolay, Cr Kevin Trent, Cr Susanne Doherty, Cr David Smith, Cr Rob Grayden, Cr Roy Wells, Cr Colin Cala

No: Absent: Casting Vote

25/11/2008 7:54:27 PM

Item 9.0 En Bloc Motion Passed 13/0

Yes: Mayor James Best, Cr Bill Gleeson, Cr Ian Hasleby, Cr Brian Hearne, Cr Peter Best, Cr Travis Burrows, Cr Les Ozsdolay, Cr Kevin Trent, Cr Susanne Doherty, Cr David Smith, Cr Rob Grayden, Cr Roy Wells, Cr Colin Cala

No: Absent: Casting Vote

25/11/2008 8:12:55 PM

Amendment Item 10.0.1 Motion Passed 13/0

Yes: Mayor James Best, Cr Bill Gleeson, Cr Ian Hasleby, Cr Brian Hearne, Cr Peter Best, Cr Travis Burrows, Cr Les Ozsdolay, Cr Kevin Trent, Cr Susanne Doherty, Cr David Smith, Cr Rob Grayden, Cr Roy Wells, Cr Colin Cala

No: Absent: Casting Vote

25/11/2008 8:13:37 PM

Item 10.0.1 Motion Passed 13/0

Yes: Mayor James Best, Cr Bill Gleeson, Cr Ian Hasleby, Cr Brian Hearne, Cr Peter Best, Cr Travis Burrows, Cr Les Ozsdolay, Cr Kevin Trent, Cr Susanne Doherty, Cr David Smith, Cr Rob Grayden, Cr Roy Wells, Cr Colin Cala

No: Absent: Casting Vote

25/11/2008 8:33:41 PM

Item 10.2.2 Motion Passed 12/1

Yes: Mayor James Best, Cr Bill Gleeson, Cr Ian Hasleby, Cr Brian Hearne, Cr Peter Best, Cr Travis Burrows, Cr Kevin Trent, Cr Susanne Doherty, Cr David Smith, Cr Rob Grayden, Cr Roy Wells, Cr Colin Cala

No: Cr Les Ozsdolay

Absent: Casting Vote

25/11/2008 8:55:53 PM

Item 10.2.3 Motion Passed 13/0

Yes: Mayor James Best, Cr Bill Gleeson, Cr Ian Hasleby, Cr Brian Hearne, Cr Peter Best, Cr Travis Burrows, Cr Les Ozsdolay, Cr Kevin Trent, Cr Susanne Doherty, Cr David Smith, Cr Rob Grayden, Cr Roy Wells, Cr Colin Cala

No: Absent: Casting Vote

25/11/2008 9:13:00 PM

Item 10.3.2 Officer Recommendation LOST 3/10

Yes: Cr Peter Best, Cr Kevin Trent, Cr Rob Grayden

No: Mayor James Best, Cr Bill Gleeson, Cr Ian Hasleby, Cr Brian Hearne, Cr Travis Burrows, Cr Les Ozsdolay, Cr Susanne Doherty, Cr David Smith, Cr Roy Wells, Cr Colin Cala

Absent: Casting Vote

25/11/2008 9:15:57 PM

Item 10.3.2 Motion Passed 13/0

Yes: Mayor James Best, Cr Bill Gleeson, Cr Ian Hasleby, Cr Brian Hearne, Cr Peter Best, Cr Travis Burrows, Cr Les Ozsdolay, Cr Kevin Trent, Cr Susanne Doherty, Cr David Smith, Cr Rob Grayden, Cr Roy Wells, Cr Colin Cala

No: Absent: Casting Vote

25/11/2008 9:42:35 PM

Item 10.3.4 Motion Passed 13/0

Yes: Mayor James Best, Cr Bill Gleeson, Cr Ian Hasleby, Cr Brian Hearne, Cr Peter Best, Cr Travis Burrows, Cr Les Ozsdolay, Cr Kevin Trent, Cr Susanne Doherty, Cr David Smith, Cr Rob Grayden, Cr Roy Wells, Cr Colin Cala

No: Absent: Casting Vote

25/11/2008 9:44:14 PM

Item 11.1 and 11.2 Motion Passed 13/0

Yes: Mayor James Best, Cr Bill Gleeson, Cr Ian Hasleby, Cr Brian Hearne, Cr Peter Best, Cr Travis Burrows, Cr Les Ozsdolay, Cr Kevin Trent, Cr Susanne Doherty, Cr David Smith, Cr Rob Grayden, Cr Roy Wells, Cr Colin Cala

No: Absent: Casting Vote

25/11/2008 9:57:04 PM

Item 14 Motion Passed 13/0

Yes: Mayor James Best, Cr Bill Gleeson, Cr Ian Hasleby, Cr Brian Hearne, Cr Peter Best, Cr Travis Burrows, Cr Les Ozsdolay, Cr Kevin Trent, Cr Susanne Doherty, Cr David Smith, Cr Rob Grayden, Cr Roy Wells, Cr Colin Cala

No: Absent: Casting Vote

25/11/2008 10:04:20 PM

Item 14.1 Motion Passed 13/0

Yes: Mayor James Best, Cr Bill Gleeson, Cr Ian Hasleby, Cr Brian Hearne, Cr Peter Best, Cr Travis Burrows, Cr Les Ozsdolay, Cr Kevin Trent, Cr Susanne Doherty, Cr David Smith, Cr Rob Grayden, Cr Roy Wells, Cr Colin Cala

No: Absent: Casting Vote