



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

1.	DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS.....	4
2.	DISCLAIMER	4
3.	ANNOUNCEMENTS FROM THE PRESIDING MEMBER	4
3.1	Activities Report Mayor Best (Note: <i>Attached to back of Agenda paper</i>).....	4
3.2	Audio Recording of Council meeting	4
3.3	St Columbas Centenary Oval Opening	4
4.	ATTENDANCE.....	4
4.1	Apologies	4
4.2	Approved Leave of Absence.....	4
5.	DECLARATION OF INTEREST	4
6.	PUBLIC QUESTION TIME.....	4
6.1	RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE.....	4
6.1.1.	Mr Warren Marshall, 22A Pepler Avenue, Salter Point	4
6.1.2.	Ms Janet Reid, Villa 3/2 Henley Street, Como	5
6.2	PUBLIC QUESTION TIME : 26.5.2009.....	5
7.	CONFIRMATION OF MINUTES / BRIEFINGS	5
7.1	MINUTES.....	5
7.1.1	Ordinary Council Meeting Held: 28.4.2009	5
7.2	BRIEFINGS	5
7.2.1	Agenda Briefing - April Ordinary Council Meeting Held: 21.4.2009	6
7.2.2	Concept Forum: Major Town Planning Developments Meeting Held: 6.5.2009	6
7.2.3	Concept Forum: Local Government Reform & Public Question Time:	6
	Meeting Held: 12.5.2009	6
8.	PRESENTATIONS.....	6
8.1	PETITIONS - A formal process where members of the community present a written request to the Council.....	6
8.1.1	Petition dated 1 May 2009 received from Warren McCamey, 23 Garden Street, South Perth together with 234 Signatures in relation to the future development of Sir James Mitchell Park.	6
8.2	PRESENTATIONS -Occasions where Awards/Gifts may be Accepted by Council on behalf of Community.....	6
8.2.1.	Walk Safely to School Date	6
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.	6

AGENDA : ORDINARY COUNCIL MEETING : 26 MAY 2009

8.4	COUNCIL DELEGATES.....	7
8.4.1.	Council Delegate: Perth Airports Municipalities Group Meeting 16 April 2009	7
8.4.2.	Council Delegate: Rivers Regional Council 16 April 2009.....	7
8.4.3.	Council Delegate: NRM Local Government Reference Group April 2009.....	7
8.5	CONFERENCE DELEGATES	7
9.	METHOD OF DEALING WITH AGENDA BUSINESS.....	7
10.	REPORTS.....	7
10.0	MATTERS REFERRED FROM PREVIOUS COUNCIL MEETINGS.....	7
10.0.1	Submissions on Proposed Naming of Right-of-Way 64. (<i>Item 10.3.1 February 2009 Council meeting refers</i>).....	7
10.0.2	Review of Alfresco Dining Local Law (<i>Item 10.5.4 December 2008 Council Meeting refers</i>).....	14
10.0.3	Periodic Review of Local Laws (<i>Item 10.5.3 Dec.08 Council Meeting refers</i>).....	17
10.1	GOAL 1 : CUSTOMER FOCUS.....	20
10.2	GOAL 2: COMMUNITY ENRICHMENT	20
10.3	GOAL 3: ENVIRONMENTAL MANAGEMENT.....	20
10.3.1	Amendment No. 15 to Town Planning Scheme No. 6. Removal of restrictive covenants affecting density	20
10.3.2	Request for Amendment to Town Planning Scheme No. 6: Rezoning and application of Building Height Limit for proposed Lots 801 to 804 Godwin Avenue, Manning (Amendment No. 21).....	24
10.3.3	Retrospective additions to a Single House - Lot 505 (No. 10) Anthony Street, South Perth.....	30
10.3.4	Additions to Mixed Development. Lot 35 (No. 9) Bowman Street, South Perth	35
10.3.5	Proposed Additions / Alterations to Childcare Centre - Lot 109 (No. 47) Birdwood Avenue, Como	45
10.3.6	Receival / Processing of Recyclable Materials - Tender Submissions	52
10.4	GOAL 4: INFRASTRUCTURE	54
10.5	GOAL 5: ORGANISATIONAL EFFECTIVENESS.....	55
10.5.1	Applications for Planning Approval Determined Under Delegated Authority.....	55
10.5.2	Use of the Common Seal	56
10.6	GOAL 6: FINANCIAL VIABILITY.....	58
10.6.1	Monthly Financial Management Accounts - April 2009	58
10.6.2	Monthly Statement of Funds, Investments and Debtors at 30 April 2009.....	62
10.6.3	Listing of Payments	67
10.6.4	Capital Projects Review to 30 April 2009.....	69
10.6.5	Members Allowances & Entitlements - 2009/2010.....	71
11.	APPLICATIONS FOR LEAVE OF ABSENCE.....	73
11.1	Application for Leave of Absence : Cr Burrows	73
11.2	Application for Leave of Absence : Cr Wells.....	73
11.3	Application for Leave of Absence : Cr Hasleby	73
11.4	Application for Leave of Absence : Cr Gleeson.....	73

AGENDA : ORDINARY COUNCIL MEETING : 26 MAY 2009

12.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN.....	74
13.	QUESTIONS FROM MEMBERS WITHOUT NOTICE	74
	13.1.RESPONSE TO PREVIOUS QUESTIONS FROM MEMBERS WITHOUT NOTICE.....	74
	13.2 QUESTIONS FROM MEMBERS WITHOUT NOTICE	74
14.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING ...	74
15.	MEETING CLOSED TO PUBLIC.....	74
	15.1 Matters for which the Meeting May be Closed.....	74
	15.1.1 Staff Matter <i>CONFIDENTIAL Not to be Disclosed REPORT</i>	74
	15.2 Public Reading of Resolutions that may be made Public.	74
16.	CLOSURE	74
17.	RECORD OF VOTING.....	74



ORDINARY COUNCIL MEETING AGENDA

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Chairperson to open the meeting

2. DISCLAIMER

Chairperson to read the City's Disclaimer

3. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

3.1 Activities Report Mayor Best (Note: Attached to back of Agenda paper)

3.2 Audio Recording of Council meeting

3.3 St Columbas Centenary Oval Opening

4. ATTENDANCE

4.1 Apologies

4.2 Approved Leave of Absence

5. DECLARATION OF INTEREST

6. PUBLIC QUESTION TIME

6.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the Council meeting held 28 April 2009 the following questions were Taken on Notice:

6.1.1. Mr Warren Marshall, 22A Pepler Avenue, Salter Point

Note: At the April Council Meeting the Mayor reported that 50 detailed questions submitted in writing from Mr Marshall had been paraphrased into six key issues. Of the six 'paraphrased questions' the following question was Taken on Notice. The 50 detailed written questions submitted were responded to administratively, by letter dated 14 May, 2009.

Summary of Question

What total costs can be directly and indirectly attributable to / allocated against public relations in the City?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 14 May 2009, a summary of which is as follows:

Before providing specific details on the costs which you have requested, it is important to recognise that it is not appropriate to combine all of these costs under the general heading of 'Public Relations'. the reason for this is because in addition to discharging our statutory responsibilities, the City regards many of these expenditures as an investment in engagement with our community, or building and promoting social capital in the community.

Response

Specific costs which you have requested are:

- Community Promotions and Publications \$355,000
(including all statutory reports, Budget, Strategic Financial Plan etc)
- Maintenance City's Web Page - The issue of maintenance of the City's web page is not recorded as a public relations expense because the web site is primarily regarded as a business tool.
- Events - (Less \$340,000 received from State Government/private sponsorships) \$605,000
This includes managing the impact on the South Perth community of events outside the City's control ie Skyshow, Red Bull Air Race etc and includes events such as South Perth Fiesta.
- Councillors - Under the *Local Government Act* each Councillor is provided with various allowances. How Elected Members spend these allowances is not relevant to the City's operations.
- Public Question Time - No specific costs are contributed to Public Question Time as it is part of the statutory meeting process. The time spent addressing questions Taken on Notice at meetings is required to be absorbed using existing resources and other work being prioritised to accommodate this. For your information however, officers have spent in excess of 15 hours researching, reviewing and preparing this response.

6.1.2. Ms Janet Reid, Villa 3/2 Henley Street, Como

Summary of Questions

How will Council protect the greening of parks and reserves, or should they be re-surfaced now?

What will be the survivorship of infrastructure built on re-claimed river frontage when sea levels rise?

Summary of Response

A response was provided by the Chief Executive Officer, by letter dated 11 May 2009, a summary of which is as follows:

- 1 The Council will be considering a Water Strategy in the near future which will review scheme and groundwater use. This will include innovative strategies to reduce water use, but should not result in the resurfacing of parks and reserves.
2. Current modelling undertaken on behalf of the Swan River Trust recommends incorporating a sea level rise of 0.1 - 0.3 metres into the design, maintenance or replacement of roads, river jetties, boat pens and ramps, sea walls and groynes on the Swan Estuary. As a consequence these issues will be taken into account when maintenance and construction issues arise on the City's Parks, Reserves and Infrastructure.

6.2 PUBLIC QUESTION TIME : 26.5.2009

7. CONFIRMATION OF MINUTES / BRIEFINGS

7.1 MINUTES

7.1.1 Ordinary Council Meeting Held: 28.4.2009

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 - April Ordinary Council Meeting Held: 21.4.2009

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

7.2.2 Concept Forum: Major Town Planning Developments Meeting Held: 6.5.2009

Officers of the City presented information in relation to Additions to an Existing Development at 9 Bowman Street; and Additions to an Existing Child Care at 47 Birdwood Avenue. Architecture students from UWA also made a presentation on the South Perth Station Precinct Study. Notes from the Concept Briefing are included as **Attachment 7.2.2.**

7.2.3 Concept Forum: Local Government Reform & Public Question Time: Meeting Held: 12.5.2009

Officers of the City provided an update on the Local Government Reform process and the new Public Open Question Time format. Notes from the Concept Briefing are included as **Attachment 7.2.3.**

8. PRESENTATIONS

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

8.1.1 Petition dated 1 May 2009 received from Warren McCamey, 23 Garden Street, South Perth together with 234 Signatures in relation to the future development of Sir James Mitchell Park.

Text of petition reads: *We the undersigned request Council consider:*

1. *improving the security and safety of the park by retaining open spaces and providing additional lighting to conform with Australian standards.*
2. *putting into place long term environmental plans for the maintenance of the park*
3. *relocating the new bench seating under existing shade tress*
4. *removing mud from riverbed and replacing with sand so that the new beaches are functional*
5. *maintaining and preserving river and city vistas to be enjoyed from street level and within the park*
6. *upgrading the lakes systems and bridge ballustrading to conform with Australian Standards; and*
7. *providing landscaping and tree plantings to other areas within the City of South Perth which do not have a natural visual vista.*

RECOMMENDATION

That the Petition dated 1 May 2009 received from Warren McCamey, 23 Garden Street, South Perth together with 234 Signatures in relation to the future development of Sir James Mitchell Park be noted.

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

8.2.1. Walk Safely to School Date

The Mayor to present a Certificate of Appreciation from the South Perth Primary School in recognition of Council's support for the **Walk Safely to School Day.**

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.

8.4 COUNCIL DELEGATES

8.4.1. Council Delegate: Perth Airports Municipalities Group Meeting 16 April 2009

A report from Cr Hasleby and Cr Burrows summarising their attendance at the PAMG Meeting held at the Shire of Kalamunda on 16 April 2009, which was also attended by the CEO, is at **Attachment 8.4.1.**

Note: The Minutes of the Perth Airports Municipalities Group Meeting 16 April 2009 have also been received and are available on the *iCouncil* website.

RECOMMENDATION

That the Delegate's Report in relation to the PAMG Perth Airports Municipalities Group Meeting held 16 April 2009 be received.

8.4.2. Council Delegate: Rivers Regional Council 16 April 2009

A report from Mayor Best and Cr Trent summarising their attendance at the Rivers Regional Council (*formerly South East Metropolitan Regional Council*) Meeting held 16 April 2009 is at **Attachment 8.4.2.**

Note: The Minutes of the Rivers Regional Council Meeting held on 16 April 2009 have also been received and are available on the *iCouncil* website.

RECOMMENDATION

That the Delegate's Reports in relation to the Rivers Regional Council Meeting held 16 April 2009 be received.

8.4.3. Council Delegate: NRM Local Government Reference Group April 2009

A report from Cr Best summarising his attendance at the NRM Local Government Reference Group Meeting held at the City of Swan in April 2009 is at **Attachment 8.4.3.**

RECOMMENDATION

That the Delegate's Reports in relation to the NRM Local Government Reference Group Meeting held in April 2009 be received.

8.5 CONFERENCE DELEGATES

9. METHOD OF DEALING WITH AGENDA BUSINESS

10. REPORTS

10.0 MATTERS REFERRED FROM PREVIOUS COUNCIL MEETINGS

10.0.1 Submissions on Proposed Naming of Right-of-Way 64. (*Item 10.3.1 February 2009 Council meeting refers*)

Location:	Right-of-Way No. 64 situated within the block bounded by
Banksia	Terrace, Canning Hwy, Hovia Terrace and Third Avenue,
Kensington	
Applicant:	Mr Luka Prijic
File Ref:	ROW 64
Date:	1 May 2009
Author:	Patricia Wojcik, Trainee Planning Officer
Reporting Officer:	Rod Bercov, Acting Director, Development Services

Summary

To consider submissions on the naming of Right-of-Way 64 and to make a recommendation to the Geographic Names Committee.

Background

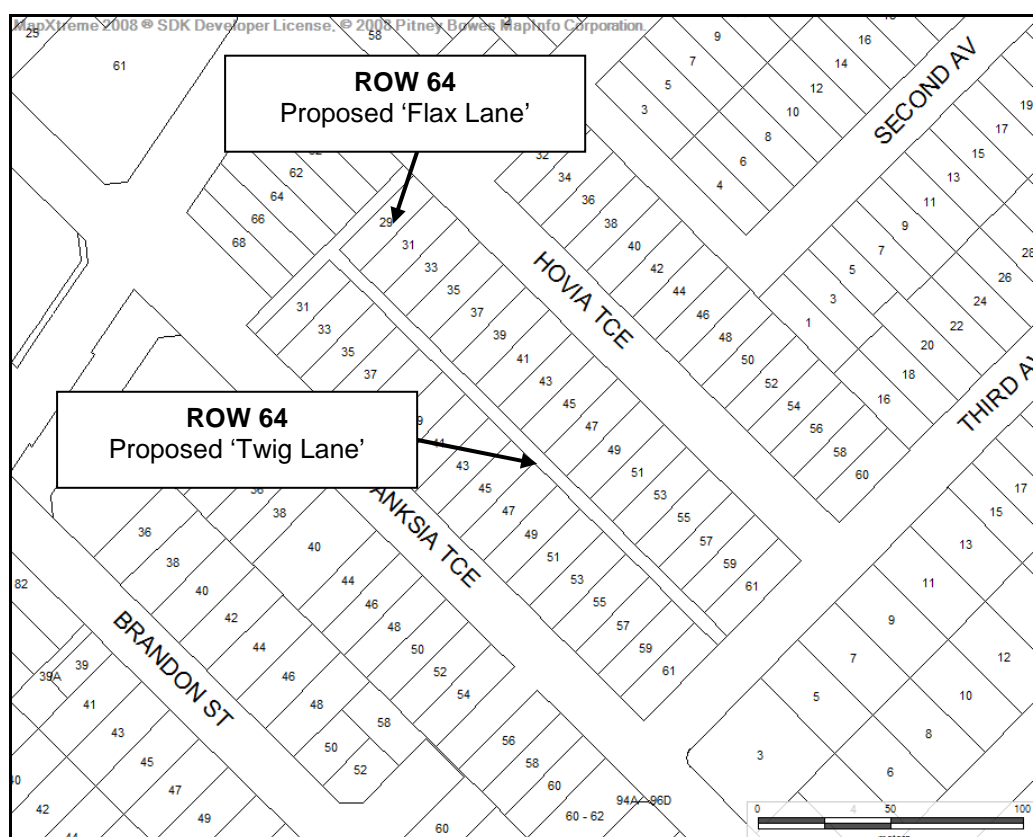
Previous Council Resolution

The request for naming Right-of-Way 64 was originally considered at the February 2009 Council meeting. At that meeting, Council resolved as follows:

- (a) *The proposal to name Right-of-Way No. 64 "Flax Lane" and "Twig Lane" be advertised to the owners and occupiers of properties abutting the right-of-ways for a period of 21 days;*
- (b) *Following the advertising period, a report on submissions received be presented to the first available Council meeting; and*
- (c) *The applicant be advised accordingly.*

Location

Right-of-way 64 has two 'legs' which connect at a 'T' junction. This right-of-way is situated within the block bounded by Banksia Terrace, Canning Highway, Hovia Terrace and Third Avenue, Kensington. The right-of-way is indicated on the map below:



Condition and usage of right-of-way

Right-of-Way 64 is paved for its entire length and rubbish is collected from the right-of-way. The right-of-way is not sign-posted.

The right-of-way is approximately 5.0 metres wide and is used extensively for vehicular access to approximately 28 car parking bays. It is not required for pedestrian access to dwellings and there are no mail boxes in the right-of-way. The following photographs show the condition and usage of the right-of-way.



Portion of ROW 64 running parallel to Canning Highway (looking north-east).



Portion of ROW 64 running parallel to Canning Highway (looking south-west).



Portion of ROW 64 running parallel to Banksia Terrace (looking south-east).



Portion of ROW 64 running parallel to Banksia Terrace (looking north-west).

Previous right-of-way naming

At Council's December 2001 meeting, five right-of-ways were approved for naming. Separate requests for naming had been received from three owners, each from a different right-of-way. The right-of-ways approved for naming were Nos. 86, 93, 94, 103, and 104. All of these are parallel to Canning Highway. Council supported the naming due to the difficulty involved in giving directions to visitors to the abutting properties. Prior to naming, there was a trial of 'location signs'. The 'location signs' were placed at each end of the right-of-way and indicated that the laneway provided rear access to certain properties which front on to Canning Highway. The trial had mixed results.

Subsequently, the Council has supported the naming of Rights-of-way 75, 76 and 123.

Right-of-Way 64 naming request

The request to name ROW 64 was received from Mr Luka Prijic, the owner of the property at No. 68 Canning Highway. Mr Prijic advises that 'visitors find it difficult to locate his residence. Taxis in particular require the location of the house to be explained to them in detail before they are able to locate the house'.

Previous property owners who have submitted requests relating to other right-of-ways have also suggested that the difficulties in giving directions would be undesirable in an emergency situation and that naming the right-of-way would also be appropriate given that various trades and service people access the right-of-way. These same concerns could apply in relation to Right-of-way 64. Having acknowledged these access difficulties, at the February 2009 Council meeting, the Council resolved to invite comment on the suggested names from the owners and occupiers of the adjoining properties.

Comment

The Consultation section below describes the consultation undertaken with the adjoining owners and occupiers and an officer from Landgate's Geographic Names Committee, who was contacted for advice before public advertising. The officer provided four examples of compliant names that could be used: 'Twig Lane', 'Flax Lane', 'Lily Lane' and 'Nivea Lane'. The names selected were 'Twig Lane' and 'Flax Lane' and were subsequently advertised to all the adjoining landowners and occupiers.

Consultation

Advertising during April 2009.

There are no statutory advertising procedures for proposals to name a right-of-way. However at its February 2009 meeting the Council resolved to advertise the proposal to the affected owners and occupiers of properties for 21 days. The proposed names "Twig Lane" and "Flax Lane" were advertised in April 2009, to the owners and occupiers of 40 dwellings abutting the right-of-way. Ten submissions were received and these are summarised as follows:

Submitter 1	Owner	Agrees with both names
Submitter 2	Owner	Agrees with both names
Submitter 3	Owner	Agrees with both names
Submitter 4	Owner	Agrees with both names, but would prefer the original proposed name of 'Jacaranda Lane'
Submitter 5	Owner	Agrees with 'Flax Lane' Would prefer 'Lily Lane' or 'Nivea Lane' instead of 'Twig Lane' Other alternatives given include 'Rose Lane', 'Fig Lane', 'Velleria Lane'
Submitter 6	Owner/Occupier	Agrees with 'Twig Lane' Would prefer 'Lily Lane' over 'Flax Lane'
Submitter 7	Other Interest	Agrees with Twig Lane Suggested 'Cactus Lane' over 'Flax Lane'
Submitter 8	Owner/Occupier	Against both names Suggested 'Banksia Lane' or 'Hovia Lane'
Submitter 9	Owner/Occupier	Against both names Would prefer 'Lilac Lane', 'Mulberry Lane', 'Berry Lane', 'Cherry Lane'
Submitter 10	Owner	Against naming the right-of-way in general; feels the City should wait for the Canning Bridge study to finish as the road could be widened in the future; and that the word 'Lane' gives negative connotations to an area

Responses were received from around 25% of the properties to which notices were sent. Of the responses received, 90% were in favour of the naming of the right-of-way. The single owner who is against the naming due to perceived negative connotations has an opinion which is not shared by the substantial majority. 40% of the respondents agreed with both names and 30% agreed with one of the names. Only 20% were against both names.

Geographic Names

According to the Geographic Names Committees naming guidelines for a right-of-way, a suitable name would:

- not have similar sounding names within a 10 km radius;
- not be duplicated more than five times within the metropolitan area;
- not be a double barrelled name or be too long;
- be a floral name consistent with previously named right-of-ways in the City;
- if at all possible, have some relevance to the right-of-way being named.

According to these guidelines, the original proposed name of 'Jacaranda Lane' was deemed too long. The suggested names of 'Banksia Lane' and 'Hovia Lane' are also not suitable as there are similar examples within a 10 km radius.

The 'road type' usually used for a right-of-way is 'Lane'. The names chosen meet all the relevant Geographic Names Committee guidelines and are native flowering species.

Policy and Legislative Implications

Council does not have a policy to guide decisions as to whether or not the naming of particular right-of-ways will be supported, and if so, how names will be selected.

The Geographic Names Committee document titled “Road Naming Guidelines (2001)” provides the following guidelines for the naming of right-of-ways:

“The increase in urban density in new development and urban redevelopment has resulted in many narrow short lanes and right-of-ways requiring names. The naming of such roads is supported with a preference for use of the road type Lane and short names. Laneways will normally only be named if a name is required for addressing purposes. The leg of a battleaxe lot is not a laneway.”

Financial Implications

If Council resolves to proceed with the naming and the Geographic Names Committee consents to name the right-of-way, the cost to install a sign at each end will be approximately \$300 per sign. This would be a total of approximately \$1200, although the cost varies according to the length of the name.

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

There are no sustainability implications relating to this application.

OFFICER RECOMMENDATION ITEM 10.0.1

That...

- (a) the Council recommends to the Minister for Lands that Right-of-Way 64 (situated within the block bounded by Banksia Terrace, Canning Highway, Hovia Terrace and Third Avenue, Kensington) be named in two parts. The portion running parallel to Canning Highway to be named ‘Flax Lane’ and the portion running parallel to Banksia Terrace be named ‘Twig Lane’; and
- (b) submitters and the applicant be notified of the Council’s recommendation to the Minister for lands.

10.0.2 Review of Alfresco Dining Local Law (<i>Item 10.5.4 December 2008 Council Meeting refers</i>)

Location:	City of South Perth
Applicant:	Council
File Ref:	GO/101
Date:	8 May 2009
Author:	Sean McLaughlin, Legal and Governance Officer
Reporting Officer	Cliff Frewing, Chief Executive Officer

Summary

At its December 2008 ordinary meeting, Council instigated a review of the City's Alfresco Dining Local Law pursuant to section 3.16 of the *Local Government Act*. The purpose of the review is to determine whether the local law operates satisfactorily and to seek submissions from the community on its operation and usefulness.

Notices of the review were published in the *West Australian* and the *Southern Gazette* newspapers in December 2008 but by the close of the public consultation period at the end of February 2009, no submissions had been received.

The City has conducted a review of the local law which recommends minor textual revision to correct some drafting errors in the existing local law. A draft Amendment Local Law has been prepared for consideration by Council in order to initiate the law-making procedure of the Act.

If Council resolves to initiate the law-making procedure, the Amendment Local Law will be publicly notified and brought back to Council for adoption upon consideration of any public submissions received.

Background

At its ordinary September 2008 meeting, Council requested a review of recent legislative activity by the local governments of Fremantle and Perth concerning proposals to ban smoking in alfresco dining areas. A number of local governments have taken action in recent years to address passive smoking in public places. This action has been triggered by concern over the deleterious health effects of passive smoking, the nature and extent of which have been widely documented.

Section 3.16 - Periodic review of local laws

As reported to Council at its December 2008 meeting, the City is able to impose conditions on a licence issued for alfresco dining within public places it owns or manages such as footpaths. A prohibition on smoking within the licence area could be imposed as a condition of the licence.

As part of a wider periodic review of other local laws, Council instigated a review of the Alfresco Dining Local Law at its December meeting under section 3.16 of the Act which enables a local government to review its local laws to determine if the law needs to be repealed or amended.

The statutory procedure for a periodic review is similar to that for the local law-making procedure which provides for community consultation by means of state-wide and local public notice over a minimum period of six weeks prior to Council considering any submissions received and making decisions on the amendment or repeal of the local law. Given the Christmas/New Year break, the consultation period was extended to the end of February 2009.

Although notices of the review were published in the *West Australian* and the *Southern Gazette* in December 2008, by the close of the public consultation period at the end of February 2009, no submissions had been received.

Comment

Council adopted the existing Alfresco Dining Local Law in May 2003. The purpose of the law was to enable the City to regulate the operation of alfresco dining on its footpaths, which constitute 'public property' owned or managed by the City.

Under the Alfresco Dining Local Law, the City may grant a licence, subject to such conditions as it sees fit, including a condition which prohibits smoking within the licence area.

The City has conducted a review of the existing local law and recommends that minor textual revision only is necessary. A draft Amendment Local Law has been prepared for consideration by Council in order to initiate the law-making procedure of the Act. A copy of the Amendment (Alfresco Dining) Local Law is at **Attachment 10.0.2(a)**. A marked-up copy of the existing local law is also provided, at **Attachment 10.0.2(b)**, to more clearly indicate the changes.

Procedural Requirements for amending local law

The procedural requirements for amending a local law are the same as for making a local law.

Purpose and effect of Amendment (Alfresco Dining) Local Law

The person presiding at a Council meeting is to give notice of the purpose and effect of the proposed local law by ensuring that the purpose and effect is included in the agenda for the meeting and that the minutes of the meeting include the purpose and effect of the proposed local law.

The purpose of the proposed Amendment (Alfresco Dining) Local Law is to remove typographical and drafting errors in the existing Local Law.

The effect of the proposed Amendment (Alfresco Dining) Local Law is to clarify the operation of the Local Law.

Public consultation

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

Submissions about the proposed local law may be made to the City for a period of not less than six weeks after the notice is given. After the last day for submissions, Council is to consider any submissions made and may make the local law as proposed or make a local law that is not significantly different from what was proposed.

Policy P313 Alfresco Dining

The administration of the local law is guided by policy P313 Alfresco Dining. The policy has also been reviewed in conjunction with the local law. A copy of the revised policy is at **Attachment 10.0.2(c)**.

Policy and Legislative Implications

Policy and legislative implications are as described in the report.

Financial Implications

Nil.

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

The report is consistent with the objectives of the City’s Sustainability Strategy.

OFFICER RECOMMENDATION ITEM 10.0.2

That Council adopts the....

- (a) revised Policy P313 “Alfresco Dining” at **Attachment 10.0.2(c)**; and
- (b) proposed Amendment (Alfresco Dining) Local Law 2009 at **Attachment 10.0.2(a)**, for the purposes of public advertising and consultation as required by section 3.12 of the *Local Government Act*.

10.0.3 Periodic Review of Local Laws (*Item 10.5.3 Dec.08 Council Meeting refers*)

Location: City of South Perth
Applicant: Council
Date: 12 May 2009
Author: Sean McLaughlin, Legal and Governance Officer
Reporting Officer: Cliff Frewing, Chief Executive Officer

Summary

Section 3.16 of the *Local Government Act* requires a local government to periodically review its local laws to determine if the law needs to be repealed or amended

In December 2008 Council instigated a periodic review of nominated local laws in accordance with the Act. Given the Christmas / New Year break, the statutory consultation period of six weeks was extended to the end of February 2009.

In that time the City received two public submissions which are considered below. The report draws a number of preliminary conclusions and recommends that further work be undertaken prior to a report being presented to Council on proposals for amendment of the local laws under review. Once that is done, the local law-making procedure set out in section 3.12 of the Act may be initiated.

Background

Section 3.16 of the Act requires local governments to review their local laws within a period of 8 years from their commencement to determine if they should remain unchanged, be amended or be repealed.

The statutory procedure for a periodic review under section 3.16 is similar to that for the local law-making procedure - it provides for community consultation by means of state-wide and local public notice over a minimum period of six weeks prior to Council considering any submissions received and making decisions on whether to amend or repeal the local law. Periodic review also enables valuable community consultation to occur in areas of relevant community concern.

Section 3.16 is used solely for reviewing local laws - if as a result of the review, a local government decides to repeal or amend a local law, it must do so under the usual law-making procedure set out in section 3.12. This will mean that once the review is concluded, Council will have a further opportunity to consider recommendations for the repeal or amendment of each law under review. Any proposals to change an existing local law would go out for further community consultation before being adopted by Council at a subsequent meeting.

In December 2008 Council instigated a periodic review of nominated local laws in accordance with the Act. Given the Christmas/New Year break, the statutory consultation period of six weeks was extended to the end of February 2009. Two public submissions were received.

The following local laws are currently under review:

- Public Property;
- Streets and Footways;
- Street Lawns and Gardens;
- Hawkers, Stallholders and Trading in Public Places;
- Bee-keeping; and
- Nuisance.

Copies of each local law were provided as attachments to the December 2008 report to Council and have not been further copied for this report. Copies of all local laws are accessible on the City's website.

Comment

Public Submissions

The two submissions made a number of observations which are summarised as follows:

- It would be more efficient to have an expert committee sponsored by the State Government undertake reviews on behalf of all local governments;
- It would be more sensible to have standard State-wide laws, with local governments able to adopt local variations;
- The Streets and Footways Local Law contains anachronistic provisions such as, 'no person shall beat or shake any carpet or rug in any street or way between the hours of 8.00 am and midnight';
- The Street Lawns and Gardens Local Law should allow for the possibility that Council may agree to street treatments other than 'lawns and gardens'- eg. "hard standing" such as brick paving;
- The Street Lawns and Gardens Local Law contains inappropriate provisions such as the requirement to keep the lawn well watered, and contains provisions, such as keeping the lawn mown and free from weeds and litter, which are not enforced;
- Put more effort into public education and the promotion of sensible, pragmatic policies;

Response to Public Submissions

The way in which local laws are reviewed is presently governed by the *Local Government Act* which places the onus on each individual local government. However the submissions make the valid point that there may be more efficient and effective ways in which the review process could be conducted. Although standard State-wide laws are not available, WALGA does publish a number of Model Local Laws which cover some of the areas under review. In other states, for example Queensland, a set of model local laws are promulgated by the State government and local governments are able to adopt them with local variations which are not inconsistent with the model. It is suggested that this may be a matter which WALGA and the LGMA may wish to take up with the Department of Local Government when the opportunity next arises.

As the submissions note, the continuing relevance of the Streets and Footways Local Law is questionable and the provisions of the Street Lawns and Gardens Local Law raise valid concerns with respect to the use of water and the effectiveness of current mechanisms for achieving compliance.

In relation to the latter local law, it is agreed that the provisions are out of date and have not kept pace with the City's policies and publications advocating waterwise gardens.

Conclusions on Preliminary Review

The City's preliminary review suggests the following conclusions on the local laws under review:

The Public Property Local Law requires amendment to correct outdated or incorrect statutory references. If more extensive amendment was considered desirable, the WALGA model Local Government Property Local Law would serve as a useful guide.

The Streets and Footways Local Law appears to be redundant and should be repealed. However a more intensive review will be undertaken prior to a final recommendation being given.

The Street Lawns and Gardens Local Law needs to be amended to reflect changed policies and practices arising from climate change and the City's advocacy of waterwise gardens.

The Hawkers, Stallholders and Trading in Public Places Local Law requires amendment to correct statutory references (eg. it contains references to the 1960 Act) and needs further review to determine whether it continues to operate effectively in a changed community environment. The WALGA model Thoroughfares, Public Places and Trading Local Law is an omnibus local law which may be used for purposes of comparison.

The Bee-keeping Local Law appears to be operating without controversy however the penalties are low and could be revised upwards - they were set in 1985 at \$200. In addition, there is power under the Act for a local government to initiate action to remove bees that may endanger public safety or create a serious public nuisance.

The Nuisance Local Law has similarly low penalties. Further review of the local law may conclude that it is partly or completely redundant due to other regulatory mechanisms being in place, eg EPA regulations and Health Act regulations. These are in addition to the provisions in the Act which empower a local government to take action where necessary in relation to artificial light or reflected light creating a nuisance. Nuisance local laws also raise a fundamental policy question for local governments as to extent they want to become involved in disputes between adjoining property owners which are subject to the civil law.

WALGA has models for these two local laws. Under the former, the WALGA model has provision for establishing a permit system for the keeping of bees.

It is recommended that the City undertake further work on the review of the nominated local laws in preparation for a report to Council containing proposals for amendments to be pursued through the law-making procedures of the Act.

Consultation

Consultation was conducted in accordance with section 3.16 of the Act.

Policy and Legislative Implications

Policy and legislative implications are as described in the report.

Financial Implications

Nil.

Strategic Implications

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

Sustainability Implications

The report is consistent with the objectives of the City's Sustainability Strategy.

OFFICER RECOMMENDATION ITEM 10.0.3

That Council...

- (a) receives report Item 10.0.3 on the periodic review of its local laws pursuant to section 3.16 of the *Local Government Act*; and
- (b) endorses further work be undertaken towards preparing amendments to the local laws relating to:
 - Public Property;
 - Streets and Footways;
 - Street Lawns and Gardens;
 - Hawkerc, Stallholders and Trading in Public Places;
 - Bee-keeping; and
 - Nuisancefor future consideration.

10.1 GOAL 1 : CUSTOMER FOCUS
Nil

10.2 GOAL 2: COMMUNITY ENRICHMENT
Nil

10.3 GOAL 3: ENVIRONMENTAL MANAGEMENT

10.3.1 Amendment No. 15 to Town Planning Scheme No. 6. Removal of restrictive covenants affecting density
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Location:	City of South Perth
Applicant:	City of South Perth
File Ref:	LP/209/15
Date:	1 May 2009
Author:	Gina Fraser, Senior Strategic Planning Officer
Reporting Officer:	Rod Bercov, Acting Director, Development Services

Summary

In response to many requests from members of the community, the City has commissioned a consultant to prepare a Scheme Amendment to over-ride restrictive covenants which limit the development potential of a site to a lesser number of dwellings than would normally be permitted by Town Planning Scheme No. 6 (TPS6). The attached draft Scheme Amendment documents comprising the text of the Amendment and the accompanying report for presentation to the Minister are now provided for Council to resolve to endorse the draft Scheme Amendment for advertising purposes.

Background

For many years, the City has been aware that large areas of the City, including the Manning, Salter Point and Waterford localities are affected by restrictive covenants on the titles of lots, effectively reducing the development potential of those lots to a Single House only, irrespective of their density coding. Most of the affected areas are coded R20 and, under TPS6, these lots could normally accommodate two Grouped Dwellings, where the lot area is at least 900 sq. metres.

Where a lot is constrained by a restrictive covenant, in order to develop to the density permitted by Town Planning Scheme No. 6, owners are required to undergo a lengthy and costly legal process, involving a wide extent of community consultation and action through the courts. Over many years, the City has received requests from owners of such lots for the Council to initiate a Scheme Amendment which would simplify this process.

The requested Scheme Amendment is now presented for consideration by the Council.

Comment

Amendment No. 15 is one of four Scheme Amendments contracted by the City to private Planning Consultants. The consultant who has prepared this Amendment is Allarding Associates.

The proposed Amendment No. 15 will introduce a clause into Part IV of the Scheme Text relating to development requirements for residential uses. In relation to the constrained lots, the new clause will have the effect of removing that part of any restrictive covenant which limits the development potential of a residential site below that permitted by the Scheme. Although a search of titles has not been undertaken due to the large number of affected lots and the cost involved, the City is aware that many lots throughout the City, including properties in Manning, Salter Point and Waterford, are affected and would benefit from this

Amendment proposal. However, it is to be noted that there are also lots which would not benefit from the release from the restrictive covenant, because they are too small to develop with two or more Grouped Dwellings under R20. Even so, it is possible for these 'smaller' lots to gain additional land from an adjoining lot through the subdivision/amalgamation process, and hence qualify for R20 redevelopment.

All necessary further details relating to the Scheme Amendment are contained in the Scheme Amendment document comprising **Attachment 10.3.1(a)**.

Attachment 10.3.1(b) comprises a map delineating the extent of mail consultation to be undertaken with respect to this Amendment. The intention is to consult the owners of all residential-zoned lots within the delineated area.

In 1996-97, the Council considered a similar Amendment to the then operative TPS5, but did not pursue this to finality due to considerable opposition from residents of Salter Point. Since that time, provisions have been inserted into the Model Scheme Text as standard provisions for use throughout the State, and the most recent indication from some Salter Point residents is that they would keenly support a Scheme Amendment which would bring about the removal of the restrictive covenants. The currently proposed Scheme Amendment will remove a direct conflict between two legal instruments, namely:

- (a) a development restriction imposed by a private party on land owned by another private party by way of a restrictive covenant on the certificate of title of an individual lot, thereby limiting its development potential to a Single House, irrespective of zoning, density coding or lot size; and
- (b) Town Planning Scheme No. 6 zoning and density coding approved by the Minister under the Planning and Development Act, in a public and open process.

In terms of the development approval process, legal advice obtained by the City is that the City must not be influenced by the restrictive covenant when determining applications for development approval. The Council **may approve** an application for planning approval for two or more Grouped Dwellings on an affected lot, despite the existence of a restrictive covenant, provided that the proposed development complies with all TPS6, R-Codes and Council Policy requirements. The Council is not party to, nor would it necessarily know of the existence of, any restrictive covenant, and its 'planning' decisions are not bound by these covenants. However, the owner may not develop the site until the restrictive covenant has been legally extinguished.

By initiating Amendment No. 15, the whole community will have an opportunity to comment on the proposal.

Consultation

At this stage, no consultation has been undertaken on Amendment No. 15. Community consultation is required and will be implemented following Council's endorsement of the draft Scheme Amendment and clearance by the Environmental Protection Authority. An opportunity will then be provided for the community to comment on the proposal. This will involve a 42-day statutory advertising period. During that consultation period, notices will be placed in the *Southern Gazette* newspaper and in the City's Libraries and Civic Centre. The number of affected properties is thought to be large, but the properties actually burdened by restrictive covenants cannot be identified without carrying out widespread title searches. Therefore it is also the intention of City Officers to forward written Notice of the Amendment to the owners of all residential-zoned properties in Manning, Salter Point and Waterford within the area delineated in **Attachment 10.3.1(b)**, inviting them to comment on the proposal.

Policy and Legislative Implications

The proposal will directly affect the No. 6 Town Planning Scheme, being a statutory amendment to the Scheme.

The statutory Scheme Amendment process is set out in the *Town Planning Regulations*. The process as it relates to the proposed Amendment No. 15 is set out below, together with an estimate of the likely time frame associated with each stage of the process:

Stage of Amendment Process	Estimated Time
Preliminary consultation under Policy P104 (and P355)	Not applicable
Council resolution to initiate Amendment No.15 to TPS6	26 May 2009
Council adoption of draft Scheme Amendment No.15 proposals for advertising purposes	26 May 2009
Referral of draft Amendment proposals to EPA for environmental assessment during a 28 day period	End of May, concluding end of June 2009
Public advertising period of not less than 42 days	July, August 2009
Council consideration of Report on Submissions in relation to Amendment No.15 proposals	September or October 2009 Council meeting
Referral to the WAPC and Minister for consideration: <ul style="list-style-type: none"> • Report on Submissions; • Council's recommendation on the proposed Amendment No.15; • Three signed and sealed copies of Amendment No.15 documents for final approval 	Early October or November 2009
Minister's final determination of Amendment No.15 to TPS6 and publication in <i>Government Gazette</i>	Unknown

Financial Implications

The proposed Scheme Amendment has financial implications for the City to the extent of the Consultant's fees and the cost of advertising.

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

The Scheme Amendment provides an opportunity for the Council to simplify the development process for those owners whose properties are encumbered with a restrictive covenant which limits development to a Single House. Such a restriction is not compatible with the adopted Town Planning Scheme No. 6 density coding within some parts of the City, including Manning, Salter Point and Waterford. TPS6 was prepared and adopted by way of a public process, following proper procedure, and having regard to comments received from members of the community. The Amendment is consistent with sustainability principles in that it will remove an anomalous barrier not imposed by TPS6, which is preventing landowners developing to their normal density entitlement under TPS6.

OFFICER RECOMMENDATION ITEM 10.3.1

That....

- (a) the Council of the City of South Perth under the powers conferred by the *Planning and Development Act 2005*, hereby amends the City of South Perth Town Planning Scheme No. 6 in the manner described in **Attachment 10.3.1(a)**;
- (b) the Report on the Amendment containing the draft Amendment No. 15 to the City of South Perth Town Planning Scheme No. 6, **Attachment 10.3.1(a)**, be adopted and forwarded to the Environmental Protection Authority for environmental assessment and to the Western Australian Planning Commission for information;
- (c) upon receiving clearance from the Environmental Protection Authority, community advertising of Amendment No. 15 be implemented in accordance with the Town Planning Regulations and Council Policy P104, to comprise the following:
- A community consultation period of not less than 42 days;
 - Notices mailed to owners of all residential-zoned properties within Manning, Salter Point and Waterford to the extent identified in **Attachment 10.3.1(b)**;
 - *Southern Gazette* newspaper notice in two issues: 'City Update' column;
 - Notices in Civic Centre customer foyer and on the notice-board;
 - Notices in City's Libraries and Heritage House;
 - City's web site: Notice on the 'Out for Comment' page; and
- (d) the following footnote shall be included by way of explanation on any notice circulated concerning this Amendment No. 15:

FOOTNOTE: This draft Scheme Amendment is currently only a proposal. The Council welcomes your written comments and will consider these before recommending to the Minister for Planning whether to proceed with, modify or abandon the proposal. The Minister will also consider your views before making a final decision.

10.3.2 Request for Amendment to Town Planning Scheme No. 6: Rezoning and application of Building Height Limit for proposed Lots 801 to 804 Godwin Avenue, Manning (Amendment No. 21)

Location: Lots 801, 802, 803 and 804 shown on Deposited Plan 59437 in Godwin Avenue between Bickley Crescent and Kelsall Crescent, Manning.

Applicant: Allering and Associates, on behalf of owner of Lots 802, 803 and 804 Godwin Avenue, Manning

File Ref: LP/209/21

Date: 1 May 2009

Author: Gina Fraser, Senior Strategic Planning Officer

Reporting Officer: Rod Bercov, Acting Director, Development Services

Summary

The Council has received a request for an amendment to Town Planning Scheme No. 6 (TPS6) to change the zoning of land in Godwin Avenue, Manning from Local Commercial zone and Local Roads reserve, to the Residential zone with a density coding of R20. The additional land being amalgamated with the affected lots following completion of road closure action also needs to have a Building Height Limit of 7.0 metres applied to the land. All of this is consistent with the zoning and density coding of the surrounding locality. Consequently, the recommendation is that Council resolve to initiate the Scheme Amendment process for the requested purposes, and to endorse the draft Amendment proposals for community consultation in order to test local community opinion on the proposal.

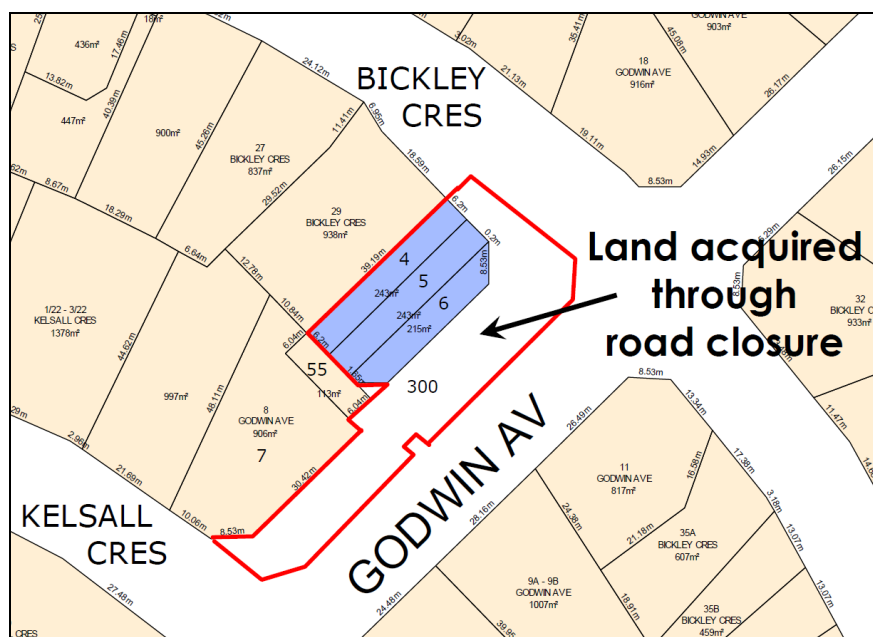
Background

The Amendment site details are as follows:

Current zoning	Local Commercial zone; and Local Roads reserve.
TPS6 Amendment proposed zoning and density coding	Residential R20.
Current lot areas	Lot 4: 243 sq.m Lot 5: 243 sq.m Lot 6: 216 sq.m Lot 7: 906 sq.m Lot 55: approx 90 sq.m Lot 300 (Closed road): 1171 sq.m
New lot areas	Lot 801: 1,346 sq.m Lot 802: 540 sq.m Lot 803: 507 sq.m Lot 804: 510 sq.m
Current Building Height Limit	7.0 metres - this is also being applied to additional land acquired through road closure, being added to adjoining residential lots.
Existing Development	Single House on Lot 7; Remainder of land is vacant.
Development potential	Single House on each new lot.

This report includes **Attachment 10.3.2**, being the Amendment report for community consultation and ultimately for the Minister's final determination.

The location of the subject site is shown below. The site is situated in the portion of Godwin Avenue, extending between Bickley Crescent and Kelsall Crescent, Manning.



The request is for an amendment to TPS6 to change the zoning of a redundant and now demolished local shopping centre and a portion of road reserve being closed under the *Land Administration Act 1997*, to enable the reconfiguration of the lots into three larger sites suitable for Single Houses facing Godwin Avenue. In addition to the rezoning, the application of a 7.0 metre Building Height Limit to the land being acquired through road closure, is also required.

The proponent’s report at **Attachment 10.3.2** contains a detailed analysis of the proposal and explains the need for the requested rezoning and Building Height Limit application.

Comment

- (a) **History of zoning and use of subject site**
The local shopping centre was constructed in 1956. Since that time, the land has been zoned as a local commercial centre. However, due to its failing viability, the centre was demolished in 2002 and the land has remained vacant for the last seven years.
- (b) **Building Height Limit**
TPS6 prescribes a building height limit of 7.0 metres for the subject land currently zoned Local Commercial. This is not proposed to change. However, the land formerly comprising part of the Godwin Avenue road reserve does not currently have a building height limit, and therefore the 7.0 metre limit is proposed for this land, in keeping with the height limit applicable to the lots to which the “closed road” land is being added.
- (c) **Scheme Amendment proposal**
A Scheme Amendment involves two initial resolutions by the Council:
 - (i) an “in principle” decision to amend the Scheme for a specific purpose; and
 - (ii) adoption of a draft Amendment report describing the proposal in detail, and including draft Amendment text and maps.

The report being presented to the May Council meeting encompasses both initial resolutions. The purpose of the Amendment is to rezone the subject site to the Residential zone with a density coding of R20; and to apply the Building Height Limit of 7.0 metres to the land being acquired through road closure action.

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

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

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

The proposed Scheme Amendment meets this overriding objective. The proposal has also been assessed under, and has been found to meet, the following relevant general objectives listed in clause 1.6(2) of TPS6:

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

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

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

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

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

While clause 7.5 is intended to relate to the consideration of development applications, the zoning change and the extension of the 7.0 metre Building Height Limit - that is, a proposed Scheme Amendment - will have an effect on future development applications. To that extent, clause 7.5 is also relevant to the Scheme Amendment. Clause 7.5 lists a range of matters which the Council is required to have due regard to, and may impose conditions with respect to, when considering a proposed development. Of the 24 listed matters, the following are relevant to this Scheme Amendment, and will also be relevant when a future development application is being considered for the site:

(b) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment which has been granted consent for public submissions to be sought;

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

(j) all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;

(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;*
- (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;*
- (v) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved.*

The proposed Scheme Amendment will be beneficial in relation to all of these matters.

Consultation

(a) Design Advisory Consultants' comments

This Scheme Amendment request is not required to be considered by the City's Design Advisory Consultants. When future development applications for Single Houses are received following the final approval of the Amendment, those applications will be assessed to determine whether they need to be referred to the DAC for comment.

(b) Neighbour and community consultation

Community consultation has been undertaken in relation to the road closure process, but none has been undertaken yet, in relation to this proposed Scheme Amendment.

Neighbour and community consultation requirements are contained in the *Town Planning Regulations* and in the City's Policy P104 'Neighbour and Community Consultation in Town Planning Processes'. Following Council's endorsement of the draft Scheme Amendment, community consultation will be undertaken as prescribed in Policy P104. The consultation process will also involve referral to the Environmental Protection Authority for assessment; and also to the Water Corporation.

Community consultation will involve a 42-day advertising period, during which, notices will be placed on the City's web site, in the *Southern Gazette* newspaper and in the City's Libraries and Civic Centre. Any submissions received during this period will be referred to a later Council meeting for consideration.

Policy and Legislative Implications

When finalised, the Scheme Amendment will have the effect of modifying the Scheme Maps of the City's operative Town Planning Scheme No. 6.

The statutory Scheme Amendment process is set out in the *Town Planning Regulations*. The process as it relates to the proposed Amendment No. 21 is set out below, together with an estimate of the likely time frame associated with each stage of the process:

Stage of Amendment Process	Estimated Time
Preliminary consultation under Policy P104	Not applicable
Council resolution to initiate Amendment No. 21 to TPS6	26 May 2009
Council adoption of draft Scheme Amendment No. 21 proposals for advertising purposes	26 May 2009
Referral of draft Amendment proposals to EPA for environmental assessment during a 28 day period	End of May 2009
Public and Water Corporation advertising period of not less than 42 days	Commencing end of June / early July
Council consideration of Report on Submissions	September 2009 Council meeting
Referral to the WAPC and Minister for consideration: <ul style="list-style-type: none"> • Report on Submissions; • Council's recommendation on the proposed Amendment No. 21; • Three signed and sealed copies of Amendment No. 21 documents for final approval 	Early October 2009
Minister's final determination of Amendment No. 21 to TPS6 and publication in <i>Government Gazette</i>	Unknown

Financial Implications

The issue has some impact on this particular area, to the extent of payment of the required Planning Fee by the applicant, in accordance with the Council's adopted fee schedule. The current fee schedule is based on hourly rates for each officer involved in the processing of the Amendment. The applicant will be invoiced following the Council's initial resolution deciding to amend the Scheme. Having regard to the extent of community consultation already undertaken in relation to the road closure, and the purpose of the closure being publicised at that time, it is anticipated that there will be very little, if any, community feedback on the proposed Scheme Amendment. Therefore, with limited further staff involvement in this process, an estimated fee of \$5,000 is proposed. As usual, any amount of the fee not consumed by the hourly rates will be refunded to the applicant, at the conclusion of the statutory Scheme Amendment process.

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

The Scheme Amendment request provides an opportunity for the Council to rectify the current situation of an old disused local shopping centre which has been demolished because it was found to be non-viable. The vacant land formerly occupied by this centre, together with a large piece of unused road reserve land, will be rezoned for residential purposes, and three new house lots will be created. The proposed Amendment will facilitate the use of the subject site for a sustainable purpose.

Conclusion

It is not common for the Council to support "spot rezoning", however this practice is sometimes supported where such action is clearly justified. In this instance, the rezoning request warrants special consideration for the following reasons:

- (i) The owner is committed to a more sustainable use of the land, and has incurred considerable expense in purchasing, surveying, subdividing and rezoning the affected land, including surplus 'road' land.
- (ii) The former shopping centre has been found to be non-viable and was demolished in 2002. The vacant site is not likely to be used for commercial purposes in the future.

- (iii) The proposed development of three Single Houses will be consistent with the surrounding form and density of residential development, and will enhance the locality.
- (iv) A portion of the subject site currently has no building height controls, because it was formerly part of the road reserve. However, despite the absence of a height limit over the surplus 'road' land, following closure action and amalgamation into adjoining residential lots, this land will be available for development. It is therefore necessary for an appropriate Building Height Limit to be applied to the surplus 'road' land.

Following Council's resolution to initiate the Scheme Amendment process, the draft Amendment documents will be made available for community consultation before being referred to the Western Australian Planning Commission and the Minister for final determination.

OFFICER RECOMMENDATION ITEM 10.3.2

That ...

- (a) the Council of the City of South Perth under the powers conferred by the *Planning and Development Act 2005*, hereby amends the City of South Perth Town Planning Scheme No. 6 in the manner described in **Attachment 10.3.2**;
- (b) the Report on the Amendment containing the draft Amendment No. 21 to the City of South Perth Town Planning Scheme No. 6, **Attachment 10.3.2**, be adopted and forwarded to the Environmental Protection Authority for environmental assessment and to the Western Australian Planning Commission for information;
- (c) upon receiving clearance from the Environmental Protection Authority, community advertising of Amendment No. 21 be implemented in accordance with the Town Planning Regulations and Council Policy P104, to comprise the following:
 - A community consultation period of not less than 42 days;
 - Notices mailed to owners of all residential-zoned properties within Area 3;
 - *Southern Gazette* newspaper notice in two issues: 'City Update' column;
 - Notices in Civic Centre customer foyer and on the notice-board;
 - Notices in City's Libraries and Heritage House;
 - City's web site: Notice on the 'Out for Comment' page; and
 - One site notice on each of Bickley Crescent and Godwin Avenue frontages;and
- (d) the following footnote shall be included by way of explanation on any notice circulated concerning this Amendment No. 21:

<p>FOOTNOTE: This draft Scheme Amendment is currently only a proposal. The Council welcomes your written comments and will consider these before recommending to the Minister for Planning whether to proceed with, modify or abandon the proposal. The Minister will also consider your views before making a final decision.</p>

- (e) The applicant be advised that as the Council has resolved to initiate the Scheme Amendment as requested, an estimated Planning Fee of \$5,000 including GST is now payable with respect to Amendment No. 21.

<p>10.3.3 Retrospective additions to a Single House - Lot 505 (No. 10) Anthony Street, South Perth</p>

Location: Lot 505 (No. 10) Anthony Street, South Perth.
 Applicant: Mr R Du Heaume
 Lodgement Date: 30 July 2008 (Revised plans received on 3 March 2009)
 File Ref: 11.2008.348 AN5/10
 Date: 1 May 2009
 Author: Lloyd Anderson, Senior Planning Officer
 Reporting Officer: Rod Bercov, Acting Director, Development Services

Summary

On 23 March 2009, City Officers refused a application for retrospective planning approval for additions to a Single House under delegated authority. The additions comprised:

- (i) steps constructed over an access easement; and
- (ii) rear fencing greater than 1.8 metres in height.

On 9 April 2009 the City received a request by the Applicant to review the delegated officer decision at a Council meeting. For reasons provided in the report, the officers recommend that the decision to refuse be upheld.

Background

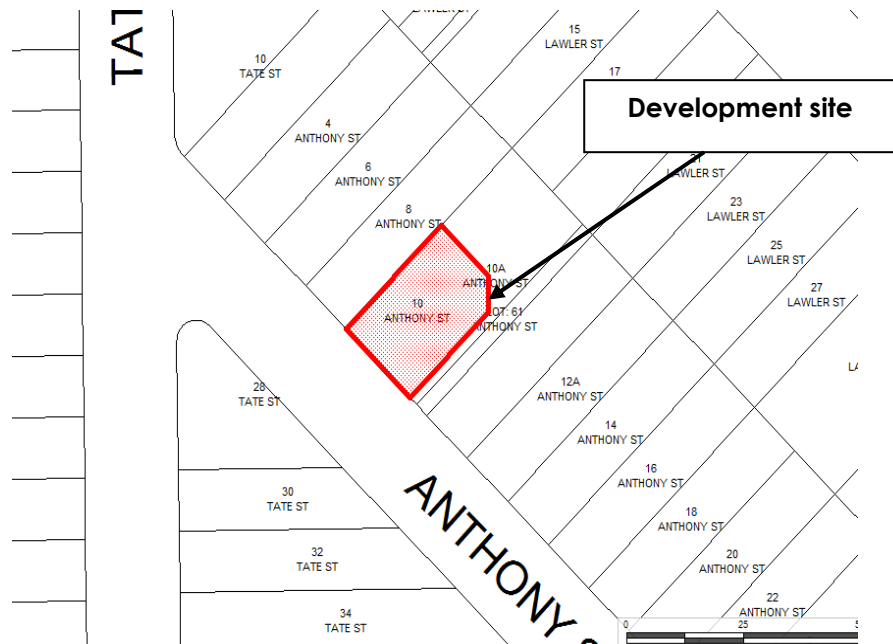
The development site details are as follows:

Zoning	Residential
Density coding	R15
Lot area	547 sq. metres
Building height limit	7.0 metres
Development potential	Single House
Maximum plot ratio	N/A

This report includes the following attachments:

- Confidential Attachment 10.3.3(a)** Plans of the proposal
- Attachment 10.3.3(b)** Photo's of the structures

The site is adjoined by residential zoned land and has frontage to Anthony Street. The location of the development site is shown below:



Comment

(a) Description of the proposal

Steps and hand railing have been installed at the entrance to the house without the property owner obtaining necessary approvals from the City. This structure has been constructed partially over a right of accessway easement, a 4.0 metre wide carriageway providing vehicular access to both front and rear Single Houses which are laid out in a battleaxe configuration.

The owners of the subject property have also applied for approval for a portion of the fence over the height of 1.8 metres along the rear boundary. Clause 6.7 of Town Planning Scheme No. 6 (TPS6) restricts fence height to a maximum of 1.8 metres unless approval is granted for a higher fence.

The adjoining rear property owner has expressed concern in relation to these retrospective additions and has asked the City to assess them for compliance with statutory planning provisions.

(b) Steps and railing constructed

Steps and railing at the entrance to the house partially encroach over a 4.0 metre wide right of accessway easement, which provides vehicular access to both the front and rear dwellings.

Western Australian Planning Commission (WAPC) Development Control Policy 2.2 relating to residential subdivision in particular clause 3.7.2 relating to dwellings without street frontage and access, reads as follows:

- *Battleaxe lots (including survey-stratas with no common property) to be provided with an access leg of 4m in width ...*
- *Where it is proposed to retain an existing dwelling, the Commission in considering any strata subdivision will generally require, where access is not by common property that:*
 - *there should be no eaves overhangs or other protrusions into the driveway space and no major opening in the wall adjacent to the driveway; and*
 - *there will be adequate space for the car parking required by the Codes, and sufficient space for safe vehicle manoeuvring."*

A 4.0 metre wide accessway, clear of any obstructions, is required to allow sufficient space for safe vehicle manoeuvring. The steps and railing are encroaching over the easement, thus impinging upon the access rights of the adjoining rear property owners. The accessway is required to be clear of any obstruction to facilitate safe vehicle manoeuvring. The intrusion in this area is inconsistent with the provisions of clause 7.5 (d) of TPS6 relating to clause 3.7.2 of the Western Australian Planning Commissions 'residential subdivision' policy. The structure built over the easement should be removed.

(c) **Fencing greater than 1.8 metres in height**

The application also relates to proposed brick fencing higher than 1.8 metres extending along the rear boundary of the site. Clause 6.7 of TPS6 restricts fence height to a maximum of 1.8 metres unless approval is granted for a higher fence. The proposed fence height is 3.27 metres. Increasing the height of the fence to 3.27 metres will have an adverse visual amenity impact on the adjoining property. The fence is inconsistent with the provisions of Clause 8 of Council Policy P350.7 'Fences higher than 1.8 metres', which states:

"Except in circumstances where higher fencing is employed to achieve compliance with the visual privacy requirements of the R-Codes, it is not generally necessary for a fence to exceed a height of 1.8 metres. A higher fence may have an adverse amenity impact in terms of:

- (a) excessively dominant and unattractive visual impact;*
- (b) increased shadow effect;*
- (c) restriction on sunlight penetration; and*
- (d) restriction on views.*

Clause 6.7 of TPS6 restricts fence height to a maximum of 1.8 metres unless approval is granted for a higher fence. A written request must be submitted to the City for any proposed fence exceeding 1.8 metres in height. In considering such a request, the City must be satisfied that the proposed fence will not adversely affect the amenity of any property in the locality and will not clash with the exterior designs of neighbouring buildings. In recognition of the potential adverse amenity impacts of higher fences, the City will not normally approve a fence height greater than 1.8 metres without the written agreement of the affected adjoining neighbour. The City will consult the adjoining neighbour upon receipt of a written request for a higher fence."

Before approving the proposed 'high' brick fence, the Council must be satisfied that the proposed fence will not have an adverse amenity impact. City Officers consider that it is reasonable for the proposed fence height to match the height of the existing boundary fence where it meets with the adjoining boundary wall to the rear, however the proposed brick fence should not extend along the full length of the boundary at a height of 3.27 metres. The proposed height in lieu of 1.8 metres at a height of 3.27 metres will cause the fence to be excessively dominant and it will therefore have an adverse visual impact on the adjoining rear property, contrary to the provisions of clause 8 (a) of Policy P350.7 'Fences higher than 1.8 metres'.

(c) **Other planning controls**

There are no other aspects of the development that require consideration by the Council. All relevant matters have been discussed above.

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

Scheme Objectives are listed in Clause 1.6 of TPS6. The proposal has also been assessed under, and has been found *not to meet*, the following relevant general objectives listed in Clause 1.6(2) of TPS6:

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

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

In addition to the issues discussed above, in considering an application for planning approval, the Council is required to have due regard to, and may impose conditions with respect to the 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:

- (d) any other policy of the Commission or any planning policy adopted by the Government of the State of Western Australia;*
- (j) all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*

The matters listed above are relevant to the subject application. The intrusion of the steps over the easement is inconsistent with the provisions of clause 7.5 (d) relating to WAPC Development Control Policy 2.2. In relation to listed matter (j) due to the visual impact of the proposed fence, attributable to its excessive height, the fence would be detrimental to the amenity of the adjoining rear property. It is therefore, considered that the proposal does not comply with Clause 7.5 of TPS6.

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 proposal was referred to the adjoining neighbour in respect to a proposed fence higher than 1.8 metres. The owners of the properties at No. 10A and No. 8 Anthony Street were invited to inspect the application and submit comments during a 14-day period. During the advertising period two submission were received. Both supported the boundary fencing, however for reasons explained above, City Officers consider that the proposed fencing should not be approved. The steps over the easement were not advertised however an objection was received expressing concerns about this aspect of the development.

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. In addition, the City's Legal and Governance Officer has provided the following comments:

"When the block was subdivided into two battleaxe properties, an access easement was created, in accordance with the requirements of the WAPC, for the benefit of the property owner at the rear, which burdened the property owner at the front. If the property owner who carries the burden of the easement proposed to do anything/place any structure on the easement, then they would firstly need to obtain the consent of the property owner for whose benefit the easement was created. If this consent was refused then any dispute as to the competing rights of the two property owners would be determined as a civil law matter. In the absence of any necessary consents, the City should not take any action which could adversely impact on the exercise of the rights of either property owner."

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

The additions discussed in the report are observed to have an adverse impact on the adjoining rear property owners in terms of their amenity, hence not sustainable.

OFFICER RECOMMENDATION ITEM 10.3.3

That ...

- (a) 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 the proposed steps and railing and the increased height of the boundary fence **be refused**, for the following reasons:
 - (i) The steps have been constructed partially within the access way easement, which is in favour of the rear property on the battleaxe lot. The accessway is required to be clear of any obstruction. The intrusion in this area is inconsistent with the provisions of clause 7.5 (d) of Town Planning Scheme No. 6 (TPS6) relating to clause 3.7.2 of the Western Australian Planning Commission policy ‘residential subdivision’.
 - (ii) The 3.27 metre proposed fence height substantially exceeds the prescribed 1.8 metre maximum, and Council considers that the fence will have an adverse visual amenity impact on the adjoining property. The fence is inconsistent with the provisions of Clause 8 of Council Policy P350.7 ‘Fences higher than 1.8 metres’.
 - (iii) Having regard to the matter identified above, the proposed development conflicts with the “Scheme Objectives” identified in Clause 1.6 of the Town Planning Scheme No. 6.
 - (vi) Having regard to the matter identified above, the proposed development conflicts with the “Matters to be Considered by Council” in Clause 7.5 of the Town Planning Scheme No. 6.
- (b) The owner / applicant is advised to bring the development into compliance with the approved drawings within 28 days from the date of issue of this planning refusal, failing which the City will take necessary further actions.

Important Note

- (a). If you are aggrieved by aspects of the decision where discretion has been exercised, you may lodge an appeal with the State Administrative Tribunal within 28 days of the Determination Date recorded on this Notice.

10.3.4 Additions to Mixed Development. Lot 35 (No. 9) Bowman Street, South Perth

Location: Lot 35 (No. 9) Bowman Street, South Perth
 Applicant: Campion Design Group
 File Ref: 11.2008.464 BO4/9
 Date: 1 May 2009
 Author: Laurence Mathewson, Planning Officer
 Reporting Officer: Rod Bercov, Acting Director, Development Services

Summary

To consider an application for planning approval for an office addition to a mixed use development located on Lot 35 (No. 9) Bowman Street, South Perth. The additions comprise a new commercial unit at the second-floor level; new commercial access point; and additional car parking and landscaping.

It is recommended that the proposal be **refused** due to a significant shortfall in car parking bays.

Background

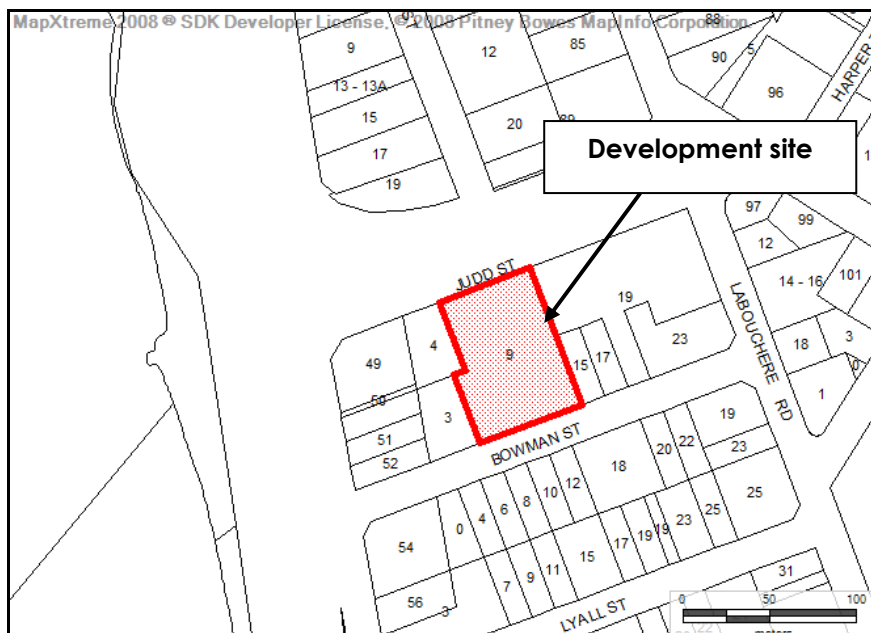
The development site details are as follows:

Zoning	Residential
Density coding	R60/80
Lot area	5056 sq. metres
Building height limit	29.0 / 10.5 metres
Maximum permissible plot ratio	1 : 1

This report includes the following attachments:

- Confidential Attachment 10.3.4(a)** Plans of the proposal.
- Attachment 10.3.4(b)** Applicant’s supporting report.
- Attachment 10.3.4(c)** Applicant’s supporting letter dated 8 May 2009
- Attachment 10.3.4(d)** Comments from Engineering Infrastructure department.

The subject property is identified on the locality plan below:



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

1. Large scale development proposals

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

Comments

(a) Description of the proposal

The proposed development is located on Lot 35 (No. 9) Bowman Street. Located opposite the subject site toward north, is the freeway spur. To the west is a single storey office building, to the east is multi-storey mixed development and to the south of the subject site, on the opposite side of Bowman St are a number of single storey office buildings.

A Mixed Development is defined in TPS6 as *any land or building used for the purpose of both:*

- a) one or more dwellings; and*
- b) one or more non-residential uses;*

which are permissible within the applicable zone, but the term does not include a Home Business, a Home Occupation or a Home Office.

The proposed development is an office addition to an existing mixed-use development. The existing development comprises an 8 storey tower containing 12 residential units on the upper floors and 24 commercial units on the lower floors. The additions comprise the following:

- a) New commercial unit at the second-floor level, adding 1307.6 sq. metres of gross floor area to the existing building;
- b) New commercial access point with lift, stairs and vehicle access off Judd Street; and
- c) Additional car parking and landscaping.

The proposal complies with the requirements of the City's Town Planning Scheme No. 6 (TPS6), with the exception of the variations discussed below.

The applicant's letter, **Attachment 10.3.4(b)**, describes the proposal in more detail.

(b) Finished ground and floor levels

No change to the finished ground and floor levels is proposed as a part of this application. The development therefore complies with TPS6 Clause 6.10 "*Maximum Ground and Floor Levels*".

The levels of the proposed non-habitable spaces on the ground floor level do not comply with Clause 6.9 "*Minimum Ground and Floor Levels*" of TPS6. The proposed non-habitable spaces such as lift foyer, staircase area and bicycle bays are required to be no less than 1.75 metres above Australian Height Datum (AHD). Reference is made to **Attachment 10.3.4(c)**, a letter from the applicant discussing the potential practical constraints if the level were to be raised.

(c) Building height

Drawings show that the highest point of natural ground level is a relative level (RL) of 1.13 metres. In accordance with Clause 6.2 of TPS6, the permissible building height is 10.5 metres which equates to a permissible RL of 11.63 metres. The proposed building height is RL 11.114 metres. The drawings therefore show that the building complies with the building height limit of 10.5 metres.

(d) Car parking and vehicle access

Table 6 of TPS6 prescribes the car parking bay ratio for offices as one bay per 25 sq. metres of gross floor area. Based on a calculated gross floor area of 4288.6 sq. metres and the requirement for the provision of visitor bays, a total of 172 bays are required for the commercial component of the development.

R-Codes Clause 6.5.1 requires the provision of 2 car parking bays per dwelling and 3 visitor bays, a total of 27 bays for the residential component of the development.

The number of required visitor bays may be reduced by 25 per cent in accordance with Clause 6.3(4)(d) of TPS6. A total of 194 bays are therefore required for the entire development. The applicant proposes 162 bays, a shortfall of 32 bays, or 16.4 per cent of the total number of bays required under Table 6 of TPS6.

The applicant has provided the following justification for the parking bay shortfall.

- (i) *The requirement for 194 bays is excessive given that much of the Gross Floor Area is made up of non-habitable lift shafts, toilets, stairs, plant rooms, stores and so on. Proposed commercial plot ratio is a much more meaningful measurement of useable floor space for car bay provision. Based on a net proposed commercial plot ratio of 2899.8 sq. metres and a car parking ratio of 1 bay per 25 sq. metres, 116 bays would be required for the proposed development, which would result in a car parking bay surplus; and*
- (ii) *Alternative means of transport are encouraged with the provision of bicycle racks and readily available public transport nearby;.*

In addition to the applicant's justification it is observed that no bicycle bays or end-of-trip facilities were provided for the existing commercial development. The intended provision of 28 bicycle bays and end-of-trip facilities therefore will offset some of the car parking bay shortfall.

Although the above point (ii) may be a valid consideration, no justification is available as to what proportion of the users will actually use bus and bicycle transport. In the officer's view, these factors are not sufficient to cover the significant shortfall in the car parking requirements.

The City acknowledges that the applicant should not be penalised for historical parking shortfall of existing development if - proposed additions are fully supported by extra parking bays and existing car bays are currently being under-utilized. The gross floor area of the proposed Level 2 Office additions is 1307.6 sq. metres, which requires the provision of 53 bays. The applicant is proposing 17 additional bays, a shortfall of 36 bays. Information relating to the whether the existing car parking is being used to capacity has not been provided by the applicant; however site visits undertaken by City Officer's suggest that it is.

The proposed car parking does not comply with the requirements of Table 6 of TPS6 and it is considered that the proposed shortfall is too large to justify Council exercising discretion in favour of the proposal. The proposal complies with the requirements of TPS6 Clause 6.3 and Schedule 5 "*Minimum Dimensions of Car Parking Bays and Accessways*".

The proposed car parking bay dimensions do not comply with the requirements of TPS6 Clause 6.3 “Car parking” and Policy P350.3 “Car parking access, siting and design”. Figure 7 of this policy depicts a car bay ‘design envelope’. The proposed bay dimensions are less than the required 2.5 metres x 5.5 metres. Bays along side walls (obstructions) are required to have an additional 300 mm clearance. Reference is made to **Attachment 10.3.4(c)**, a letter from the applicant stating providing the reasons that prevent compliance with this requirement. Officers are not in a position to support this variation to the Scheme provision.

(e) **Bicycle parking**

Table 6 of TPS6 prescribes the ratio for bicycle parking as being 1 bay per 200 square metres of gross floor area for offices. Based on a calculated gross floor area of 4288.6 sq. metres the existing and proposed development requires 28 bicycle parking bays. The applicant has provided 28 bicycle parking bays.

Clause 6.4(5) of TPS6 also requires the provision of 1 secure clothes locker per bay and 1 male and female shower in separate rooms per 10 bays. Based on the requirement for 28 bicycle bays the applicant is required to provide 28 secure lockers and 3 male and 3 female showers - a total of 6 showers. The applicant’s drawings show 28 secure clothes lockers and 3 male and 3 female showers. The proposed number of bicycle parking bays and end of trip facilities therefore complies with the requirements of Table 3 of TPS6.

The City acknowledges that the applicant should not be penalised for historical bicycle bay shortfall of the existing development. Based on a proposed gross floor area of 1307.6 sq. metres the applicant would be required to provide 7 bicycle bays and 1 male and 1 female shower. The number of proposed bicycle bays therefore exceeds the requirement.

(f) **Landscaping**

The required minimum landscaped area is 1011.2 sq. metres (20 percent of the site area); the proposed landscaping area is 1516.8 sq. metres (30 per cent). The proposed landscaping therefore complies with the landscaping requirements of Table 3 of TPS6.

(g) **Setbacks**

The minimum street setback for a building less than 10.5 metres in height is 6.0 metres; drawings propose a street setback of 0.4 - 2.65 metres. Clause 7.8 of TPS6 “Discretion to Permit Variations to Scheme Provisions” allows Council to exercise discretion with regard to setbacks, subject to there being no adverse amenity impact.

Adjoining the subject lot to the east, the property at No. 19 Bowman has a setback of 0.6 metres to Judd Street, whilst to the west, No. 4 Judd Street has a setback of approximately 8.0 metres. As only a small portion of the proposed total development frontage facing Judd will have a setback of 0.4 metres, and the remaining portion will be set back 2.65 metres, the proposed setback is seen to be consistent with the streetscape character of Judd. It is therefore considered that Council should exercise discretion in favour of the proposed setback from Judd Street. Side setbacks have been calculated in accordance with Table 3 of TPS6 which requires setbacks to be calculated as per Tables 2a and 2b of the R-Codes. Based on these requirements, proposed side setbacks have been calculated as follows:

- Eastern wall setback 3.0 metres in lieu of 4.8 metres
- Western wall setback 2.7 metres in lieu of 4.8 metres

The applicant has provided written justification and photographs in support of the proposed setback variations. The justification includes the observation that on the eastern boundary of the subject site the adjoining property has a single “monolithic” wall at ground level, with car park ventilation grills at the second level for half the boundary length. There are no major opening located on this elevation.



Fig. 1 and 2: showing the adjoining properties along the eastern and western boundaries respectively.

To the west, the adjoining commercial property is single storey with no windows facing the boundary. As there are no major openings located on either adjoining property, the setback variation will not impact visual privacy. Furthermore the proposed setbacks of 3.0m for the eastern wall and 2.7 m for the western wall will ensure that adequate sunlight and ventilation is maintained to both the proposed development and adjoining properties.

It is therefore considered that Council should exercise discretion in favour of the proposed setback variations from the eastern and western boundaries.

(h) Plot ratio

Clause 5.1(3) of TPS6 permits plot ratio up to 1.0 within the Mixed Use Commercial zone if the following conditions are met:

Within the Mixed Use Commercial Zone

(a) any Mixed Development shall contain at least 2 dwellings;

The existing site has 12 residential dwellings

(b) in the case of Mixed Development, the Council may grant planning approval permitting a development with a plot ratio up to 1.0, if the following criteria have been met:

(i) the development site has an area of 1,700 square metres or more;

The development site has an area of 5056 sq. metres.

- (ii) *The residential and non-residential portions of the development shall each comprise not less than 40 per cent of the total floor area calculated according to the definition of plot ratio contained in Schedule 1;*

The total existing plot ratio on the site is 5056 sq. metres. The residential portion of the development comprises 2152 sq. metres (42.6 per cent) and the commercial development comprises 2899.8 sq. metres (57.4 per cent). Therefore both portions exceed the required 40 per cent minimum.

- (iii) *Visual articulation to the street elevations of the building is provided by way of balconies or other design elements in order to enhance the appearance of the building to the satisfaction of the Council;*

The development proposal was referred to the City's Design Advisory Consultants where the design was favourably received. The Proposed design is seen to comply with this condition.

- (iv) *Outstanding landscaping is providing is provided in accordance with the provisions of clause 6.14(1).*

Landscaping area provided by the applicant exceeds that required by Table 3 of TPS6. Extensive landscaping has been provided between the Judd Street boundary and the building. The landscaping has incorporated sitting benches as decorative features. The landscaping is therefore seen to meet the requirements of "outstanding landscaping" prescribed in clause 6.14(1) of TPS6. As the landscaping plan was submitted late in the assessment process City Environment have not commented on the plan, comment may be obtained from them prior to the issue of a Building License if required.

The development proposal therefore meets the conditions that permit an allowable plot ratio of 1.0.

In accordance with Table 3 of TPS6, the prescribed maximum plot ratio is 1:0 (5056 sq. metres). The development has a total plot ratio of 1.0 (5056 sq. metres). This calculation is based on the existing plot ratio (both residential and commercial) of 4101.4 sq. metres, and the proposed plot ratio of the office addition of 954.6 sq. metres. The development proposal therefore complies with the plot ratio element of TPS6.

(i) Overshadowing

Clause 7.5 of TPS6 requires Council to have due consideration to the impact of the proposed development on:

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

Although the proposed development is non-residential, the City has considered the impact of overshadowing on adjoining properties. As the proposed development has a density coding of R80, 50 per cent overshadowing of the adjoining site area is considered acceptable. The proposed development will overshadow approximately 21 sq. metres, or 0.02 per cent of the adjoining site area and is therefore satisfactory in this respect.

(j) 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 inconsistent with the following objectives:

- (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.*

The proposed development does not meet the car parking requirements prescribed in the City’s Town Planning Scheme No. 6 Table 6 “*Car and Bicycle Parking*” and therefore is considered to be inconsistent with the objective of Clause 1.6 of TPS6 relating to the preservation of the amenity of the locality.

(k) 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 consideration:

- (i) *the preservation of the amenity of the locality;*
- (s) *whether the proposed access and egress to and from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvre and parking of vehicles on the site;*
- (t) *the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*

The proposed development is not consistent with the matters listed above, specifically in relation to the proposed number of car parking bays.

Consultation

(a) Design Advisory Consultants’ comments

The design of the proposal was considered by the City’s Design Advisory Consultants at their meeting held on 10 November 2008. The proposal was generally favourably received by the consultants. DAC comments are summarised below:

DAC Comment	Project Architect Response	Officer Comment
The architects were unclear as to the need for the large space marked as ‘common area’.	The area is a lunch room/canteen, and as such is not included in Plot Ratio.	The comment is NOTED .
The applicant to check BCA requirements with respect to fire escapes and disabled access.	We have re-considered fire escapes and disabled access. Lift and sanitary disabled access is provided. We wish to deal with these aspects at the Build License stage but consider that fire escape travel distances can be accommodated with suitable internal fire separation or a fire engineered solution. We do not anticipate any alterations will be needed to accommodate BCA fire requirements at the Building License stage.	This is not a planning issue and would be addressed at the Building Licence stage, if Planning Approval was granted. The comment is NOTED

AGENDA : ORDINARY COUNCIL MEETING : 26 MAY 2009

DAC Comment	Project Architect Response	Officer Comment
<p>The architects advised that the existing and proposed car parking should be carefully assessed for compliance with TPS6 provisions, and commented that the existing and proposed additional parking could be more than sufficient for the development.</p>	<p>We agree. Please see further comments under Planning Assessment.</p>	<p>Car parking requirements have been assessed in accordance with Clause 6.3 and Table 6 of TPS6. Based on these requirements a parking bay shortfall has been identified.</p> <p>The comment is NOT UPHELD.</p>
<p>The architects observed that the proposed large flat steel roof above the proposed additions was not very inspiring. The roof design could be reconsidered with a view to add interest when viewed from the entry of the freeway.</p>	<p>Having reconsidered the roof form, we still feel it is a good solution, albeit with some further articulation to the elevation. The roof itself will be invisible from the freeway behind the facade and the main surface water drainage is also located at the Judd St boundary. The monopitch roof, angled away from the tower element will also reduce glare given suitable roof colour and finish compared to a pitch potentially angled toward the tower. The maximum height of 10.5 m and existing structure levels also make it difficult to apply alternative roof forms within the available envelope.</p>	<p>Subject site has a building height limit of 10.5 m. Re-design of the roof may result in the design not being able to meet this planning control. Modification to the roof design is therefore considered unnecessary.</p> <p>The comment is NOT UPHELD.</p>
<p>The drawings should clearly show the extent of existing, as well as proposed additions.</p>	<p>We have added this information to the revised drawings.</p>	<p>The comment is NOTED.</p>

DAC Comment	Project Architect Response	Officer Comment
<p>The concept of the proposed additions is good. However, elevations need relief. Three sets of horizontal lines, coupled with varied setback of the design facade, will lead to an interesting articulate design form. Landscaping on the terrace level and around the foyer in the middle will enhance the visual appeal.</p>	<p>The attached concept drawings illustrate our new proposal and generally follow this advice. We have had to work within Plot Ratio constraints but feel the elegant simplicity of the original design is retained whilst further interest is added. We have avoided landscaping to the terrace level. Instead we have concentrated on better landscaping at ground level and within the central courtyard to avoid maintenance and access issues. Judd St is already well screened by trees and we felt that the building form was better expressed without planting on the building facade itself.</p>	<p>Proposed landscaping complies with landscaping requirements prescribed in Table 4 of TPS6. Modification of the proposed landscaping to include landscaping on the terrace level is therefore not considered necessary.</p> <p>The comment is NOTED.</p>
<p>For a better entry statement , providing a pleasant view from the entry to the freeway and a better designed building, the architects recommended the removal of the vehicle access way from Judd Street, as visitors would prefer not to use this dead-end street. The use of this street will lead to a greater travel distance except for trucks picking up rubbish.</p>	<p>The attached photographs illustrate that the Judd St frontage is largely screened by trees from the freeway spur. From the outset of the project, a distinct commercial entry, both vehicular and pedestrian, facing Judd St has been considered important for commercial viability. Whilst vehicle and pedestrian access will certainly be possible from Bowman St, especially for staff and those more familiar with the building - a commercial address relating to Judd St ('6-12 Judd') is considered an important part of the brief. The secondary vehicle access will also assist in dividing vehicle movements between the Bowman and Judd St crossovers. The existing vehicle access crossover to Judd St is simply re-located to suit the proposed layout.</p>	<p>This is not a planning requirement, however applicant's justification addresses the DAC comment.</p> <p>The comment is NOTED.</p>

(b) Neighbour consultation

Area 3 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". Surrounding property owners were invited to inspect the application and to submit comments during the period from 16 October 2008 to 10 November 2008. Although a number of neighbours viewed the plans at Council Offices no written submissions were received during this period.

(c) Manager, Engineering Infrastructure

The Manager, Engineering Infrastructure, was invited to comment on a range of issues relating to car parking and traffic, arising from the proposal. The associated comments will be attached to the determination have been included as **Attachment 10.3.4(d)**.

(d) Environmental Health

Officers from Environmental Health and Regulatory Services were invited to comment on all health-related matters.

The relevant officer has advised the following:

- Construction work on the premises is to comply with the Environmental Protection (Noise) Regulations Act 1977.
- All sanitary conveniences must be constructed in accordance with the Sewerage (Lighting, Ventilation and Construction) Regulations, 1971.

- Environmental Health confirmed that a suitable bin enclosure(s) will need to be provided.
- 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.
- Car park ventilation is to be designed to ensure that the carbon monoxide build up in the parking area does not exceed 50 ppm per hour in accordance with the Health Act (Carbon Monoxide) Regulations 1975.

(e) **Council Briefing**

The applicant gave an overview of the proposed development highlighting the deficiency of parking bays at the Major Development Briefing held on 6 May 2009.

Policy and Legislative Implications

The relevant provisions of the No. 6 Town Planning Scheme have been discussed in the “Comments” section of the report.

Financial Implications

This issue has no impact on this particular area.

Strategic Implications

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

Sustainability Implications

The proposed development has been designed keeping in mind the sustainability design principles. Due to the north-south orientation of the lot, the proposed development does not adversely impact upon the adjoining properties in terms of solar access. The proposed building has also been designed to maximise sunlight into its habitable spaces and an internal courtyard.

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 Office Additions to Mixed Development on Lot 35 (No. 9) Bowman Street, South Perth **be refused**, for the following reasons:

- (a) The proposed development does not provide the 194 bays required by the City’s Town Planning Scheme No. 6 Table 6 “*Car and Bicycle Parking*”.
- (b) The levels of the proposed non-habitable spaces on the ground level do not comply with Clause 6.9 “*Minimum Ground and Floor Levels*” of TPS6.
- (c) The proposed car parking bay dimensions do not comply with the requirements of TPS6 Clause 6.3 “*Car parking*” and Policy P350.3 “*Car parking access, siting and design*”.
- (d) Having regard to the matter 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 matter identified in the reasons above, the proposed development conflicts with the “Matters to be Considered by Council” identified in Clause 7.5 of TPS6.

Standard Advice Notes

651 (Appeal rights).

10.3.5 Proposed Additions / Alterations to Childcare Centre - Lot 109 (No. 47) Birdwood Avenue, Como

Location: Lot 109 (No. 47) Birdwood Avenue, Como
 Applicant: Bella Casa Developments
 Lodgement Date: 20 November 2008
 File Ref: 11.2008.555 BI3/47
 Date: 1 May 2009
 Author: Laurence Mathewson, Planning Officer
 Reporting Officer: Rod Bercov, Acting Director Development Services

Summary

To consider an application for planning approval for additions / alterations to Como Child Care Centre located on Lot 109 (No. 47) Birdwood Avenue, Como. It is recommended that the proposal be **approved** subject to conditions.

Background

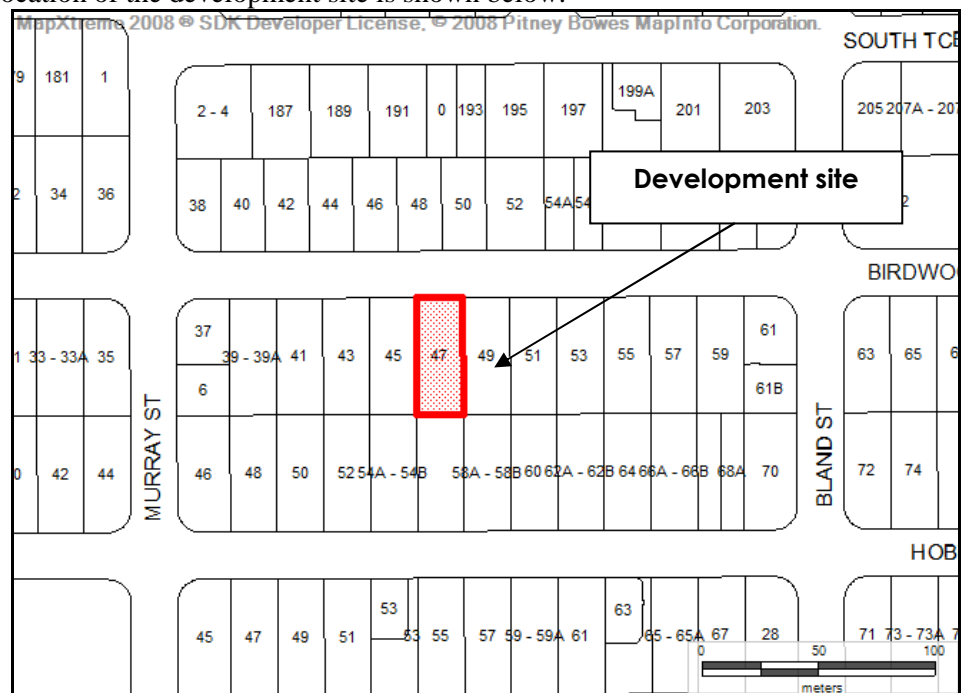
The development site details are as follows:

Zoning	Residential
Density coding	R20
Lot area	1012 sq. metres
Building height limit	7.0 metres

This report includes the following attachments:

- Confidential Attachment 10.3.5(a)** Plans of the proposal.
- Attachment 10.3.5(b)** Copy of 1974 Planning Approval
- Attachment 10.3.5(c)** Copy of 1984 Planning Approval
- Attachment 10.3.5(d)** Applicant's letter
- Attachment 10.3.5(e)** Applicant's further information letter

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. **Specified uses**
Child care centres; and;
2. **Large scale development proposals**
Development ..., in the opinion of the delegated officer, is contentious or is of significant community interest.

Comment

- (a) **Description of the surrounding locality**
The development site is Lot 109 (No. 47) Birdwood Avenue. To the east and the west, the subject site is adjoined by residential development; residential development is also located to the rear and opposite the subject lot.
- (b) **Existing development on the subject site**
The Como Child Care Centre commenced operations in 1974 when an application was made to the City for the conversion of a single brick residence for the purpose of a child care centre. The application was approved at the September 1974 Council Meeting. The approval limited the number of children cared for at any one time to 15, and also required the owner to provide car parking at a ratio of one bay per each member of the staff on duty. A copy of the approval is included as **Attachment 10.3.5(b)**.

In 1984 the then owner of the Child Care Centre applied to the City to increase the number of children being cared for from 15 to 30 children. The application was approved at the August 1984 Council Meeting subject to various conditions, including “no valid noise complaints being received concerning disturbance caused by noise and/or traffic movement”. A copy of the approval is included as **Attachment 10.3.5(c)**.

Under the City’s current Town Planning Scheme No. 6, child care centres are only permitted on land abutting the designated roads prescribed within Table 4 of TPS6. Birdwood Avenue is not a designated road and therefore Como Child Care Centre is a “non-conforming use”. Under TPS6, this land use could not be approved on any other land in Birdwood Avenue.

- (c) **Description of the proposal**
The development application for additions and alterations includes the followings additions - art room, sleeping room, undercover activity area and patio. The entire development proposal is depicted in the submitted plans of **Confidential Attachment 10.3.5(a)**. The proposal complies with the *City of South Perth’s Town Planning Scheme No. 6*, and relevant Council Policies discussed in detail below.
- (d) **Car parking and vehicle access**
In determining whether additional car parking requirements should be imposed on the development site, the City has had due regard to both the 1974 and 1984 Planning Approval and the nature of the current development proposal before the City. Initial written correspondence from the applicant states that there are 6 staff members for the existing Child Care Centre.

The 1984 Planning Approval, which related to an increase in the number of children permitted to receive care, would have required additional staff members to care for the increased number of children. At the time of that approval, Council chose not to impose any additional requirements for car parking. The existing parking arrangements, in particular the existing circular driveway, were seen to be sufficient.

As the current development application relates to additions only, and not a proposed increase in the number of children permitted to receive care, the development proposal will not generate car parking demand greater than that at the time of the 1984 Planning Approval. Therefore based on Council's position at the time of the 1984 Planning Approval and the fact that the current development proposal relates to additions only, without any increase in the number of children receiving care, additional car parking bays are not required.

It is recommended that the applicant and owner be advised of the requirement to comply with the condition of 1984 approval by way of a specific note placed on the determination which highlights the need to take adequate measures in relation to disturbances caused by noise and/or traffic movement resulting in noise complaints being received by the City.

Since no change to the previously approved car parking bays and accessway is proposed, these have not been the subject of a planning assessment.

(e) Noise

The City's Records show that the City has received noise complaints in relation to the Child Care Centre use dating back to June 1975. During the neighbour consultation period, a number of submissions were received by the City relating to the noise generated by the Child Care Centre. This suggests that noise has been an ongoing issue with the current use. Comments in relation to noise from the adjoining property owners are contained in the 'neighbour consultation' section of this report.

Complaints received by the City in relation to noise from the existing development have been forwarded to the City Environmental Health Department for investigation and necessary action.

With respect to noise levels from the proposed development, the Environmental Health Department has commented that if the numbers of the children remain the same, the noise levels will also remain unchanged. The new buildings may potentially reduce the noise levels to the immediate neighbours.

(f) Number of children permitted to receive care

The 1984 Planning Approval granted approval for 30 children. Initial correspondence with the applicant suggested that between 24 - 33 children were being cared for at any one time. However, additional correspondence has since confirmed that the application does not propose an increase in the number of children. The Como Child Care Centre is therefore not permitted to increase the numbers to more than 30 children. It is recommended that the applicant and owner be advised of the requirement by way of a specific note placed on the determination.

(g) Landscaping

The 1974 Planning Approval was granted subject to "*the grounds being kept to their present landscaping standards and being maintained to the satisfaction of the Council of the City of South Perth*". A search of City Records failed to show a plan for the 1974 Planning Approval. Therefore a comparison cannot be made between the current level of landscaping and that approved in 1974. A site visit undertaken by City Officers and the applicant's site plan that shows existing landscaping verifies that landscaping is consistent with the existing residential streetscape. Therefore the City's requirements in relation to landscaping have been satisfied .

(h) Setbacks

Table 4 of TPS6 requires a 6.0 m street and rear setback from lot boundaries. Side boundary setbacks need to comply with Table 2a and 2b of the R-Codes. The development proposal complies with the setback requirements prescribed in Table 4 of TPS6.

(i) Boundary wall

Although the subject lot is a non-residential use, the adjoining property is residential. The amenity impact of the proposed art room boundary wall will therefore be imposed on a residential property. Under these circumstances even though Council Policy P350.2. Residential Boundary Walls” applies specifically to proposed residential development, the provisions of that policy also provide useful guidance for assessment of the current application. Therefore the proposed boundary wall has been assessed against the provisions of Policy P350.2 “*Residential Boundary Walls*”. The proposed art room boundary wall is set back further than the required 6.0 metres from the street frontage and is therefore observed to have no impact on the existing streetscape. In terms of the amenity factors outlined in Policy P350.2, the City observes that the adjoining properties are separated by a 4.0 metre wide vehicular access leg. The boundary wall will therefore not have an impact on the outlook from the front of adjoining rear property, nor will the proposal boundary wall have a detrimental impact on any major window openings. The proposed boundary wall will also have no impact on the outdoor living area of the adjoining dwelling, and due to the orientation of the subject lot, the proposed boundary wall will not overshadow either the front or rear adjoining property.

The proposed boundary wall therefore complies with the requirements of Council Policy P350.2 “*Residential Boundary Walls*”.

(j) Finished ground and floor levels

The maximum floor level permitted for the proposed Art Room addition is RL 10.17 m; the proposed floor level is RL 10.055 m. The maximum floor level permitted for the proposed Sleeping Room addition is RL 10.11 m; the proposed floor level is RL 10.055 m. No change is proposed to the floor level of the undercover activity room and patio additions. The proposed development therefore complies with TPS6 Clause 6.10 “*Maximum Ground and Floor Levels*”.

(k) Building height

The development proposal complies with the 7.0 metres building height limit prescribed by TPS6.

(l) 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 consistent with the following objectives:

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

Whilst the proposed development is seen to generally meet the objectives of Clause 1.6 of TPS6, the recommendation includes a special advice note regarding the need for the applicant/owner to take adequate measures to minimise disturbance caused by noise and/or traffic movement.

(m) 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 consideration:

- (i) *the preservation of the amenity of the locality;*
- (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;*
- (x) *any other planning considerations which the Council considers relevant.*

Even though the adjoining residents have expressed concerns in relation to traffic and noise from the existing development, the proposed development is observed to be consistent with the matters listed above. As stated previously, a special advice note is being recommended regarding any existing disturbance related to traffic or noise.

Consultation

(a) 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”. This level of consultation has been implemented because the proposed development relates to a matter referred to a Council meeting, not otherwise listed in the Consultation Matrix in Policy P104. Surrounding property owners were invited to inspect the application and to submit comments for a period of 14 days ending on 19 December 2008. During this period five submissions were received. All submission opposed the development application.

The comments from the submitters, together with officer responses, are summarised as follows:

Submitter's Comment	Officer Response
<p><u>Proposed sleeping room boundary wall.</u> Boundary wall will have a negative impact on the amenity of the adjoining neighbour.</p>	<p>Applicant has since submitted revised drawings that show the proposed sleeping room wall setback 1.0 m from the boundary.</p> <p>The comment is NOTED.</p>
<p><u>Proposed art room boundary wall.</u> Adjoining property owners expressed support for the wall on the condition that its dimensions were increased.</p>	<p>Support for the art room boundary wall from the adjoining property owners was conditional on the extension of the length and the height of the wall. However the proposed boundary wall complies with City Policy P350.2 “Residential Boundary Walls”. Therefore the City cannot compel the applicant to increase the dimensions of the wall.</p> <p>The comment is NOT UPHELD.</p>

Submitter's Comment	Officer Response
<p>Noise Submissions expressed concern that the proposed additions will result in an application for an increased number of children to be cared for on-site. Potentially increasing noise levels.</p>	<p>The development application does not include a proposal to increase the number of children, therefore noise levels will not increase as a result on the current development proposal. Furthermore as a boundary wall forms part of the development proposal, the likely effect of the development proposal will be to reduce noise levels to the adjoining property.</p> <p>Concerns about existing noise levels generated by the Como Child Care Centre have been referred to the City's Environmental Health Department for further investigation.</p> <p>The comment is NOT UPHELD.</p>
<p>Traffic congestion Child care centre results in traffic congestion along the street as well as traffic and safety issues.</p>	<p>Concerns about traffic congestion have been referred to the City's Environmental Health Services, the Rangers advise that there are currently no parking restrictions in the area,. Furthermore the City can only take action against vehicles that are parked on the verge area if they do not have consent from the property owner to do so.</p> <p>The comment is NOTED.</p>
<p>Parking Current development does not cater to the demand for parking generated by the use, any increases in the number of children will increase the problem.</p>	<p>The development proposal does not relate to intensification of use, therefore the development proposal will not generate additional traffic movement along Birdwood Avenue. Any proposal to increase the number of children permitted to receive care will require the lodgement of an new planning application.</p> <p>The comment is NOTED.</p>
<p>Operating hours Day care centre is operating outside its approved operating hours. Cleaners are also visiting the Child Care Centre early in the morning, waking neighbours.</p>	<p>This concern is not relevant to the current development proposal, however such concerns are compliance issues and as such, have been referred to the City's Compliance Officer for investigation.</p> <p>The comment is NOTED.</p>

(d) Environmental Health

Officers from Environmental Health and Regulatory Services were invited to comment on health-related matters.

The relevant officer has advised that the owner will need to:

- Ensure compliance with Western Australia Sewerage Regulations 1971.
- Ensure compliance with City of South Perth Health Local Laws 2002 in particular - Division 2 - ventilation of houses.

(f) Council Briefing

The applicant gave an overview of the proposed development at the Major Development Briefing held on 6 May 2009. The principal issue was that it is not open to the Council to focus on car parking issues in the context of the current application. This is acknowledged by City officers.

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

The development application is for a single storey development, on a lot with a north-south orientation. The proposed development will therefore not adversely impact on the adjoining properties in terms of solar access. The City’s Environmental Health Department have expressed the view that if the numbers of the children remain the same, the noise levels will also remain unchanged. The development therefore is observed to meet sustainability objectives.

OFFICER RECOMMENDATION ITEM 10.3.5

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for additions / alterations to Como Child Care Centre at Lot 109 (No. 47) Birdwood Avenue, Como **be approved**, subject to:

(a) **Standard Conditions**

340	boundary wall - finish of surface	456	existing boundary fence
660	validity of the approval		

(b) **Standard Advice Notes**

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

(c) **Specific Advice Notes**

- This planning approval relates to additions only and does not relate to any increase in the number of children permitted to receive care.
- In accordance with the earlier approval dated August 1984, the applicant/owner is advised of the need to limit number of children under child care to 30.
- In accordance with the earlier approval dated August 1984, the applicant/owner is advised of the need to take adequate measures in relation to noise complaints being received by the City in relation to disturbances caused by noise and/or traffic movement.

Footnote A full list of Standard Conditions and Advice Notes is available for inspection at the Council Offices during normal business hours.
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10.3.6 Receival / Processing of Recyclable Materials - Tender Submissions

Location:	City of South Perth
Applicant:	Council
File Ref:	Tender 21/2009
Date:	7 May 2009
Author:	Sebastian Camillo Manager Environmental Health & Regulatory Services
Reporting Officer:	Cliff Frewing, Chief Executive Officer

Summary

Tenders have been received for the Receival and Processing of Recyclable Materials (Tender 21/2009) for the period of 1 July to 30 June 2011, a total of two (2) years. This report outlines the assessment process followed and will recommend to Council that the tender submitted by Transpacific Cleanaway Pty Ltd be accepted.

This two year contract is necessary to align the expiry dates with the “Collection of Rubbish and Recycling Bins Contract” which is a separate contractual arrangement to the “Receival and Processing of Recyclable Materials Contract”. It will also align contract with two other members of the Rivers Regional Council (RRC), the Cities of Gosnells and Armadale.

Background

The original tenders for the “Collection of Rubbish and Recycling Bins” and the “Receival and Processing of Recyclable Materials” was called by the then South East Metropolitan Regional Council (now the Rivers Regional Council) on behalf of its members, the Cities of South Perth, Gosnells and Armadale. It was anticipated that a collective tenders, would attract favorable economies of scale.

Currently, the City has two separate contracts with Cleanaway Pty Ltd (now known as Transpacific Cleanaway Pty Ltd) for the “Collection of Rubbish and Recycling Bins” and the “Receival and Processing of Recyclable Materials”.

Under the terms of the contracts, Cleanaway Pty Ltd provides for 240 litre mobile garbage bins “yellow-top”, which will become the property of the City at the expiry of the contract, the transportation of the materials to an approved materials recovery facility (MRF), the sorting and sale of the recyclable material to suitable markets and the final disposal of material not suitable for recycling.

Cleanaway Pty Ltd also provides a collection service of weekly collection of municipal solid waste (MSW) from households and commercial premises within the City.

The contract for “Receival and Processing of Recyclable Materials”, collected fortnightly from households and commercial premises within the City expires on the 30 June 2009. The contract was for a three year period, **without** any provision of a further term being included in the original contract.

The contract for the “Collection of Rubbish and Recycling Bins” was also for a three term, expiring on the 30 June 2009, however this had a two (2) year further term provision included in the contract, extending it to 30 June 2011.

The intension of this tender is to align both contracts to expire at the same time, being the 30 June 2011. Any future tenders at the expiration of the current contracts will be combined to form a single tender for the “Collection of Rubbish and Recycling Bins” and the “Receival and Processing of Recyclable Materials”. Whilst initially it will align contracts with the Cities of South Perth, Gosnells and Armadale, contracts at other members to the Rivers Regional Council and their respective service providers could also be aligned after the 30 June 2011, giving all seven (7) members to the Rivers regional Council the ability to collectively call tenders for future services.

Comment

Tenders were called on 18 April 2009 and during the tender period 4 sets of tender documents were distributed. Tenders closed at 2 pm on Monday 4 May 2009 and 2 compliant tenders were received. The prices submitted are listed below

Tenderer	Tendered Price (ex GST)
Transpacific Cleanaway Pty Ltd	\$27.00 per tonne
Perth Engineering & Maintenance Pty Ltd	\$49 per tonne (Density less than 200 kg's/m ³) \$60 per tonne (Density greater than 200 kg's/m ³)

A qualitative evaluation of tenders was then completed based on the following criteria (as listed in the request for tender (RFT):

Qualitative Criteria	Weighting%
1. Demonstrated experience in completing similar projects	30%
2. Current Local Government Clients	20%
3. Price	50%

The evaluation process has resulted in the following scores:

Transpacific Cleanaway Pty Ltd	Perth Engineering & Maintenance Pty Ltd
10	6.5

Analysis of the tenders against the assessment criteria show that the tender submitted by Transpacific Cleanaway Pty Ltd to be the best value for the City and is therefore recommended for acceptance by Council. The Tender Assessment Report is provided at **Attachment 10.3.6** and details the process followed.

Consultation

This project has involved extensive liaison with the members of the Rivers Regional Council prior to calling tenders. Public tenders were advertised in accordance with the *Local Government Act (1995)*.

Policy and Legislative Implications

Section 3.57 of the *Local Government Act 1995* (as amended) requires a local government to call tenders when the expected value is likely to exceed \$100,000. Part 4 of the Local Government (Functions and General) Regulations 1996 sets regulations on how tenders must be called and accepted. The value of the tender also exceeds the amount which the CEO has been delegated to accept. The matter is therefore referred to Council for decision.

The following Council Policies also apply:
Policy P605 - *Purchasing and Invoice Approval*;
Policy P607 - *Tenders and Expressions of Interest*.

Regulation 20 of the Local Government (Functions and General) Regulations - *Variations of Requirement before entering into Contract* states:

- (1) *If, after it has invited tenders for the supply of goods or services and chosen a successful tenderer but before it has entered into a contract for the supply of the goods or services required, the local government wishes to make a minor variation in the goods or services required, it may, without again inviting tenders, enter into a contract with the chosen tenderer for the supply of the varied requirement subject to such variations in the tender as may be agreed with the tenderer.*

Financial Implications

Currently, Transpacific Cleanaway Pty Ltd process the recyclables collected within the City at \$15.72 per tonne. The increase in the cost of processing per tonne is reasonable considering the increased cost of overheads and decreased global markets for recyclable commodities.

The funding for the provision of the recycling and rubbish collection and processing service has been provided within the 2009/2010 Budget and adjustments will be made to accommodate the anticipated increased cost required for this contract.

Strategic Implications

Consistent with the City's Strategic Plan, Goal 3 - Environmental Management, Strategy 3.7, which states:

“Develop and implement alternative waste disposal treatment, minimisation, recycling and refuse strategies to reduce the amount of refuse going to landfill sites”.

Sustainability Implications

The City is committed to sustainability by demonstrating the establishment of a Sustainability Policy, Sustainability Strategy and Action Plan, and various sustainability programs.

Waste and waste management is a significant theme in the City's commitment to the ICLEI Cities for Climate Protection program and the Planet Footprint data management program which calculates and measures the City's greenhouse gas emissions from corporate and community waste generation.

These programs over time will be integrated with the City's Strategic Waste Management Plan as a result of the partnership with the Rivers Regional Council.

OFFICER RECOMMENDATION ITEM 10.4.1

That the tender submitted by Transpacific Cleanaway Pty Ltd for the “Receival and Processing of Recyclable Materials” at a cost of \$27 per tonne be accepted.

10.4 GOAL 4: INFRASTRUCTURE
Nil

10.5 GOAL 5: ORGANISATIONAL EFFECTIVENESS

10.5.1 Applications for Planning Approval Determined Under Delegated Authority.

Location: City of South Perth
Applicant: Council
File Ref: GO/106
Date: 8 May 2009
Author: Rajiv Kapur, Manager, Development Services
Reporting Officer: Rod Bercov, Acting Director, Development Services

Summary

The purpose of this report is to advise Council of applications for planning approval determined under delegated authority during the month of April 2009.

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 April 2009, thirty nine (39) 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 ITEM 10.5.1

That the report and **Attachment 10.5.1** relating to delegated determination of applications for planning approval during the month of April 2009, be received.

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 May 2009
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.

April 2009

Nature of document	Parties	Date Seal Affixed
Surrender of CPV Lease	CoSP(Leo & Roslyn Hanly)	24 April 2009
Deed of Agreement to enter CPV Lease	CoSP & Terrance & Lorraine Criddle	24 April 2009
CPV Lease	CoSP & Terrance & Lorraine Criddle	24 April 2009
Deed of Agreement to enter CPV Lease	CoSP & Reginald & Edith Lambkin	24 April 2009
CPV Lease	CoSP & Reginald & Edith Lambkin	24 April 2009
Deed of Agreement to enter CPV Lease	CoSP & Audrey LeBreton	24 April 2009
CPV Lease	CoSP & Audrey LeBreton	24 April 2009
Deed of Amendment - Funding Agreement - Restoration of SP Old Mill	CoSP & CW of Australia	29 April 2009

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.

OFFICER RECOMMENDATION ITEM 10.5.2

That the report on the use of the Common Seal for the month of April 2009 be received.

10.6 GOAL 6: FINANCIAL VIABILITY

10.6.1 Monthly Financial Management Accounts - April 2009

Location: City of South Perth
Applicant: Council
File Ref: FM/301
Date: 9 May 2009
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 of Non Infrastructure Operating Revenue and Expenditure **Attachment 10.6.1(2)**
- Summary of Operating Revenue & Expenditure - Infrastructure Service **Attachment 10.6.1(3)**
- Summary of Capital Items - **Attachment 10.6.1(4)**
- Schedule of Significant Variances - **Attachment 10.6.1(5)**
- Reconciliation of Budget Movements - **Attachment 10.6.1(6)(A) and 10.6.1(6)(B)**
- Rate Setting Statement - **Attachment 10.6.1 (7)**

Operating Revenue to 30 April 2009 is \$34.55M which represents 99% of the \$35.01M year to date budget. Revenue performance is being impacted by a number of factors related to the global financial situation. Interest revenues are now in line with the (downwards) revised revenue targets. Interim rates growth is reduced and we are achieving less than budgeted performance for planning and building revenue as development activity contracts due to the downturn in the property market. Revenues from scheduled vehicle trade-ins that were delayed now represent the vast majority of revenue shortfalls - and actions have been taken to place the trade vehicles in an auction. We are now simply awaiting bids in excess of the reserve prices set. Parking meter and infringement fees continue to lag budget targets by a significant amount. A new resource has been recruited to try to address this adverse trend as soon as possible.

With the financial impact of global financial events now being felt, the validity of the responsible and prudent revenue decisions that were taken during the 2008/2009 budget development process last year is being strongly reinforced. It will be even more important to ensure that long term financial sustainability remains a high priority in the upcoming budget process.

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

Operating Expenditure to 30 April 2009 is \$28.81M which represents 100% of the year to date budget of \$28.70M. Operating Expenditure to date is 3% under budget in the Administration area, 5% over budget in the Infrastructure Services area and 4% under budget for the golf course.

Whilst the overall result presents as being very close to budget, there are some over-budget expenditures that are being shielded by some significant favourable variances in the

administration areas that relate to budgeted (but vacant) staff positions. There are also a number of favourable variances relating to asset carrying amounts for motor vehicles not traded as scheduled (for the same reasons as noted in the revenue comments above). Adjustments approved in the Q3 Budget Review are now reflected in the accounts - and this has caused some distortion in the monthly comparative figures.

Waste collection arrangements and site fees have resulted in a favourable variance against budget. Golf Course expenditure is close to budget overall - but it has favourable variances in salaries due to vacant staff positions as well as delays in incurring promotional expenditure. This is offset by unfavourable variances on weed control, machinery use and several minor maintenance activities.

Most other items in the administration areas are close to budget expectations to date.

Streetscape maintenance remains ahead of budget at present, but expenditure is now being reigned in as the program is now substantially completed. An investigation into the park maintenance area has shown that the additional expenditure over the approved budget predominantly at Richardson Park, EJ Oval and Manning Ward parks appears to relate mostly to 'level of service' issues.

That is, we are perhaps 'over-servicing' parks (in response to requests from the community and Council Members) relative to our available budget and resources. We have also incurred much higher than expected reinstatement costs after major capital works (and events) at SJMP. The responsible director and manager are currently exploring options to manage the conflict between level of service expectations and current resource capacity. Recovery of overheads in the Engineering Infrastructure area is also behind target but this will be retrospectively adjusted for year end.

The salaries budget (*including temporary staff where they are being used to cover vacancies*) is currently around 5.32% under the budget allocation for the 216.3 FTE positions approved by Council in the budget process - after all agency staff invoices were received at month end. Whilst external consultants are being used to assist in covering for current vacancies, costs overall are within the 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 \$2.13M at 30 April against a year to date budget of \$2.11M. The favourable variance relates to lease premiums and refurbishment levies resulting from the accelerated turnover of units at the Collier Park Village. 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 30 April 2009 is \$13.34M which represents 93% of the year to date budget - and some 67% of the full year budget. Approximately 36% of this year to date capital expenditure relates to payment of cash calls on the UGP project with the remainder attributable to infrastructure works. 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 is presented below. 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 management accounts onwards.

Directorate	YTD Budget	YTD Actual	% YTD Budget	Total Budget
CEO Office	167,500	141,481	84%	1,511,000
Financial & Information Services	276,500	209,190	76%	486,500
Planning & Community Services	1,142,500	1,068,712	94%	1,814,844
Infrastructure Services	7,827,425	6,947,307	89%	10,352,464
Golf Course	210,000	125,407	60%	278,800
Underground Power	4,720,000	4,851,030	103%	5,500,000
Total	14,343,925	13,343,127	93%	19,943,608

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.

OFFICER RECOMMENDATION ITEM 10.6.1

That

- (a) the monthly Balance Sheet and Financial Summaries provided as **Attachment 10.6.1(1-4)** be received;
- (b) the Schedule of Significant Variances provided as **Attachment 10.6.1(5)** be accepted as having discharged Council's statutory obligations under Local Government (Financial Management) Regulation 34.
- (c) the Schedule of Movements between the Adopted & Amended Budget provided as **Attachment 10.6.1(6)(A)** and **10.6.1(6)(B)** be received;
- (d) the Monthly Rate Setting Statement provided as **Attachment 10.6.1(7)** be received;

10.6.2 Monthly Statement of Funds, Investments and Debtors at 30 April 2009

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	8 May 2009
Authors:	Michael J Kent and Deborah M Gray
Reporting Officer:	Michael J Kent, Director Financial and Information Services

Summary

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

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

Background

Effective cash management is an integral part of proper business management. 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 & 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 \$31.88M compare favourably to \$29.36M at the equivalent stage of last year. Reserve funds are some \$3.8M higher than at the equivalent stage last year due to higher holdings of cash backed reserves to support refundable monies at the CPV.

Municipal funds are \$1.5M 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 (\$4.8M). The free cash position is still solid - with collections from rates currently within 0.8% of last year's excellent result. Whilst early collections were very positive with convenient and customer friendly payment methods in place - supplemented by the Rates Early Payment Incentive Prizes (with all prizes donated by local businesses); timely and effective follow up debt collection actions by the City's Financial Services officers have been instrumental in producing such an outstanding result for the City in a challenging economic climate.

The debt collection actions are an important and prudent action given the current global financial situation. As household finances tighten, it is important to ensure that outstanding rates debts are not seen as a deferrable financial obligation - as the City continues to experience a significant rate of 'cash burn' (net cash outflow) at this late stage of the financial year.

Cash inflows from areas other than rates are currently somewhat less than expected - with delays in receiving the proceeds on the sale of land adjacent to the South Perth Hospital, inability to access the Lotterywest grant for the Library & Hall project until construction is underway and borrowings related to the UGP Project not scheduled until early June.

Effectively managing these items is a priority for the City's senior finance staff who are actively involved in addressing these matters to ensure that opportune timing of such key transactions can be responsibly balanced against organisational cash flow needs. For instance, fixed loan borrowing rates are now at 49 year lows (and informed economists are suggesting that there is minimal prospect of further significant short term interest rate cuts). Hence, finance staff are now progressing the budgeted \$3.0M loan borrowings associated with the UGP project deferred payment option - as the 'crossover' between cash outflows and cash collections has now occurred.

Projections of 'cash burn' for the remainder of the year support the need to complete the borrowings at this time as well as perusing collection of other debtors and the completion of the sale of land. Senior finance staff continue to dynamically manage organisational cash flow on an ongoing and proactive basis.

Funds brought into the year (and subsequent cash collections) are invested in secure financial instruments to generate interest until those monies are required to fund operations and projects during the year. Astute selection of appropriate investments means that the City does not have any exposure to known high risk investment instruments. Nonetheless, the investment portfolio is continually monitored and re-balanced as trends emerge.

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 \$4.65M (compared to \$6.11M at the same time in 2007/2008). **Attachment 10.6.2(1).**

(b) Investments

Total investment in money market instruments at month end was \$31.53M compared to \$28.73M at the same time last year. This is due to the higher holdings of Reserve Funds but significantly lesser holding of Municipal Funds.

The portfolio currently comprises at-call cash and term deposits only. Although bank accepted bills are permitted, they are not currently used given the volatility of the corporate environment at present. Analysis of the composition of the investment portfolio shows that approximately 85.0% 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 possible 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. Counterparty mix was adjusted through a re-balancing of the portfolio during February to April to reduce exposure to Citibank (Australia) and to place more funds with two larger Australian Banks (NAB & Westpac).

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 \$1.94M - slightly up from \$1.91M at this time last year. This result is attributable to the higher reserve cash holdings and timely, effective treasury management - despite the significant falls in interest rates. Rates are weak and can still be surprisingly volatile even for safe financial instruments such as term deposits. The date on which an investment is placed remains a critical determinant of the rate of return received as banks manage capital, meet re-financing commitments and speculate on future action of interest rates by the Reserve Bank.

To this stage of the year, interest revenues have remained relatively strong despite numerous cuts to official rates over recent months. Reserve Fund interest is still on target (and ahead of the previous year) due to higher cash holdings but Municipal Fund interest revenue is lower than at the same time last year. A big portion of current year funding was placed in longer term high yielding investments before the severe rate cutting began - and this has helped to alleviate the otherwise potentially very harsh impact on investment returns in the later part of this year.

Investment performance will continue to be monitored in the light of current low interest rates to ensure pro-active identification of any further 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. Treasury funds are actively managed 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 has fallen now to 6.09% (compared with 6.26% last month) with the anticipated yield on investments yet to mature falling similarly to 4.10% (compared with 4.24% last month). Investment results to date continue to 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 3.00% (since 3 Feb) - down from 7.00% last July!

(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 April 2009 represent 95.9% of total rates levied compared to 96.7% at the equivalent stage of the previous year. This is still regarded as a very good result to date - considering the current economic climate

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 \$1.91M at month end excluding UGP debtors - which compares to \$1.99M at the same time last year. GST Receivable is \$0.23M higher than at the same time last year - but month end accruals for grant funds relating to events and road works are lower (\$0.18M). Both parking infringements outstanding and rates pension rebate refundable are also significantly lower. The majority of the outstanding amounts are government & semi government grants or rebates - and as such they are collectible and represent a timing issue rather than any risk of default.

(iii) Underground Power

Of the \$6.76M billed for UGP (allowing for adjustments), some \$4.55M was collected by 31 March with approximately 62.3% of those in the affected area electing to pay in full and a further 36.8% opting to pay by instalments. The remaining 0.9% has yet to make a payment and is 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.

Collections in full are currently better than expected which has had the positive impact of allowing us to defer UGP related borrowings to take advantage of better loan interest rates. On the negative side, significantly less revenue than budgeted is being realised from the instalment interest charge.

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 completed UGP service' - but rather is an interest charge on the funding accommodation provided by the City's instalment payment plan (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 is, if required, providing 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 & 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 ITEM 10.6.2

That Council receives the 30 April 2009 Monthly Statement of Funds, Investment & Debtors comprising:

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

10.6.3 Listing of Payments

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	8 May 2009
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 April 2009 and 30 April 2009 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 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 forwards to reflect contemporary practice in that it now records payments classified as:

- **Creditor Payments**

(regular suppliers with whom the City transacts business)

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 creditor's 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' 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 ITEM 10.6.3

That the Listing of Payments for the month of April 2009 as detailed in the Report of the Director Financial and Information Services, **Attachment 10.6.3**, be received.

10.6.4 Capital Projects Review to 30 April 2009
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Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	12 May 2009
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 30 April 2009. 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 93% of the year to date target - and 67% 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
- challenges in obtaining complete bids for small capital projects.

It therefore continues to closely monitor and review 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 successfully 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 proactive 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 ITEM 10.6.4

That the Schedule of Capital Projects complemented by officer comments on identified significant variances to 30 April 2009, as per **Attachments 10.6.4(1)** and **10.6.4(2)**, be received.

10.6.5 Members Allowances & Entitlements - 2009/2010

Location: City of South Perth
Applicant: Council
File Ref: FM/301
Date: 3 May 2009
Author / Reporting Officer: Michael J Kent, Director Financial and Information Services

Summary

Information on suggested entitlements for Council Members (determined in accordance with the provisions of Section 5.98 & 5.99 of the *Local Government Act*) is presented for consideration by Council as part of the process of developing the 2009/2010 Annual Budget. The resulting Council resolution will provide information that will be incorporated in the City's final 2009/2010 Annual Budget.

Background

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

Comment

The *Local Government Act* recognises that Council Members are required to attend numerous meetings and briefing sessions in undertaking Council business. This is essential to ensure that they are well informed and able to make effective decisions for the good governance of the district. In recognition of the commitment of time that Council Members are required to make, they are paid a fee for their meeting / briefing session attendance. Typically, metropolitan local governments adopt the maximum prescribed annual meeting fee set by the Department of Local Government. This fee has been payable at a rate of \$7,000 per Council Member and \$14,000 for the Mayor of any local government since mid 2005.

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

The City will also pay the \$1,000 per year Technology Allowance to each Council Member for 2009/2010 - which the Council Members may choose to apply to any technology application of their choosing. The City does not issue Council Members with desktop or notebook computers or printers for home use - although shared generic computer facilities are available in the Council Members Resource Room and appropriate technology is made available in the Mayor's Office.

The *Local Government Act* also recognises the significant commitment that the Mayor makes in serving the local community - and particularly in relation to attending the many community and official events required of him. Accordingly, it permits the payment of a Mayoral Allowance. The maximum permissible amount for the allowance is 0.2% of the City's total revenue budget or \$60,000 in total - whichever is the lesser. Although the maximum permissible allowance is \$60,000 - the current allowance is only paid at \$45,000 or 75% of the permitted maximum.

The Mayoral Allowance was set for 2 years at \$45,000 in 2007. CPI since that time has been 7.6%.

Whatever amount is determined as appropriate for the Mayoral Allowance will establish the Deputy Mayoral Allowance - which must represent 25% of the Mayoral Allowance.

To assist the Council in its deliberations regarding an appropriate quantum for the 2009/2010 Mayoral Allowance, the following (current year) comparatives are provided for neighbouring local governments.

Local Govt	Full Time	Motor Vehicle	Allowance	Meeting Fee	Tech & Commun	Total \$
City of Canning	No	Yes	45,000	14,000	3,400	62,400
City of Melville	No	No	60,000	14,000	3,400	77,400
City of Belmont	Yes	Yes	46,210	14,000	3,400	63,610
Town of Vic Park	No	Yes	45,000	14,000	# 3,400	62,400
Town of Vincent	No	Yes	50,000	14,000	@ Reimb	64,000
City of South Perth	Yes	Yes	45,000	14,000	3,400	62,400

Note:

- # Technology allowance for the full term is paid in lump sum on commencement
- @ Town of Vincent allows reimbursements for a variety of purposes including but not limited to communication expenses.

A CPI style increase would suggest a Mayoral Allowance figure in the range of \$48,500 - and a total cash remuneration of \$65,900 plus vehicle benefits etc.

Consultation

Consultation has occurred with the Department of Local Government to validate the allowable limits and calculation methods for each of the various Council Member entitlements. Consultation has also taken place with neighbouring local governments in relation to the quantum of mayoral allowances and other entitlements paid.

Policy and Legislative Implications

This report is consistent with the legislative requirements of the *Local Government Act* - in particular Sections 5.98 and 5.99 which deal with Council Members allowances and fees. Policy P511 - Members Entitlements is also relevant to this matter as it largely re-states the provisions of these sections of the *Local Government Act*.

Financial Implications

The adoption of the recommendation in this report will establish the financial accommodation that must be provided in the 2009/2010 Annual Budget for Council Member Entitlements.

Strategic Implications

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

Sustainability Implications

This report addresses the 'financial' dimension of sustainability by promoting accountability for resource and also addresses the social dimension of sustainability by reflecting some compensation for the time that Council Members are required to put into effectively fulfilling their duties as elected members.

OFFICER RECOMMENDATION ITEM 10.6.5

That

- (a) the Meeting Fee for the 2009/2010 year be set at \$7,000 per Council Member and \$14,000 for the Mayor - payable quarterly in advance;
- (b) a Communication Allowance of \$2,400 per annum per Council Member be paid quarterly in advance;
- (c) a Technology allowance of \$1,000 per annum per Council Member be paid quarterly in advance;
- (d) the Mayoral Allowance for 2009/2010 be set at \$_____payable in quarterly instalments in advance;
- (e) the Deputy Mayoral Allowance for 2009/2010 be set at \$_____payable in quarterly instalments in advance.

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 6 to 16 May inclusive and 24 to 27 May inclusive.

11.2 Application for Leave of Absence : Cr Wells

As I am scheduled to have an operation, I hereby apply for Leave of Absence from all Council Meetings for the period 1 to 30 June inclusive.

11.3 Application for Leave of Absence : Cr Hasleby

I hereby apply for Leave of Absence from all Council Meetings for the period 2 to 12 June inclusive.

11.4 Application for Leave of Absence : Cr Gleeson

I hereby apply for Leave of Absence from all Council Meetings for the period 10 to 19 June inclusive.

- 12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN
- 13. QUESTIONS FROM MEMBERS WITHOUT NOTICE
 - 13.1. RESPONSE TO PREVIOUS QUESTIONS FROM MEMBERS WITHOUT NOTICE
 - 13.2. QUESTIONS FROM MEMBERS WITHOUT NOTICE
- 14. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING
- 15. MEETING CLOSED TO PUBLIC
 - 15.1 Matters for which the Meeting May be Closed.

15.1.1 Staff Matter <i>CONFIDENTIAL Not to be Disclosed REPORT</i>

Location:	City of South Perth
Applicant:	Council
Date:	13 May 2009
Author:	Cliff Frewing, Chief Executive Officer

Confidential

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

Note: *Confidential* report circulated separately.

- 15.2 Public Reading of Resolutions that may be made Public.
- 16. CLOSURE
- 17. RECORD OF VOTING



Mayors Activity Report - April 2009

April 2009	Activity
Wednesday, 29 April	Attend Australian Institute of Architects - presentation on the challenges of local planning approval process + Crs Sue Doherty, Kevin Trent + CEO, Strategic Urban Planning Adviser and Manager of Development Services
Tuesday, 28 April	Council meeting Mayor/CEO weekly meeting Sir James Mitchell Park: Meeting with residents + Manager, City Environment Attend 100th birthday Mrs Lee Ireland @ Collier Park Hostel Attend Formal donation of May Gibbs artwork to the City by George England
Saturday, 25 April	Anzac Day Service @ Civic Centre War Memorial
Friday, 24 April	Old Mill discussion at home of Alan Parsons, Bentley
Thursday, 23 April	Meeting re Victoria Park Recreation Review with CEO at ToVP Farewell event for Director, Development & Community Services
Wednesday, 22 April	Give Key Note Address on Leadership and environment @ Amanda Young Foundation Young Leaders Summit at Penrhos College Old Tram of South Perth - Visit to Whiteman Park + CEO, Manager Libraries and Heritage, Crs Kevin Trent, Les Ozsdolay & Bill Gleeson, John McGrath MLA, SP historic Soc Betty Skinner & Kerry Davey, Perth Electric Tramway Soc. Bryan Adcock and architect Gary Lawrence.
Tuesday, 21 April	Council Briefing Attend South Perth Senior Citizens Centre Anzac Day lunch + CEO Meeting with resident of the Collier Village Mayor/CEO weekly meeting
Monday, 20 April	Citizenship ceremony Gowrie WA Child Care Centre of Karawara: Meeting with new CEO Ms Amanda Hunt, Dr Lynette Buoy, Chairperson of Gowrie WA & Raj Selvendra, Board Member + Cr Colin Cala Attend Women in LG. 'Towards a Strong and Sustainable Sector' at City of Perth + Cr Sue Doherty & CEO Zoo Board meeting Meeting on Indoor heated pool proposal with Watkins Swimming + CEO

AGENDA : ORDINARY COUNCIL MEETING : 26 MAY 2009

Saturday, 18 April	Presentation at Wesley SP Hockey Club season opening night. Attend Doneraile reserve public meeting + Cr Les Ozsdolay & City's Environmental Officer
Friday, 17 April	Attend John Curtin Leadership Academy meeting
Thursday, 16 April	Attend Rivers Regional Council meeting @ City of South Perth
Wednesday, 8 April - 15 April	Leave of absence
Wednesday, 8 April	Attend E-Waste recycling launch @ Curtin Uni
Tuesday, 7 April	Briefing : Local Govt reform discussion & Manning Community Hub - Presentation by Consultant + Old Mill meeting with Lord Cole Attend 1 STOP photo opportunity Civic Centre Library with Steve McQuillan CEDA Event- Amalgamating local councils + Crs Colin Cala, Pete Best, & Kevin Trent & CEO
Monday, 6 April	South Perth Station Precinct Study Public Forum @ Como Bowling Club+ Crs Colin Cala, Kevin Trent, Pete Best, Rob Grayden Attend Residents meeting re B&B, 3 Philp Avenue @ Como Bowling Club + Crs Sue Doherty, Kevin Trent, Pete Best + Legal & Governance Officer + Strategic Urban Planning Adviser Disability Services Commission meeting with Ron Chalmers-Director General and Chair Bruce Langoulant + A/Manager Community Culture & Recreation Earthhour -- Peninsula Photo @ Esplanade River Suites Hotel Mayor/CEO weekly meeting
Friday, 3 April	Frogwatch grant discussion with 'Future Problem Solving' program @ Kensington Primary School
Thursday, 2 April	Our Vision Ahead speaker series Swan River Trust : Speaker - Roxanne Shadbolt + Crs Kevin Trent and Pete Best Meeting Geoff Defrenne re: council meeting public question time Attend John Curtin Leadership Academy Board meeting at Curtin
Wednesday, 1 April	Town Planning Workshop - Major Developments Attend NRM Local Government Reference Group Meeting at City of Melville