



**ORDINARY COUNCIL MEETING
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ORDINARY COUNCIL MEETING AGENDA

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Chairperson to open the meeting

Eulogy for Cr Roy Wells, JP

Welcome Anne-Marie Thain, Venturer Leader, 1st Salter Point Sea Scout Group

2. DISCLAIMER

Chairperson to read the City's Disclaimer

3. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

3.1 Activities Report Mayor Best / Council Representatives (*Attached to Agenda paper*)

3.2 Audio Recording of Council meeting

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

Note: At the Council meeting held 27 July 2010 there were no questions taken on notice:

6.2 PUBLIC QUESTION TIME : 24.8.2010

7. CONFIRMATION OF MINUTES AND TABLING OF NOTES OF BRIEFINGS AND OTHER MEETINGS UNDER CLAUSE 19.1

7.1 MINUTES

7.1.1 Ordinary Council Meeting Held: 27.7.2010

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, 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 – July Ordinary Council Meeting Held: 20.7.2010

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

7.2.2 Concept Forum – Community Perceptions Survey and Legal Representation Policy P519 - Meeting Held: 21.7.2010

Consultant Lisa Lough of Catalyse presented the findings of the ‘2010 Community Perceptions Survey’ and responded to questions from Members. The Manager Governance and Administration workshopped the *draft* Legal Representation Policy P519 and responded to questions from Members. Notes from the Concept Briefing are included as **Attachment 7.2.2.**

7.2.3 Concept Forum – South Perth Station Precinct Study and Curtin Town Development Plan - Meeting Held: 26.7.2010

Consultants from Syme Marmion presented the final report on the South Perth Station Precinct Study and responded to questions from Members. The Vice-President, Corporate Services, Curtin University presented the “Curtin Town Development Plan” and responded to questions from Members. Notes from the Concept Briefing are included as **Attachment 7.2.3.**

7.2.4 Concept Forum – Local Law Review and Land Exchange Proposal - Meeting Held: 3.8.2010

Consultant Chris Liversage of CRL Highbury Consulting provided an update on the review of the City’s current Local Laws and responded to questions from Members. The Chief Executive Office presented the proposed Land Exchange Proposal and responded to questions from Members. Notes of the Concept Briefing are included as **Attachment 7.2.4.**

7.2.5 Concept Forum – Major Development Briefing – CSIRO Computing Centre - Meeting Held: 4.8.2010

Consultants from CSIRO and the Pawsey Centre Project gave a presentation on the proposed CSIRO Computing Centre and responded to questions from Members. Notes from the Concept Briefing are included as **Attachment 7.2.5.**

7.2.6 Concept Forum – Communications Survey and Climate Change Presentation – Meeting Held: 10.8.2010

Consultant Julie Beeck gave a presentation on the results of a recent Communications Survey undertaken by Synovate and responded to questions from Members. Cr Best gave a presentation on his attendance at the 2010 International Climate Change Conference. Notes from the Concept Briefing are included as **Attachment 7.2.6.**

8. PRESENTATIONS

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

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

8.2.1. Water Campaign - Milestone 4 Corporate & Community

The Mayor to present a Certificate to the City from the Government of Western Australia and the ICLEI – Local Governments for Sustainability - in recognition of the City’s commitment to sustainable water management having achieved Milestone 4 ‘Corporate and Community’ in the Water Campaign.

8.2.2. Community Commitment : Councillor Sue Doherty

The Mayor to acknowledge the WALGA Distinguished Service Award presented to Councillor Sue Doherty at the 2010 WA Local Government Convention in recognition of her commitment and passion for the community.

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' REPORTS

8.4.1. Council Delegates' Report: Perth Airport Municipalities Group Meeting (PAMG) : 15 July 2010.

A report from Crs Burrows and Hasleby together with the Chief Executive Officer summarising their attendance at the Perth Airport Municipalities Group Meeting held at the City of Belmont on 15 July 2010 is at **Attachment 8.4.1**.

RECOMMENDATION

That the Delegates' Report in relation to the Perth Airport Municipalities Group Meeting held at the City of Belmont on 15 July 2010 at **Attachment 8.4.1** be received.

8.4.2. Council Delegate: WALGA South East Metropolitan Zone:28 July 2010

A report from Mayor Best and the CEO summarising their attendance at the WALGA South East Metropolitan Zone Meeting held 28 July 2010 at the City of Armadale is at **Attachment 8.4.2**

Note: The Minutes of the WALGA South East Metropolitan Zone meeting of 28 July 2010 have also been received and are available on the *iCouncil* website.

RECOMMENDATION

That the Delegates' Report at **Attachment 8.4.2** in relation to the WALGA South East Metropolitan Zone meeting held 28 July 2010 at the City of Armadale be received.

8.5 CONFERENCE DELEGATES' REPORTS

Nil

9. METHOD OF DEALING WITH AGENDA BUSINESS

10. R E P O R T S

10.1 STRATEGIC DIRECTION 1 : COMMUNITY

Nil

10.2 STRATEGIC DIRECTION 2: ENVIRONMENT

Nil

10.3 STRATEGIC DIRECTION 3: HOUSING AND LAND USES

10.3.1 Proposed Additional Land Use of Family Day Care – Lot 53 (No. 135B) Lansdowne Road, Kensington

Location:	Lot 53 (No. 135B) Lansdowne Road, Kensington
Applicant:	Mia Grace Hofer
Lodgement Date:	26 May 2010
File Ref:	11.2010.274 LA5/135
Date:	2 August 2010
Author:	Pacey Lang, Trainee Planning Officer
Reporting Officer:	Vicki Lummer, Director Development & Community Services

Summary

To consider an application for planning approval for a Family Day Care at Lot 53 (No. 135B) Lansdowne Road, Kensington while having regard to the objections lodged by neighbouring residents. The proposal does not conflict with the City’s Scheme, the 2008 R-Codes and City policies.

Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Family Day Care	TPS6 Table 4

It is recommended that the proposal be approved subject to a number of standard and specific conditions.

Background

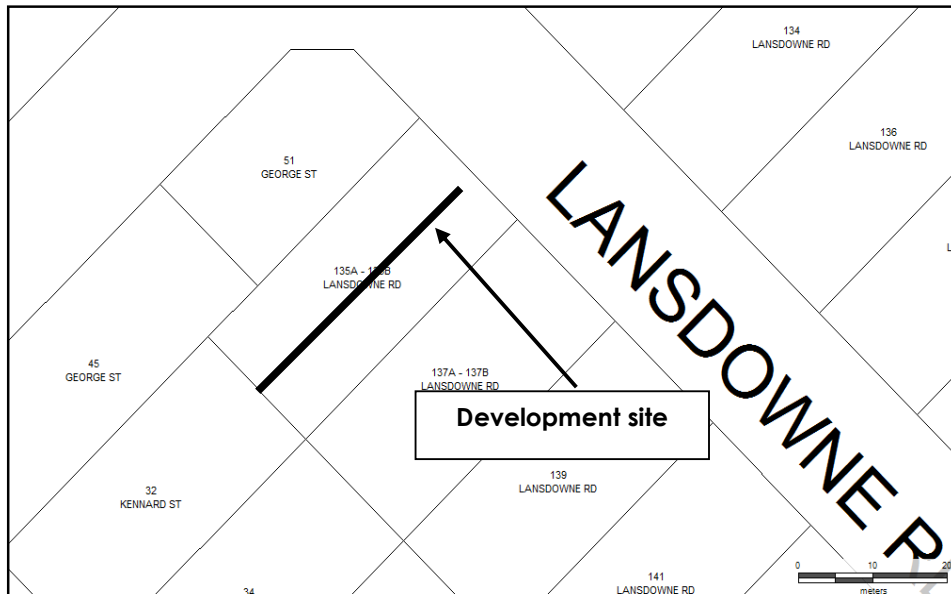
The development site details are as follows:

Zoning	Residential
Density coding	R15
Lot area	374.0 sq. metres
Building height limit	7.0 metres
Development potential	1 Grouped Dwelling
Plot ratio limit	Not Applicable

This report includes the following attachments:

- Confidential Attachment 10.3.1(a)** Plans of the proposal.
- Attachment 10.3.1(b)** Site photographs.
- Attachment 10.3.1(c)** Family Day Care weekly program.

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:

- I. Specified uses**
 - (g) Non-residential “DC” uses within the residential zone.

6. Amenity impact

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

7. Neighbour comments

In considering any application, the assigned delegate shall fully consider any comments made by any affected landowner or occupier before determining the application.

In relation to Item 6 above, neighbour consultation has resulted in the City receiving seven objections. The extent of amenity impact arising from the proposal is considered acceptable (see comments below).

Comment

(a) Description of the proposal

The proposal is to use the existing single dwelling for a Family Day Care in addition to its present use as a family residence. The dwelling will continue to be used as a normal family residence, this being the predominant use with the Family Day Care activities being a secondary use. It is proposed that the Family Day Care will be staffed only by the applicant taking a maximum of five children at any one time.

The applicant indicates that the proposed Family Day Care will operate during the hours; Monday to Friday - 7:30am to 6:00pm.

(b) Land use

The proposed land use of Family Day Care is classified as a “DC” (Discretionary with Consultation) land use in a residential zone, under Table 1 (Zoning - Land Use) of Town Planning Scheme No. 6 (TPS6).

A “DC” land use is defined by TPS6 as:

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

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

In considering this Discretionary with Consultation use, it is considered that the proposed use complies with all of the requirements of Town Planning Scheme No. 6 and relevant Council policies, and is therefore suitable for the site.

(c) External playing space

TPS6 requires that a minimum of 40.0 sq. metres external play space be provided, with a minimum dimension of 6.0 metres; 112.0 sq. metres of external playing space has been provided. Policy P380 “Family Day Care and Child Day Care Centres” requires that this area be fully fenced and that it is arranged so as to minimise noise penetration on neighbouring dwellings.

The proposed play area, as shown in *Confidential Attachment 10.3.1(a)* and *Attachment 10.3.1(b)*, is surrounded on three sides by 1.8 metre high standard dividing fences. The north-southern side has a 1.8 metre high timber fence with a gate to allow access from the front property to the external playing space at the rear. The proposed play area is adjoined to extensive backyards on all three sides where there are no adjoining habitable room windows. Therefore the proposal complies with the requirements of Policy P380.

(d) Internal playing space

Policy P380 requires that the applicant demonstrate that the internal layout of a Family Day Care Centre is arranged so as to minimise noise penetration on neighbouring dwellings. The proposed living room at the rear of the dwelling is to be used as the main internal playing space area situated in the north-eastern corner of the dwelling as shown in *Confidential Attachment 10.3.1(a)*. The living room to the north-eastern corner of the subject site is considerably set back from the side and rear boundaries. Therefore the proposal complies with the requirements of Policy P380.

(e) Landscaping

TPS6 prescribes a minimum 40% of the site to be landscaped; 41% (155.0 sq. metres) of the subject site has been landscaped. Therefore the proposal complies with the requirements of TPS6.

(f) Residential character of Kensington

The quiet residential character of Kensington is acknowledged. The principal use of the subject property will still be residential and the number of children under care will be consistent with that of a large family with four-five children. In addition, the location of the subject property is adjoining shops on 51 George Street (local commercial zone) such the character of the area will not be significantly affected if a Family Day Care was present.

(g) Increased traffic

The proposed use will generate a maximum of 10 vehicles trips per day (setting down in the mornings and picking up in the evening). This is observed to have a negligible impact on the flow of the traffic in the local neighbourhood or upon the condition of the roads. The impact of the traffic should be no different to what currently exists around the neighbourhood due to its location near shops with the people temporary parking on the street verge on Landsdowne Road and around the streets around the local commercial vicinity.

(h) Parking

TPS6 does not prescribe any extra car parking to be provided other than the normal residential requirement which is not being altered.

(i) Noise levels

Noise from the children playing will not be constant throughout the day, as outdoor play constitutes only a part of a daily routine detailed in *Attachment 10.3.1(c)*. The general daily outdoor component of the day will be during 9:00am to 11:30am in the morning and 2:00pm to 4:00pm in the late afternoon, depending on the weather. Sometimes the morning outdoor component will be replaced with visits to locations off site such as the Gwentyfred Road playground and Kent Street (Harold Rossiter Park).

The designated outdoor play area directly abuts three properties. In all cases the abutting portion of the neighbour's property constitutes rear garden space. In no case is there a habitable window in the immediate vicinity of the designated outdoor area.

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

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

- (a) Maintain the City's predominantly residential character and amenity;*
- (d) Establish a community identity and "sense of community", both at a City and precinct level and to encourage more community consultation in the decision-making process;*
- (e) Ensure community aspirations and concerns are addressed through Scheme controls;*
- (f) Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development;*
- (g) Protect residential areas from the encroachment of inappropriate uses; and*
- (h) Utilise and build on existing community facilities and services and make more efficient and effective use of new services and facilities.*

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

In considering the application, 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 Council, relevant to the proposed development. Of the 24 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (f) Any planning policy, strategy or plan adopted by Council under the provisions of Clause 9.6 of this Scheme;*
- (i) The preservation of the amenity of the locality;*
- (p) Any social issues that have an effect on the amenity of the locality; and*
- (x) Any other planning considerations which Council considers relevant.*

The proposal is observed to meet with the above matters.

(l) Conclusion

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

Consultation

(a) Neighbour consultation

Area 1 neighbour consultation has been undertaken for this proposal to the extent and in the manner required by Policy P355 "Neighbour and Community Consultation in Town Planning Processes". The owners of properties at Nos. 130, 132, 134, 135A, 136, 137A-B and 139 Lansdowne Street, Nos. 32 and 34 Kennard Street, and Nos. 45 to 49 and 51 to 57 George Street were invited to inspect the application and to submit comments during a 14-day period.

A total of 20 neighbour consultation notices were mailed to individual property owners and local commercial occupiers. During the advertising period, seven submissions were received (five residents and two local commercial shop owners on George Street), all against the proposal.

The comments of the submitters, together with the applicant and officer responses are summarised as follows:

Neighbours' Objections	Applicant's Response	Officer Response
<p>Internal noise level concerns of children playing (especially 135A which has a common property wall adjoining 135B Lansdowne).</p>	<p>The main children's play area does not share a common wall with property 135A. Noise levels will be kept to a minimum through structured activities during the day. Behaviour management strategies are in place to control children's play. The hours of operation will be during the hours 7:30am to 6:00pm and the noise level would not be deemed excessive. Please refer to the "Weekly program" for details.</p>	<p>The proposed living room at the rear of the dwelling is to be used as the main internal playing space area shown in Confidential Attachment 10.3.1(a). The living room to the north-eastern corner of the subject site is considerably set back from the side and rear boundaries. Therefore the proposal complies with the requirements of Policy P380. The comment is NOTED.</p>
<p>External noise levels concerns with children playing outside.</p>	<p>Activities away from the property (i.e. visits to playground, library and park) are an integral part of the daily routine. Noise levels will be kept to a minimum through structured activities during the day. Behaviour management strategies are in place to control children's play. The hours of operation will be during the hours 7:30 am to 6:00 pm and the noise level would not be deemed excessive. Please refer to the "Weekly program" for details.</p>	<p>The designed outdoor play area directly abuts three properties. Noise from the children playing will not be constant throughout the day as outdoor play constitutes only a part of a daily routine. In all cases the abutting portion of the neighbour's property constitutes rear garden space. In no case is there a habitable window in the immediate vicinity of the designed outdoor area. The comment is NOTED.</p>
<p>Traffic and parking congestion concerns.</p>	<p>There are three parking spaces on our property; this is adequate for the low volume of traffic. The vehicles will not be parked for periods longer than 15 minutes for pick up and drop off of children.</p>	<p>TPS6 does not prescribe any extra car parking to be provided other than the normal residential requirement of two car parking bays. In addition, the number of vehicle trips per day could range from a maximum of ten trips, dropping off in the mornings and picking up in the evenings which will have a negligible impact on the flow of the traffic in the local neighbourhood or upon the condition of the roads. The comment is NOTED.</p>

Neighbours' Objections	Applicant's Response	Officer Response
Residents with a disability living around the vicinity are concerned with noise levels.	Noise levels will be kept to a minimum through structured activities during the day. Behaviour management strategies are in place to control children's play. The hours of operation will be during the hours 7:30am to 6:00pm and the noise level would not be deemed excessive. Please refer to the "Weekly program" for details.	The Family Day Care proposal has taken steps to minimise noise levels through structured activity throughout the day such as quiet time and rest for the children between 12:00 to 14:30pm and daily outdoor component of the day will be during 9:00am to 11:30am in the morning and 2:00pm to 4:00pm in the late afternoon, depending on the weather. Sometimes the morning outdoor component will be replaced with visits to locations off site such as the Gwentyfred Road playground and Kent Street (Harold Rossiter Park) as detailed in Attachment 10.3.1(c) . The comment is NOTED .
Safety concerns - Trespassing.	The back yard is fully fenced at a height of 1.8 metres and access to the front door is clearly marked. Visitors will not access the property via any other way than the front door.	Safety concerns especially trespassing is a concern for some neighbouring residents. The majority dropping off and picking up their children will be mainly parents who would not linger or trespass into neighbouring residents properties. The comment is NOT UPHELD .
Concerned about the applicant's small block size is inadequate for Family Day Care.	The size of the property is adequate according to Child Care Licensing and Standards Unit and City of South Perth requirements.	TPS6 does not prescribe a designated lot size for a Family Day Care. The only development requirements are "Suitable dwellings - Single House or Grouped Dwelling" which the proposal complies with TPS6. The comment is NOTED .
Limited community consultation regarding the application.	I have informed residences in Area 1 in person and delivered a letter explaining the proposal. I have attached personal contact details and encouraged my neighbours to contact me for any follow up questions.	The City has undertaken an Area 1 neighbour consultation as required by Policy P355 "Neighbour and Community Consultation in Town Planning Processes", where a total of 20 neighbour consultation notices were mailed. The comment is NOT UPHELD .
Properties devalue.	No comments.	There is no evidence to support a Family Day Care will devalue the value of neighbouring properties. The comment is NOT UPHELD .

(b) Other City departments

Comments have also been invited from the Environmental Health area of the City's administration. The Environmental Health Services' comments with respect to noise have been covered under the Specific Advice Notes.

Policy and Legislative Implications

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

Financial Implications

The determination has no financial implications.

Strategic Implications

This matter relates to Strategic Direction 1.3 “Community” identified within Council’s Strategic Plan which is expressed in the following terms:

Encourage the community to increase their social and economic activity in the local community.

Sustainability Implications

The proposal is observed to be sustainable as it is catering to the needs of the community and adequately catered for on the subject property.

Conclusion

The proposal meets all of the relevant Scheme and R-Codes objectives and provisions. Provided that all conditions are applied as recommended, it is considered that the application should be conditionally approved.

OFFICER RECOMMENDATION ITEM 10.3.1

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for a Family Day Care on Lot 53 (No. 135B) Lansdowne Road, Kensington be approved, subject to:

(a) **Standard Conditions**

661 Validity of the approval

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

(b) **Specific Conditions**

- (i) The Family Day Care be limited to five children; any additional children will be subject to an amendment to the original planning approval.
- (ii) The hours of operation are limited to Monday to Friday - 7:30am to 6:00pm.

(c) **Standard Advice Notes**

651 Appeal rights - SAT

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

(d) **Specific Advice Notes**

The applicant is advised to comply with Environmental Health Services requirements including the following:

- (i) Any activities conducted will need to comply with any relevant requirements of the *Community Services (Child Care) Regulations 1988* and *Community Services (Outside School Hours Care) Regulations 2000* at all times.
- (ii) Any activities conducted will need to comply with the *Environmental Protection (Noise) Regulations 1997* at all times.
- (iii) All fans and pumps comply with the *Environmental Protection Act 1986* and *Environmental Protection (Noise) Regulations 1997*, in regards to potential noise pollution.
- (iv) Consideration needs to be given to the design of all internal and external play areas to ensure that compliance with the *Environmental Protection (Noise) Regulations 1997* in relation to surrounding properties.

10.3.2 Proposed 3-Storey Single House. Lot 42 (No. 9) Lamb Street, South Perth

Location: Lot 42 (No. 9) Lamb Street, South Perth
 Applicant: Milankov Design & Project Management
 Lodgement Date: 11 December 2010
 File Ref: 11.2009.552 LA4/9
 Date: 5 August 2010
 Author: Matt Stuart, Senior Statutory Planning Officer
 Reporting Officer: Vicki Lummer, Director, Development and Community Services

Summary

To consider an application for planning approval for a 3-storey Single House on Lot 42 (No. 9) Lamb Street, South Perth. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Building height	TPS6 clause 6.1(1)
Vehicle movements	Council Policy P350.3 clause 5(b)
Visual privacy	R-Codes element 6.8.1 P1
Visually permeable fencing	Council Policy P350.7 clause 5
Boundary walls	P350.2 clause 6

It is recommended that the proposal be approved subject to conditions.

Background

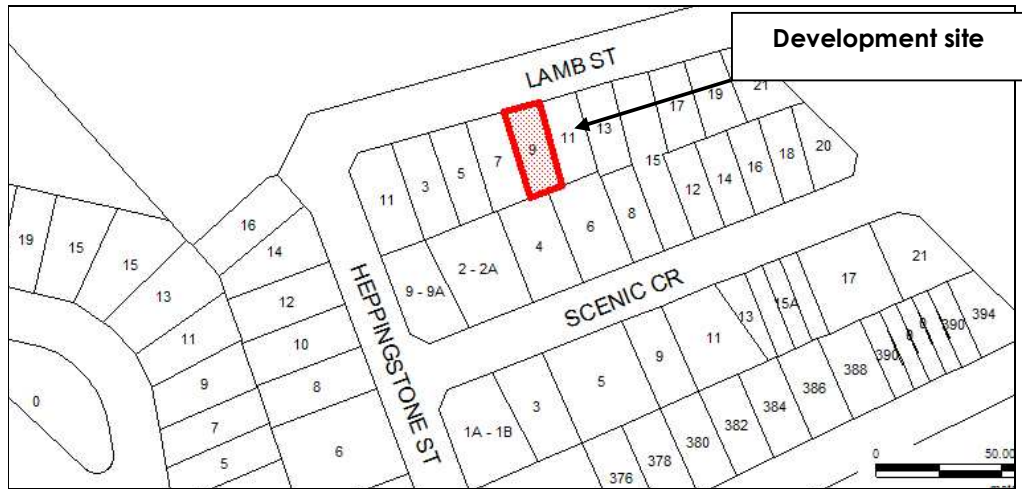
The development site details are as follows:

Zoning	Residential
Density coding	R15/40
Lot area	542 sq. metres
Building height limit	7.0 metres
Development potential	1 dwelling
Plot ratio limit	N.A.

This report includes the following attachments:

- **Confidential Attachment 10.3.2(a)** Plans of the proposal
- **Attachment 10.3.2(b)** Site photographs
- **Confidential Attachment 10.3.2(c)** Applicant's legal advice

The location of the development site is shown below:



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

2. Major developments

(c) *Development of the kind referred to in items (a) and (b) above, but which, in the opinion of the delegated officer, is contentious or is of significant community interest.*

3. The exercise of a discretionary power

(b) *Applications involving the exercise of discretion under Clauses 6.1 or 6.11 of the Scheme.*

6. Amenity impact

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

7. Neighbour comments

In considering any application, the assigned delegate shall fully consider any comments made by any affected land owner or occupier before determining the application.

Comment

(a) Description of the Surrounding Locality

The subject site has a frontage to Lamb Street, located adjacent to Single Houses to the east and west, and Multiple Dwellings to the south.

(b) Existing Development on the Subject Site

The existing development on the subject site currently features land uses of 'Single House' as depicted in the site photographs at **Attachment 10.3.2(a)**.

(c) **Description of the Proposal**

The proposal involves the construction of a 3-storey Single House on Lot 42 (No. 9) Lamb Street, South Perth (the site), as depicted in the submitted plans at **Confidential Attachment 10.3.2(a)**. The site photographs at **Attachment 10.3.2(b)** show the relationship of the site to the surrounding development.

The following components of the proposed development do not satisfy the Scheme, R-Codes and Council policy requirements:

- (i) Building height limit;
- (ii) Vehicle movements;
- (iii) Visual privacy;
- (iv) Visually permeable fencing; and
- (v) Boundary walls.

The proposal complies with the TPS6, the *Residential Design Codes of WA 2008* (the R-Codes) and relevant Council Policies, with the exception of the remaining non-complying aspects, with other significant matters, all discussed below.

(d) **Building Height**

The building height limit for the site is 7.0 metres (10.54m AHD), whereas the *existing* building height is 8.82 metres (12.36 m AHD); therefore the existing building height is beyond the current planning controls. However, it should be noted that the existing building was approved under the previous Scheme (TPS5) and subsequently granted building licence in January 1989. At that time, TPS5 contained provisions that prescribed building heights in terms of the number of floors (3-storeys) rather than linear measurements. Amendment No. 60 to TPS5 was gazetted on 8 October 1993 which converted 'storey height' limits to 'metre height' limits. Furthermore, with the introduction of TPS6, the building height limit for this area was converted from a 3-storey situation, to a 2-storey situation (7.0m).

Accordingly, the proposed development on this site needs to be assessed under clause 6.1 of the Scheme (Replacement of Existing Buildings not Complying with Density, Plot Ratio, Use or Building Limits).

Building height where existing buildings not complying- clause 6.1

The relevant sub-clause is 6.1(1) with regard to building height relates to residential development, which states (emphasis added):

*“Notwithstanding the provisions of the Codes but **subject to the provisions of sub-clause (3)**, if, on the date of gazettal of the Scheme a site contained a **residential development that exceeded:***

- (a) the density coding indicated on the Scheme Maps; or*
- (b) **the Building Height Limit; or***
- (c) both the density coding and the Building Height Limit;*

the Council may approve redevelopment of that site:

- (i) **to the same density or height or both**, and with the same use as those of the development **which existed on the site** on the date of gazettal of the Scheme; and*
- (ii) with a plot ratio exceeding the maximum prescribed by the Residential Design Codes.”*

The City has previously gained legal advice in relation to this matter, with the executive summary as follows:

“For the reasons which follow, my view concerning these issues is:

- (a) subject to being satisfied of the matters in clause 6.1(3), clause 6.1(1) allows Council to approve the proposed dwelling if the external wall height of its third level does not exceed that of the existing dwelling;*
- (b) Council may approve the third level of the proposed dwelling even though its location is different and its floor area exceeds that of the third level of the existing dwelling; and*
- (c) The provisions of clause 6.2 relating to the 25 degree notional roof pitch do not apply to a new dwelling for which approval is sought under clause 6.1(1).”*

In addition, the Applicant has also gained legal advice, which supports the City’s legal advice at **Confidential Attachment 10.3.2(c)**. Furthermore, the City concurs with both legal opinions.

Accordingly, it is considered that the building height of proposed development should be considered under clause 6.1 of the Scheme, rather than 6.2 as is normally the case.

In assessing the proposed development under sub-clause 6.1(1)(i), it is considered that all proposed walls are no greater than the wall height of the existing development (12.36 meters AHD). Therefore, the proposed development is eligible for consideration, subject to the amenity provisions of sub-clause 6.1(3), which states (emphasis added):

*“The power conferred by sub-clauses (1) and (2) may **only be exercised if:***

- (a) in the opinion of the Council, **the proposed development will contribute more positively to the scale and character of the streetscape, the preservation or improvement of the amenity of the area, and the objectives for the precinct than the building which existed on the site on the date of gazettal of the Scheme;**”*

In assessing the proposed development under sub-clause 6.1(3), it is considered that the scale and character of this streetscape is dominated by multi-storey residential buildings (including the subject site) and that the proposed dwelling is suitably compatible.

The Design Advisory Consultants (DAC) considered that “the proposed built form will demonstrate compatibility with the existing streetscape character”, which supports the proposed development (see section Design Advisory Consultants’ Comments).

In light of the legal advice, the comments from the DAC and the assessment that has been carried out, it is considered that the building height of the proposed development complies with the relevant provisions of the Scheme and is therefore recommended for approval.

(e) **Vehicle Movements**

The proposed garage is more than 15 metres from the front boundary line (at the rear of the property), necessitating structures to be arranged to allow vehicles to exit the property in forward gear, in accordance with element 6.5.4 A4.1 of the R-Codes.

In addition, Council policy P350.3 subclause 5(b) requires that where vehicles are required to enter the street in forward gear, then the Applicant is to demonstrate vehicle movements in accordance with Australian Standard AS 2890.1, with no more than two turning movements. At this point, the Applicant has not demonstrated as such; therefore the proposed development does not comply with the car parking element of the policy; however a condition is recommended to rectify this matter.

(f) **Visual Privacy Setback- first floor (southwest)**

The required minimum visual privacy setbacks for the Sitting Room to the southwest is 6.0 metres, whereas the proposed visual setback is approximately 4.5 metres, therefore the proposed development does not comply with the visual privacy element of the R-Codes.

Council discretion- cl. 6.8.1 P1

The Applicant has not satisfied the visual privacy Performance Criteria 6.8.1 P1 of the R-Codes. Assessment of the proposal against those criteria reveals the following:

- Direct overlooking of outdoor living areas (BBQ and pool area) of adjoining dwellings, from a major opening of the subject site is present;
- Effective screening is not proposed; and
- No comment from the neighbour (see neighbour consultation).

In this instance, it is considered that the proposal does not comply with the Performance Criteria, and is therefore not supported by the City; however a condition is recommended to obscure or screen the opening and thereby rectify this matter.

In addition, further details are required to ensure that the visual privacy screens comply with Element 8 of the R-Codes, and protect the neighbour's visual privacy (standard condition).

(g) **Visual Privacy Setback- first floor and second floor (west)**

The required minimum visual privacy setbacks for Balcony 1 and Balcony 2 to the west is 7.5 metres, whereas the proposed visual setback is approximately 4.0 metres, therefore the proposed development does not comply with the visual privacy element of the R-Codes.

Council discretion- cl. 6.8.1 P1

The Applicant has not satisfied the visual privacy Performance Criteria 6.8.1 P1 of the R-Codes. Assessment of the proposal against those criteria reveals the following:

- Direct overlooking of active habitable spaces (front balcony) of adjoining dwellings, from the major openings and outdoor active habitable spaces of the subject site is present;
- Effective screening is not proposed; and
- No comments from the neighbour (see neighbour consultation).

In this instance, it is considered that the proposal does not comply with the Performance Criteria, and is therefore not supported by the City; however a condition is recommended to obscure or screen the opening and thereby rectify this matter.

In addition, further details are required to ensure that the visual privacy screens comply with Element 8 of the R-Codes, and protect the neighbour's visual privacy (standard condition).

(h) Visually Permeable Fencing

Fencing in the front setback area of a residential development is required to be visually permeable, in accordance with clause 5 of Council policy P350.7, due to reasons of (p. 1):

- Streetscape;
- Traffic safety;
- Personal security;
- Visual privacy; and the
- Impact of building bulk.

The required amount of permeability is 80 percent, whereas the proposed amount varies between approximately 50 percent and nil. Therefore, the proposed development does not comply with the policy.

It should be noted that the Applicant has chosen to include an Outdoor Living Area in the front setback area of the design, which has resulted in a need to provide privacy screening.

However, the Acceptable Development standards of element 6.4.2 of the R-Codes, requires Outdoor Living Areas be "behind the street set-back area", as an Outdoor Living Area is sensitive and private place which needs to be located within the private realm. Conversely, the front setback area of a residential lot is within the semi-public realm; which is an area of duality that is concurrently enjoyed in a public sense and a private sense, i.e. it is neither wholly private nor wholly public.

Accordingly, it is considered that the front setback area is not a suitable location for sensitive places, and even if the designer chooses to locate a sensitive place in a non-sensitive area, the streetscape and impact on the street should not suffer as a result.

Accordingly, it is considered that a condition is required to increase the permeability of fencing in the front setback area, in accordance with the acceptable standard and thereby rectify this matter.

(i) Boundary Wall- ground floor, west, Portico

Under Council Policy P350.2, the permitted height of residential boundary walls (parapets), adjacent to neighbouring Outdoor Living Areas, is a maximum of 2.7 metres high from the neighbour's ground level, whereas the proposed wall height is 2.85 metres; therefore, the proposed development does not comply with this element of the policy

Finally, the wall has been found to have an adverse effect on neighbouring amenity when assessed against the following "amenity test" referred to in this element of the policy:

- No effect on the existing streetscape character;
- No outlook from the front of the adjoining dwelling or garden if forward of the proposed parapet wall;
- No overshadowing of adjoining habitable room windows or Outdoor Living Areas;
- An impact of bulk on adjoining Outdoor Living Areas; and
- No comments from the neighbour (see section neighbour consultation).

In this instance, it is considered that the proposal does not comply with the policy, and is therefore is not supported by the City; however a condition is recommended to demonstrate compliance and thereby rectify this matter.

(j) Boundary Wall- ground floor, south and east, Garage

Under Council Policy P350.2, the permitted height of residential boundary walls (parapets), adjacent to neighbouring Outdoor Living Areas, is a maximum of 2.7 metres high from the neighbour's ground level, whereas the proposed wall does not abut an Outdoor Living Area; therefore, the proposed development complies with this element of the policy.

In addition, the wall has been found to not have an adverse effect on neighbouring amenity when assessed against the following "amenity test" referred to in this element of the policy:

- No effect on the existing streetscape character;
- No outlook from the front of the adjoining dwelling or garden if forward of the proposed parapet wall;
- No adjoining habitable room windows or Outdoor Living Areas;
- No adjoining Outdoor Living Areas; and
- Not upheld comments from the neighbour (see neighbour consultation).

In this instance, it is considered that the proposal does complies with the policy, and is therefore is supported by the City.

(k) Wall Setback- first floor, east, Bed2 and bulk of wall

The wall setbacks generally comply, however the eastern wall to Bedroom 2 is set back by 1.1 metres from the boundary in lieu of 1.2 metres.

The eastern wall to the bulk of the building is set back by 2.1 metres from the boundary in lieu of 3.1 metres

The Applicant has satisfied all of the Performance Criteria 6.3.1 P1 of the R-Codes. Assessment of the proposal against those criteria reveals the following:

- The proposed structure provides adequate ventilation and sun to the subject site;
- The proposed structure provides adequate sun and ventilation to the neighbouring property;
- Building bulk is not an issue, due to the adjoining structure does not have any Major Openings or Outdoor Living Areas;
- Visual privacy is not an issue; and
- No comment from the neighbour (see section neighbour consultation).

In this instance, it is considered that the proposal complies with the Performance Criteria, and is therefore supported by the City.

(l) Open Space

The required minimum open space is 50% of the site (271m²), whereas the proposed open space is 53% (289m²). Therefore, the proposed development complies with the open space element of the R-Codes.

(m) Finished Ground and Floor Levels- minimum

The required *minimum* finished *ground* level permitted is 1.7 metres above the Australian Height Datum (AHD). The proposed finished ground level is 3.8m above AHD. Therefore, the proposed development complies with clause 6.9.1 “Minimum Ground and Floor Levels” of TPS6.

The required *minimum* finished *non-habitable rooms and car parking* floor level permitted is 1.75 metres above AHD. The proposed finished floor level is 3.7m above AHD. Therefore, the proposed development complies with clause 6.9.2 “Minimum Ground and Floor Levels” of TPS6.

The required *minimum* finished *habitable room floor* permitted is 2.3 metres above AHD. The proposed finished floor level is 3.8m above AHD. Therefore, the proposed development complies with clause 6.9.2 “Minimum Ground and Floor Levels” of TPS6.

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

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

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

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

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

- (a) the objectives and provisions of this Scheme, including the objectives and provisions of a Precinct Plan and the Metropolitan Region Scheme;*
- (b) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment which has been granted consent for public submissions to be sought;*
- (c) the provisions of the Residential Design Codes and any other approved Statement of Planning Policy of the Commission prepared under Section 5AA of the Act;*
- (e) any approved environmental protection policy under the Environmental Protection Act, 1986 (as amended);*
- (f) any planning policy, strategy or plan adopted by the Council under the provisions of clause 9.6 of this Scheme;*
- (i) the preservation of the amenity of the locality;*
- (j) all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*
- (k) the potential adverse visual impact of exposed plumbing fittings in a conspicuous location on any external face of a building;*
- (l) the height and construction materials of retaining walls on or near lot boundaries, having regard to visual impact and overshadowing of lots adjoining the development site;*
- (m) the need for new or replacement boundary fencing having regard to its appearance and the maintenance of visual privacy upon the occupiers of the development site and adjoining lots;*
- (n) the extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area, in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details;*
- (s) whether the proposed access and egress to and from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvre and parking of vehicles on the site;*
- (w) any relevant submissions received on the application, including those received from any authority or committee consulted under clause 7.4; and*
- (x) any other planning considerations which the Council considers relevant.*

The proposed development is considered satisfactory in relation to all of these matters, subject to the recommended conditions.

Consultation

(a) Design Advisory Consultants' Comments

The design of the proposal was considered by the City's DAC at their meeting held in February and July 2010. The proposal was favourably received by the Consultants. Their comments and responses from the Applicant and the City are summarised below:

AGENDA : ORDINARY COUNCIL MEETING : 24 AUGUST 2010

February 2010		
DAC Comments	Applicant's Responses	Officer's Comments
The Architects observed that the proposed flat roof and built form were compatible to the existing streetscape character.	No comment required, see discussion below.	Agreed. The comment is UPHELD .
It was also observed that the building did not comply with the prescribed 7.0 metre height limit.	No comment required, see discussion below.	Not relevant, see discussion below. The comment is NOT UPHELD .
Since the proposal will require significant modifications to comply with the building height limit, the Architects expressed the view that amended drawings of the proposed development should be brought back to another DAC meeting for their specific comments.	No comment required, see discussion below.	The proposed development was sent to the July 2010 meeting with additional information for further comments. The comment is NOTED .

July 2010		
DAC Comments	Applicant's Responses	Officer's Comments
Noting that the application is being assessed under Clause 6.1 of TPS6; and having examined the existing streetscape character as well as the legal advice obtained by the City in this regard, the Architects observed that the proposed built form will demonstrate compatibility with the existing streetscape character.	No comment required.	Agreed. The comment is UPHELD .
The officers confirmed to the Architects that the lot had a 10.5 metre building height limit under the previously operating Town Planning Scheme No. 5.	No comment required.	The previous building height is not relevant. Conversely, the site currently enjoys a planning approval for the existing structures, which is the enabler to the alternative planning assessment for building height. The comment is NOTED .

(b) Neighbour Consultation

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Policy P355 ‘Consultation for Planning Proposals’. Individual property owners, occupiers and/or strata bodies at Nos 3, 5, 7, 11, 13, 15, 17, 19 and 21 Lamb Street, Nos 2, 4 and 6 Scenic Crescent, and Nos 11, 14 and 16 Heppingstone Street were invited to inspect the plans and to submit comments during a minimum 14-day period (however the consultation continued until this report was finalised).

During the advertising period, a total of 38 consultation notices were sent and 3 submissions were received, all against the proposal. The comment/s of the submitters, together with Officer responses are summarised as follows:

Submitters' Comments	Officer's Responses
Object to building that exceeds height.	The proposed development complies with the building height control, see section Building Height. The comment is NOTED .
Boundary wall visually obtrusive, appearance of being “hemmed in”, and restricts access to sunlight.	The proposed boundary wall abuts this property with only 1.1 metres, adjacent to a car parking area. The comment is NOT UPHELD .
Object to boundary wall if over height	The boundary wall complies with the requirements of Council policy, see section Boundary Wall. The comment is NOT UPHELD .
Height of garage boundary wall restricts access to sunlight.	The proposed wall abuts a large back yard on the western side and therefore will not restrict access to sunlight to sensitive areas. The comment is NOT UPHELD .
Object to a new development that does not fully comply with planning requirements (and visa versa).	The development complies with planning requirements, if recommended conditions are applied. The comment is NOTED .

Policy and Legislative Implications

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

Financial Implications

The determination has no financial implications.

Strategic Implications

This matter relates to Strategic Direction 3 “Housing and Land Uses” identified within Council’s Strategic Plan which is expressed in the following terms: *Accommodate the needs of a diverse and growing population with a planned mix of housing types and non-residential land uses.*

Sustainability Implications

Noting the favourable orientation of the lot, the officers observe that the proposed outdoor living areas have access to winter sun. Hence, the proposed development is seen to achieve an outcome that has regard to the sustainable design principles.

Conclusion

Provided that conditions are applied as recommended, it is considered that the application should be conditionally approved.

OFFICER RECOMMENDATION ITEM 10.3.2

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for a 3-storey Single House on Lot 42 (No. 9) Lamb Street, South Perth, **be approved** subject to:

(a) Standard Conditions

615	screening to be provided	471	retaining walls- timing
616	screening to be permanent	455	dividing fence- standards
390	crossover standards	456	dividing fence- timing
625	sightlines for drivers	377	screened clothes drying
340	parapet walls- finish of surface	550	plumbing hidden
470	retraining walls- if required	660	expiry of approval

(b) Specific Conditions

- (i) Revised drawings shall be submitted, and such drawings shall incorporate the following:
- (A) Demonstrated ability for vehicles to exit the property in forward gear with no more than two turning movements, in accordance with Council Policy P350.3 sub-clause 5(b), including but not limited to compliance with Australian Standard AS 2890.1;
 - (B) The fence in the front setback area shall be Visually Permeable, as defined by City Policy P350.7 Table 1, including a minimum of 80% open between 1.2 metres and 1.8 metres in height; and
 - (C) The wall to the portico on the western boundary shall be no higher than 2.7 metres above the neighbour's ground level, where adjacent to an "Outdoor Living Area", in accordance with Council policy P350.2 clause 6.

(c) Standard Advice Notes

648	building licence required	646A	masonry fence requires BA
647	revised drawings required	649A	minor variations- seek approval
646	landscaping standards- general	651	appeal rights- SAT

(d) Specific Advice Notes

The applicant is advised that:

- (i) Any activities conducted will need to comply with the *Environmental Protection (Noise) Regulations 1997* at all times.

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

10.3.3 Proposed Change of Use from Ancillary Accommodation to Bed and Breakfast Accommodation - Lot 300 (No. 11) Greenock Avenue, Como

Location: Lot 300 (No. 11) Greenock Avenue, Como
 Applicant: Marg Mason
 Lodgement Date: 5 May 2010
 File Ref: 11.2010.234 GR1/11
 Date: 2 August 2010
 Author: Patricia Wojcik, Trainee Planning Officer
 Reporting Officer: Vicki Lummer, Director Development and Community Services

Summary

To consider an application for planning approval for a Change of Use from Ancillary Accommodation to Bed and Breakfast Accommodation at Lot 300 (No. 11) Greenock Avenue, Como. The proposal does not conflict with the City’s Scheme, the 2008 R-Codes and City policies.

Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Use permissibility	TPS6 Table 1

It is recommended that the proposal be approved subject to conditions.

Background

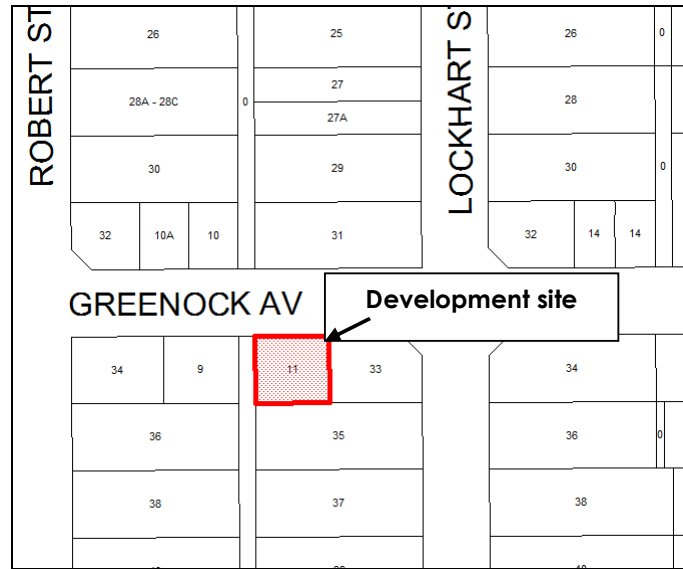
The development site details are as follows:

Zoning	Residential
Density coding	R20/30
Lot area	450.0 sq. metres
Building height limit	7.0 metres
Development potential	1 Dwelling

This report includes the following attachments:

- Confidential Attachment 10.3.3(a)** Plans of the proposal.
- Attachment 10.3.3(b)** Applicant’s supporting report, house rules and photographs.

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:

I. Specified uses

- (g) *Non-residential “DC” uses within the residential zone.*

Comment

(a) Background

Approval was given in 1995 for a Two Storey Single House with Ancillary Accommodation. The proposal involves changing the use of the existing Ancillary Accommodation to the proposed “Bed and Breakfast” use. No signs are proposed as part of the development application.

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

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

The proposal generally complies with certain aspects of Town Planning Scheme No. 6 (TPS6), relevant Council policies and the *Residential Design Codes of WA 2008* (the R-Codes) which will be discussed in more detail below.

(b) Description of the surrounding locality

The subject site has a frontage to Greenock Avenue. Within 400.0 metres, the subject site has access to Canning Highway and public transport routes. Within 800.0 metres, the subject site has access to the Preston Street shopping area.

(c) Existing development on the subject site

The existing development on the subject site currently features a Two Storey Single House with Ancillary Accommodation which is a permitted use within the residential zone, depicted in the submitted plans and applicant’s photographs referred to as **Confidential Attachment 10.3.3(a)** and **Attachment 10.3.3(b)**.

(d) Description of the proposal

The proposal involves changing the use of the existing Ancillary Accommodation to Bed and Breakfast Accommodation. The existing Ancillary Accommodation currently features two bedrooms, a fully equipped kitchen, bathroom, sitting and dining areas which can accommodate up to four adults and two children at any given time. While two people can fit in each bedroom, the applicant has advised that a cot could be set up in the sitting area for younger children. The applicant has also advised that the proposed Bed and Breakfast would only be let out to one family or group at a time. A condition has been placed to this effect in the officer recommendation.

The applicant's supporting letter and house rules at **Attachment 10.3.3(b)** describes the proposal in more detail.

(e) Planning controls for Bed and Breakfast Accommodation

there are no scheme, policy or R-Code provisions that relate to the use of Bed and Breakfast Accommodation other than the zoning and land use table contained in TPS6 which outlines use permissibility, Clause 6.3(2) in relation to car parking, the scheme objectives and matters to be considered by Council, which are all much broader planning controls and have no real specific requirements for the Bed and Breakfast Accommodation use. In assessing this proposal, two policies from other organisations have been utilised along with previous Council reports for guidance in assessing a proposal of this nature.

(f) Land use

The proposed land use of Bed and Breakfast is classified as a "DC" (Discretionary with Consultation) land use in Table 1 (Zoning - Land Use) of TPS6.

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

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

The City therefore acknowledges that a practical and effective management plan can assist in maintaining the amenity of the area and as a result, the applicant has prepared a set of "house rules" for guests referred to as **Attachment 10.3.3(b)**. The "house rules" outline the behaviour expected of guests during their stay and an example of the "house rule" is provided below:

"Please keep the volume down on any television, radio, audio system or musical instrument, so that it is not audible from outside the homestay when the doors are closed. The owners reserve the right to require these items to be turned off if they are disturbing other residents."

The house rules provided by the applicant are therefore deemed to address any concerns relating to the amenity impact of the proposed "Bed and Breakfast" use.

(g) Car parking

There is no prescribed car parking requirement for the “Bed and Breakfast Accommodation” use. In this situation, Clause 6.3(2) of TPS6 requires car parking bays to be provided to the number determined by Council, having regard to the likely demand. The City’s practice in dealing with “Bed and Breakfast” proposals has been to require one parking bay for every bedroom used by paying guests in addition to two parking bays required for a new residential development.

The proposed Bed and Breakfast Accommodation has two car bays allocated to it for the two bedrooms currently in the Ancillary Accommodation. This is in addition to the two car bays that already exist for the current Single House.

(h) Signage

As per the supporting letter received from the applicant referred to as **Attachment 10.3.3(b)**, there is no signage proposed.

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

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

- (a) Maintain the City's predominantly residential character and amenity;*
- (c) Facilitate a diversity of dwelling styles and densities in appropriate locations on the basis of achieving performance-based objectives which retain the desired streetscape character and, in the older areas of the district, the existing built form character;*
- (f) Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development;*
- (g) Protect residential areas from the encroachment of inappropriate uses; and*
- (h) Utilise and build on existing community facilities and services and make more efficient and effective use of new services and facilities.*

The subject property will be used principally as a dwelling as defined under the Residential Design Codes and will add to the diversity of uses within the area.

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

In considering the application, 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 Council, relevant to the proposed development. Of the 24 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (a) the objectives and provisions of this Scheme, including the objectives and provisions of a Precinct Plan and the Metropolitan Region Scheme;*
- (b) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment which has been granted consent for public submissions to be sought;*
- (i) the preservation of the amenity of the locality;*
- (s) whether the proposed access and egress to and from the site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvre and parking of vehicles on the site; and*
- (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 considered satisfactory in relation to all of these matters.

Consultation

(a) Neighbour consultation

Neighbour consultation has been undertaken for this proposal to the extent and in the manner required by Policy P355 "Consultation for Planning Proposals". Area 1 consultation is required under this policy and does not require a sign to be placed on site. Individual property owners, occupiers and / or strata bodies at Nos. 32, 34 and 36 Robert Street, Nos. 9, 10 and 10A Greenock Avenue, and Nos. 31, 33 and 35 Lockhart Street were invited to inspect the plans and to submit comments during a minimum 14-day period (however the consultation continued until this report was finalised).

During the advertising period, a total of 12 consultation notices were sent and three submissions were received; three in favour and none against the proposal.

The comments in favour of the proposal generally refer to:

- no adverse affect on the amenity of the street; and
- no signage proposed.

(b) Environmental Health Department

Comments have also been invited from the Environmental Health area of the City's administration. Comments have been provided which state that the proposed development is satisfactory to Environmental Health Services subject to compliance with the following legislation:

- (i) *Health Act 1911;*
- (ii) *Sewerage (Lighting, Ventilation & Construction) Regulations 1971;*
- (iii) *The City of South Perth Health Local Laws 2002;*
- (iv) *Food Act 2008;*
- (v) *Australian New Zealand Food Standards Code;*
- (vi) *AS 4674-2004 Design, Construction and Fit-out of Food Premises;*
- (vii) *Environmental Protection (Noise) Regulations 1997; and*
- (viii) *Alfresco Dining Local Law 2003.*

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

Accordingly, important notes are recommended to deal with issues raised by the above Department.

Policy and Legislative Implications

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

Financial Implications

The determination has no financial implications.

Strategic Implications

This matter relates to Strategic Direction 1.3 "Community" identified within Council's Strategic Plan which is expressed in the following terms:

Encourage the community to increase their social and economic activity in the local community.

Sustainability Implications

The proposed “Bed and Breakfast” use is observed to be sustainable in terms of its impact on the adjoining properties as well as providing a compatible alternative for accommodation.

Conclusion

It is considered that the proposal meets all of the relevant Scheme, R-Codes and City Policy objectives and provisions and will not have a detrimental impact on adjoining residential neighbours. Provided that the conditions are applied as recommended, it is considered that the application should be conditionally approved.

OFFICER RECOMMENDATION ITEM 10.3.3

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for a Change of Use from Ancillary Accommodation to Bed and Breakfast Accommodation on Lot 300 (No. 11) Greenock Avenue, Como, **be approved** subject to:

(a) **Standard Conditions**

660 Expiry of approval

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

(b) **Specific Conditions**

- (i) The Bed and Breakfast Accommodation shall be operated by the owner / occupier(s) of the dwelling.
- (ii) The Bed and Breakfast Accommodation shall not be used as a lodging house or for permanent accommodation.
- (iii) All parking in relation to the Bed and Breakfast Accommodation is to be contained on site.
- (iv) The two car bays allocated to the Bed and Breakfast Accommodation in accordance with the approved plans shall be signposted as “Bed and Breakfast Accommodation Parking Only”.
- (v) No guests are permitted to park a trailer, caravan, boat or the like on the subject property or the adjacent verge or street.
- (vi) The attached copy of “house rules”, submitted to the City along with this application, shall be made available for viewing by all guests at all times. Having regard to the amenity of the adjoining properties, the owners shall be responsible for ensuring compliance with these house rules at all times.
- (vii) A maximum of one booking at a time shall be accepted for the use of the proposed Bed and Breakfast Accommodation.

(c) **Standard Advice Notes**

651 Appeal rights - Council

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

(d) **Specific Advice Notes**

The applicant is advised that:

- (i) It is the applicant’s responsibility to liaise with the City’s Environmental Health Section to ensure satisfaction of all of the relevant requirements.
- (ii) Any activities conducted will need to comply with the *Environmental Protection (Noise) Regulations 1997* at all times.

10.3.4 Proposed Change of Use from Shop to Single House and additions / alterations to an existing building to create Two Storey Single House - Lot 4 (No. 59) Lawler Street, South Perth

Location: Lot 4 (No. 59) Lawler Street, South Perth
 Applicant: Richard Rodic
 Lodgement Date: 11 June 2010
 File Ref: 11.2010.313 LA6/59
 Date: 2 August 2010
 Author: Tim Wright, Temporary Planning Officer
 Reporting Officer: Vicki Lummer, Director Development & Community Services

Summary

To consider an application for planning approval for Change of Use from Shop to Single House and additions / alterations to an existing building to create a Two Storey Single House on Lot 4 (No. 59) Lawler Street, South Perth. The proposal conflicts with the City's Scheme and the 2008 R-Codes, specifically:

Element on which discretion is sought	Source of discretionary power
Streetscape requirements	R-Code Performance Criteria 6.2.1 P1, 6.2.2 P2 and TPS6 Clause 4.3 (1)
Boundary walls	R-Code Performance Criteria 6.3.2 P2
Outdoor living area	R-Code Performance Criteria 6.4.2 P2.1 and P 2.2
Rear setback	TPS6 Clause 6.5

It is recommended that the proposal be approved subject to conditions.

Background

The development site details are as follows:

Zoning	Residential
Density coding	R15
Lot area	1,118 sq. metres, pt lot area 247.0 sq. metres
Building height limit	7.0 metres
Development potential	1 Dwelling
Plot ratio limit	Not applicable

This report includes the following attachments:

Confidential Attachment 10.3.4(a) Plans of the proposal.
Attachment 10.3.4(b) Site photographs.

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:

3. The exercise of a discretionary power

(c) Applications which, in the opinion of the delegated officer, represents a significant departure from the Scheme, the Residential Design Codes or relevant planning policies.

Comment

(a) Background

The site was previously used as a garden centre which is categorised as “Shop”, a Discretionary Use under the TPS6 Zoning Land Use Table. An existing building is situated on the site with a front street setback of 0.2 metres, a side setback of 0.88 metres and a canopy protruding over the footpath and street verge, depicted in the site photographs referred to as **Attachment 10.3.4(b)**.

(b) Description of the proposal

The application proposes the Change of Use from Shop to Single House and the alteration of the existing building in order to integrate with a new extension to form a Two Storey Single House on Lot 4 (No. 59) Lawler Street, South Perth, depicted in the submitted plans referred to as **Confidential Attachment 10.3.4(a)**.

The proposal complies with TPS6, the *Residential Design Codes of WA 2008* (the R-Codes) and relevant Council policies, with the exception of the following non-complying aspects:

(c) **Boundary wall - Existing building**

The existing building has a side wall setback ranging from 0.88 metres to 0.97 metres to the western lot boundary. Under Council Policy P350.2, the definition of “boundary wall” refers to a wall setback not more than 0.1 metres from a lot boundary. Under the R-Codes the definition of “boundary wall” refers to a wall either on the boundary or between the boundary and the setback provided by Table 1, in this case 1.0 metres. Therefore the boundary wall is assessed under the R-Codes acceptable development standards.

Under the R-Codes, acceptable development standards of the R-Codes walls built up to the boundary are to be behind the front setback line (in this case 6.0 metres). The existing boundary wall is set back 0.9 metres from the front boundary, therefore the existing boundary wall does not comply with the acceptable development standards of the R-Codes.

It is considered that the wall complies with the performance criteria of Section 6.3.2 of the R-Codes, specifically.

- it makes effective use of space; and
- because it is situated adjacent to the neighbouring property’s carport it is not considered to have an adverse effect on the amenity of the adjoining property, nor will it block direct sun into habitable rooms or outdoor living areas.

(d) **Street setback and minor incursions into the street setback area**

The permissible average street setback is 6.0 metres; the average street setback proposed is 4.23 metres. Furthermore, portions of the proposed building are set back less than half of the permissible street setback distance (3.0 metres). Therefore the proposal does not comply with the acceptable development standards of Section 6.2.1 of the R-Codes.

It is permissible for a cantilevered balcony to extend not more than 2.0 metres forward of the prescribed setback from the street, provided that the balcony is set back not less than 1.5 metres from the street boundary. The proposed cantilevered balcony extends 5.5 metres forward of the prescribed setback from the street and is set back only 0.5 metres from the street boundary. Therefore the proposal does not comply with Clause 4.3 of TPS6.

It is considered that the proposed setbacks comply with the performance criteria of Section 6.2.1 and 6.2.2 of the R-Codes, specifically:

- the retention of the existing building and therefore the reduced front setback retains the established amenity of the streetscape, in particular the commercial façade that provides visual link to the past use of the property;
- the façade and reduced setback of the existing building is compatible with the façade and setback situated across the road, No. 155 Angelo Street, depicted in the site photographs referred to as **Attachment 10.3.4(b)**. It is considered that these two properties are relative to each other in a streetscape context as they share similar attributes of having reduced street setbacks, similar façade features and both are corner lots;
- the lot does not relate to other properties along Lawler or Angelo Streets, and therefore should not be required to conform to the setback distances established along these streets; and
- the retention of the existing building, and therefore the reduced front setback provides an effective screen from noise and headlight glare from Angelo Street (considered a relatively busy street) to the proposed courtyard situated in the front setback.

(e) **Outdoor living area**

An outdoor living area is required to be provided behind the street setback area. Therefore the proposal does not comply with the acceptable development standards of Section 6.4.2 of the R-Codes.

It is considered that the proposed outdoor living areas (courtyard and balcony) comply with the performance criteria of Section 6.4.2 of the R-Codes, specifically:

- they are both capable of use in conjunction with a habitable room; and
- they are both positioned to take best advantage of the northern aspect of the site.

(f) **Rear setback**

Clause 6.5 of TPS6 states that in the case of irregularly shaped lots, Council shall determine which the side boundaries are and which the rear boundary, if any, is. Under the zoning of R15 in the R-Codes Table 1, a Single House is required to have a rear setback of 6.0 metres.

Due to the irregular shape of the lot and difficulties of design that arise as a result, it would be unreasonable to enforce a rear setback of 6.0 metres. It is therefore considered that Council should show discretion and determine the lot as having no rear setback.

Consultation

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

The design of the proposal was considered by the City's Design Advisory Consultants (DAC) at their meeting held on 12 July 2010. Their comments and responses from the applicant and the City are summarised below:

DAC Comments	Applicant's Response	Officer Comment
The proposed skillion roof will not be compatible with the existing streetscape character and should either be replaced by a gable ended pitched roof or flat roof.	The use of a skillion roof, being lower than other roof types, is proposed to enable view corridors to be maintained by residential properties located to the south of the subject lot along Lawler Street.	The lot does not relate to other properties along Lawler or Angelo Streets, and therefore should not be required to conform to the streetscape character established along these streets. Furthermore, the property across the road, No. 155 Angelo Street has an addition with a skillion roof, depicted on the site photograph referred to as Attachment 10.3.4(b) . The comment is NOT UPHELD .
The existing shop signage is not of value from a heritage perspective.	Agreed	The comment is NOTED .
The existing nil setback of the shop that is proposed to be retained is supported.	Agreed	The comment is UPHELD .

(b) **Neighbour consultation**

Neighbour consultation has been undertaken for this proposal to the extent and in the manner required by Policy P355 "Consultation for Planning Proposals". Individual property owners and occupiers at No. 151 Angelo Street were invited to inspect the plans and submit comments during a minimum 14-day period (however the consultation continued until this report was finalised).

During the advertising period a total of two consultation notices were sent and no submissions were received.

Policy and Legislative Implications

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

Financial Implications

The determination has no financial implications.

Strategic Implications

This matter relates to Strategic Direction 3 “Housing and Land Uses” identified within Council’s Strategic Plan which is expressed in the following terms:

Accommodate the needs of a diverse and growing population with a planned mix of housing types and non-residential land uses.

Sustainability Implications

Noting the favourable orientation of the lot, the officers observe that the proposed outdoor living areas have access to winter sun. Hence, the proposed development is seen to achieve an outcome that has regard to the sustainable design principles.

Conclusion

It is considered that the proposal meets all of the relevant Scheme, R-Codes and City policy objectives and provisions; and will not have a detrimental impact on adjoining residential neighbours. Provided that conditions are applied as recommended, it is considered that the application should be conditionally approved.

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 Change of Use from Shop to Single House and additions / alterations to an existing building to create a Two Storey Single House on Lot 4 (No. 59) Lawler Street, South Perth, **be approved** subject to:

(b) Standard Conditions

616	Screening - Permanent	471	Retaining walls - Timing
377	Screening - Clothes drying	455	Dividing fence - Standards
390	Crossover - Standards	456	Dividing fence - Timing
410	Crossover - Affects infrastructure	340	Parapet walls - Finish of surface
625	Sightlines for drivers	425	Colours and materials - Matching
470	Retaining walls - If required	427	Colours and materials - Details
		660	Expiry of approval

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

(b) Specific Conditions

- (i) Revised drawings shall be submitted, and such drawings shall incorporate details of fencing in the front setback area in regard to City Policy P350.7.
- (ii) A new Certificate of Title is to be provided, consistent with approved lot areas. An application for a new Certificate of Title is to be lodged with the Land Titles Office. A building licence may not be issued until the new Certificate of Title is issued.

(c) Standard Advice Notes

648	Building licence required	646	Landscaping - General standards
647	Revised drawings required	646A	Masonry fence requires BA
642	Strata note - Comply with that Act	649A	Minor variations - Seek approval
643	Strata note - Seek their approval	578	New titles prior to BL
		651	Appeal rights - Council

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

10.3.5 Proposed Six Multiple Dwellings - Lot 67 (No. 152B) Mill Point Road, South Perth
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Location: Lot 67 (No. 152B) Mill Point Road, South Perth
 Applicant: Vanguard Planning Services
 File Ref: 11.2010.107 MI3/152B
 Application Date: 4 March 2010
 Date: 2 August 2010
 Author: Siven Naidu, Statutory Planning Officer
 Reporting Officer: Vicki Lummer, Director Development & Community Services

Summary

This application for planning approval is for Six Multiple Dwellings in an eight storey building. The proposal conflicts with the City’s Town Planning Scheme No. 6 (TPS6).

Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Car parking	TPS6 Clause 7.8(1)
Building setback	Performance Criteria provisions of Clause 6.3.1 P1 of the R-Codes

It is recommended the application be approved subject to a number of standard and special conditions.

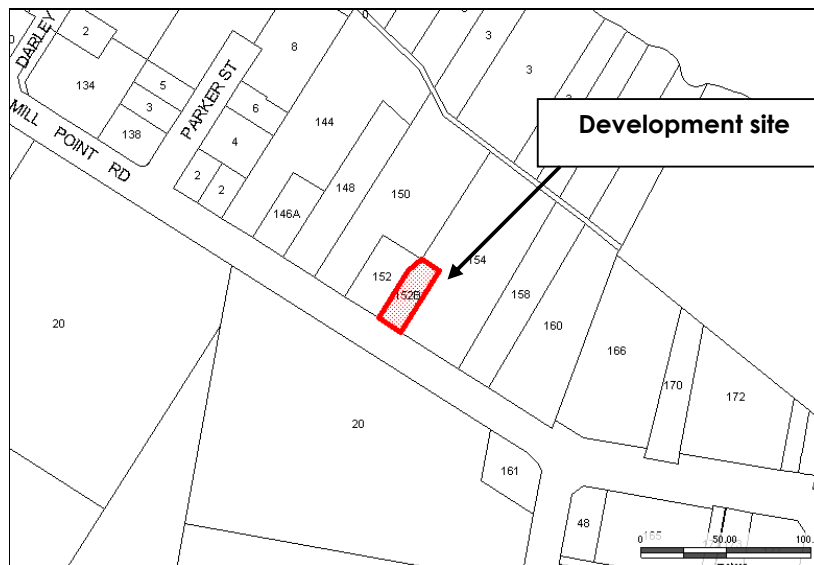
Background

Zoning	Residential
Density coding	R80/R100 - Site meets with the higher density requirements
Lot area	645.0 sq. metres
Building height limit	28.0 metres
Development potential	6 Dwellings
Mill Point Road setback	9.0 metres
Maximum allowable plot ratio	1.25 (806.0 sq. metres) at R100 density coding

This report includes the following attachments:

- Confidential Attachment 10.3.5(a)** Plans of the proposal.
- Attachment 10.3.5(b)** Letters from Vanguard Planning Services dated 9 June and 9 March 2010.
- Attachment 10.3.5(c)** Street montage.

The location of the development site is shown below. The property is currently developed for the purpose of Six Single Bedroom Dwellings in a three storey building constructed in 1955. The building is known as “Kiribilli” and is in a rather derelict condition.



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

2. Major Developments

- (b) *Proposals involving a residential development which is 9.0 metres high or higher, or comprises 10 or more dwellings based upon the No. 6 Scheme definition of the term “height”. This applies to both new developments and additions to existing buildings resulting in the building exceeding the nominated height.*

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

The proposed building is 26.0 metres high.

Comment

(a) Description of the proposal

The proposal involves the construction of Six Multiple Dwellings in an eight storey building, depicted in the submitted plans referred to as **Confidential Attachment 10.3.5(a)**. The following information provides a brief summary of the proposed building:

<u>Basement</u>	Storerooms for each of the six dwellings (NOTE - in accordance with the definition contained within the Residential Design Codes 2008, plot ratio does not include non-habitable space that is wholly below natural ground level). The proposed storerooms are wholly below natural ground level.
<u>Ground floor</u>	Residents’ car park containing 12 car parking bays (two bays for each unit) and two visitor parking bays forward of the security gates.
<u>First to sixth floor</u>	One multiple dwelling per level.
<u>Seventh floor (Split-level)</u>	Lower level barbeque and balcony with an upper level communal open space, containing a swimming pool with a pool deck and communal amenities (activities room, TV room, reading room and male / female ablutions).

NOTE - This site has been the subject of at least two previous planning approvals for Six Multiple Dwellings in a nine storey building in October 2004 and again in August 2008. The proposed development is different from the ones previously approved. The applicant's letters referred to as **Attachment 10.3.5(b)** have been provided in support of the proposed development in relation to variations with relevant performance criteria, Design Advisory Consultants' comments, engineering comments etc.

(b) Density coding

The property is assigned a dual density coding of R80/R100 within Town Planning Scheme No. 6. In order to qualify for development at the higher density, it is necessary to satisfy at least four (4) performance criteria from a list of eight (8). The proposal satisfies the following four criteria required for development at the R100 density coding:

- (i) *The site was coded R100 under the No.5 Scheme.*
- (ii) *The site is adjoined on at least two boundaries by a lot or lots which:
(A) have been re-subdivided or redeveloped with; or
(B) are the subject of a current planning approval for;
a greater number of dwellings than previously existed or currently exist on such lots.*
- (v) *At least 80% of the original subdivided lots on the same side of the street as the development site and within the same focus area:
(A) have been re-subdivided for, or redeveloped with, a greater number of dwellings than were originally constructed on those lots; or
(B) are the subject of a current planning approval for a greater number of dwellings than were originally constructed or currently exist on those lots.*
- (vi) *All occupiers' car parking is provided under cover, is situated no closer to any street than any wall of the main building, and is concealed from view from any street.*

(c) Plot ratio

Using the R100 density coding and site area of 645.0 sq. metres, a total of 806.25 sq. metres of plot ratio floor area is allowed. Calculations show the proposed plot ratio floor area is 804.0 sq. metres which complies with the Residential Design Codes.

(e) Setbacks

Town Planning Scheme No. 6 prescribes a 9.0 metre building setback from the Mill Point Road property boundary. The applicant has complied with the front setback requirements as the building is set back 9.0 metres from the street.

Given the size of the lot and the maximum permissible building height limits, it has been difficult for the applicant to achieve compliance with the Acceptable Development requirements prescribed in the Residential Design Codes with respect to side setbacks. The building has been designed with articulation on each of its side elevations. This has been achieved through various indentations. Letters of justification provided by the applicant with respect to the setback variation has been included as **Attachment 10.3.5(b)**. As a result, the applicant has requested the development be assessed against the relevant Performance Criteria contained within Clause 6.3.1 of the Codes. This clause contains the following provisions:

“Buildings set back from boundaries other than street boundaries so as to:

- *provide adequate direct sun and ventilation to the building;*
- *ensure adequate direct sun and ventilation being available to adjoining properties;*
- *provide adequate direct sun to the building and appurtenant open spaces;*
- *assist with the protection of access to direct sun for adjoining properties;*
- *assist in ameliorating the impacts of building bulk on adjoining properties; and*
- *assist in protecting privacy between adjoining properties”.*

With respect to the following setback variations, the applicant is requesting Council to exercise discretion under the Performance Criteria set out in Clause 6.3.1 P1 of the R-Codes and Clause 7.8 of TPS6:

North-east and south-east property boundaries

Along the northern and eastern property boundaries the building has a metal deck roof cover providing part cover to the parking bays on the ground floor, which has a length of 5.8 metres and 25.0 metres respectively, with a proposed height of approximately 2.0 metres along the northern boundary and 1.6 metres along the eastern boundary. On this basis, the Acceptable Development provisions of the R-Codes would require a setback of 1.0 metre along the northern boundary and 1.5 metres along the eastern boundary.

South-east property boundary

Along the south-eastern property boundary the building has a wall length of approximately 23.0 metres. Proposed setbacks range from approximately 2.5 metres to 5.0 metres.

This wall is articulated through the design incorporating indentations. The Acceptable Development provisions of the R-Codes would require a setback which ranges from approximately 5.5 metres minimum to 15.0 metres to the 1st to 6th floors of the building. This elevation primarily overlooks the car parking area of the adjoining property at 154 Mill Point Road. The 7th floor of the building will require a setback of approximately 17.0 metres.

North-western property boundary

Along the north western property boundary, the building has a wall length of approximately 23.0 metres. Proposed setbacks range from approximately 3.5 metres to 8.0 metres. The ground floor to the 2nd floor meets with the Acceptable Development of the R-codes.

This wall is articulated through the design incorporating indentations. The Acceptable Development provisions of the R-Codes would require setbacks which range from approximately 5.0 to 8.0 metres from the 3rd to 6th floor of the building, and approximately 9.0 metres to the 7th floor of the building.

The proponent has provided the following comments in support of their submission:

- The development has an unrestricted northern aspect with direct access to indoor and outdoor living areas, whilst ventilation and air circulation is provided via major openings to the south. Furthermore, the development abuts a car park area on the eastern side and a multiple dwelling development with reasonable side boundary setbacks on the western side. In summary, unrestricted solar access and adequate air circulation and ventilation to the building will be provided.

- The eastern adjacent property is a car park, and therefore access to direct sun to this space not a requirement. The western adjacent property has north / south orientation and sufficient side setbacks which maximises solar access and allows ventilation.
- The development has a strong north / south orientation. The balconies proposed on the northern side of the development have direct access from indoor living areas thereby providing unrestricted access to direct sun for the residents. Furthermore, the proposed communal open spaces are also designed to gain maximum benefit for the northern exposure.
- The proposed development does not impact on the ability of the adjoining existing development from obtaining unrestricted access to the northern sunlight.
- An objective of the development philosophy was to facilitate energy efficient living. This has resulted in indentations of the side walls which clearly ameliorate the impact on building bulk on adjoining properties when compared with a bland, straight, single dimensional wall. The design promotes interesting side elevations, has an element of depth, and disperses the building bulk in a more sensitive and equitable manner.
- Finally, the view of the development is not considered to have a detrimental impact on the amenity and enjoyment of adjoining residential land.

It is noted that side setbacks for the building on the lot immediately to the east have been approved, ranging from approximately 3.9 metres to around 7.5 metres. This lot has a width of 23.5 metres.

A setback of at least 10 metres has been provided between the proposed building and the rear property boundary.

With a lot width of only 15.5 metres, it is not possible to provide setbacks in the vicinity of 10.0 metres from each side boundary. In summary, the setbacks that have been provided are considered reasonable having regard to:

- Lot dimensions - A reasonable proportion of the lot has been maintained as an open-sided setback area while the building is tall and slender (it ranges from around 5.5 metres in width to around 9.0 metres in width).
- The nature of existing development on adjoining properties - The adjoining portion of the lot to the east is developed for the purpose of a car park, while the side walls of the building that has been approved on the lot immediately to the west are essentially blank.

The arguments put forward by the applicant are generally supported by the assessing officer. In light of the proceeding comments, the proposed setbacks are supported.

(f) Building height

The proposed building height is 25.95 metres, measured at 10.21 metres AHD at point of highest natural ground level on the site in accordance with Clause 6.2 of the TPS6. The proposed development complies with the TPS6 prescribed building height limit of 28.0 metres.

(g) Visual privacy

Amended drawings rely upon assessment pursuant to the Performance Criteria with respect to visual privacy along the north-western, north-eastern and south-eastern elevations. To this extent, the following justification is provided for consideration by Council in its determination of the issue. The applicant requests that the issue be assessed under the Performance Criteria of Clause 6.8.1 of the 2008 Residential Design Codes.

The relevant Performance Criteria requires residential development to be designed having regard to the following:

- *“Direct overlooking of active habitable spaces and outdoor living areas of other dwellings is minimised by building layout, location and design of major openings and outdoor active habitable spaces, screening devices and landscape, or remoteness.*
- *Effective location of major openings and outdoor active habitable spaces to avoid overlooking is preferred to the use of screening devices or obscured glass.*
- *Where these are used, they should be integrated with the building design and have minimal impact on residents’ or neighbours’ amenity.*
- *Where opposite windows are offset from the edge of one window to the edge of another, the distance of the offset should be sufficient to limit views into adjacent windows.”*

Visual encroachment – North-western

The applicant has provided amended drawings which generally comply with visual privacy requirements. However, the communal balcony / barbeque along the north-western side is positioned opposite the rear balconies and an area used for outdoor recreational purposes of the adjoining property at No. 152 Mill Point Road. A condition of approval is recommended requiring the applicant to demonstrate compliance with the visual privacy provisions of the R-Codes in relation to the north-western communal balcony / barbeque on the 7th floor, or alternatively to provide screening to the balconies which satisfy the screening requirements of the R-Codes.

Visual encroachment – North-eastern

This variation from the Acceptable Development provisions of the R-Codes is not considered to meet with the Performance Criteria. The proposed balconies on the north-eastern side are positioned directly opposite habitable room windows on the adjoining property at No. 154 Mill Point Road and opposite an area used for outdoor recreational purposes at No. 152 Mill Point Road. A condition of approval is recommended requiring the applicant to demonstrate compliance with the visual privacy provisions of the R-Codes in relation to the north-eastern balconies of all floors, or alternatively to provide screening to the balconies which satisfy the screening requirements of the R-Codes.

Visual encroachment – South-eastern

The balconies along the south-eastern side of the proposed building have been “opened up” to comply with Condition (17) of the 2004 approval, which states:

- (A) *The design of the balconies to the front and rear of the building shall be modified to provide the greatest amount of “openness” possible while still maintaining compliance with the minimum extent of screening necessary to comply with the visual privacy provisions of the Residential Design Codes.*

This requirement was also recommended by the Design Advisory Consultants (DAC) in 2008 (see “DAC comments” section in this report). In summary, the balconies on the south-eastern side are considered reasonable having regard to the following:

- Car parking adjacent to the subject site and there being no overlooking of sensitive areas.
- The overlooking of the car park is considered to be a mutual benefit to be gained as a clear view will exist between the building and the car park, encouraging surveillance, which will aid security.
- In respect to solar access of the dwellings, the opening of the balconies will maximise the morning sun for the family rooms of the dwellings.

The arguments put forward by the applicant are generally supported by the assessing officer. In light of the preceding comments, the visual privacy requirements of the R-Codes for the balconies on the south-eastern side of the dwellings are considered to be met.

(h) Open space including communal open space (Landscaping)

The proposed development complies with overall open space and communal open space requirements. However, in accordance with the requirements of Clause 6.4.5(A5) of the Residential Design Codes, a landscaping plan is required to be submitted for approval by the City prior to issuing a building licence. A condition to this effect is included in the recommendation of this report.

(i) Car parking

Twelve (12) car parking bays for the occupiers of the six dwellings and two visitor car bays (outside the security barrier) have been provided. The parking layout has been generally supported, however car bays 4 to 9 do not meet the required 2.5 metre width in dimension for a length of 0.8 metres, as the supporting pillars (0.8m in length) encroach into the car bays..

It is considered that proposed car bays 4 to 9 will need to comply with the TPS6 and Figure 7 of the Residential Design Policy P350.3 “Car Parking Access, Siting, and Design”, via amended plans. This is recommended as a condition of approval

(j) Solar access for adjoining sites

The proposal complies with the amount of overshadowing allowed by the R-Codes.

(k) Finished ground and floor levels

The proposal complies with the ground and floor levels required by Clause 6.9 “Minimum Ground and Floor Levels” and Clause 6.10 “Maximum Ground and Floor Levels” of TPS6.

(l) Storerooms

The storeroom dimensions and areas provided do not comply with the R-Codes requirements, however the storerooms at the basement level require minor adjustments to achieve compliance with the R-Codes. In accordance with the requirements of Clause 6.10.3(A3.1) of the Residential Design Codes, amended plans will be required to be submitted for approval by the City prior to issuing a building licence. A condition to this effect is included in the recommendation of this report.

(m) Scheme Objectives - Clause 1.6 of Town Planning Scheme No. 6

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

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

The proposal is considered to be satisfactory in relation to all of these objectives.

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

In considering the application, 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 Council, relevant to the proposed development. Of the 24 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (a) the objectives and provisions of this Scheme, including the objectives and provisions of a Precinct Plan and the Metropolitan Region Scheme;*
- (b) the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment which has been granted consent for public submissions to be sought;*
- (c) the provisions of the Residential Design Codes and any other approved Statement of Planning Policy of the Commission prepared under Section 5AA of the Act;*
- (i) the preservation of the amenity of the locality;*
- (j) all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*
- (k) the potential adverse visual impact of exposed plumbing fittings in a conspicuous location on any external face of a building;*
- (l) the height and construction materials of retaining walls on or near lot boundaries, having regard to visual impact and overshadowing of lots adjoining the development site;*
- (m) the need for new or replacement boundary fencing having regard to its appearance and the maintenance of visual privacy upon the occupiers of the development site and adjoining lots;*
- (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;*
- (u) whether adequate provision has been made for access by disabled persons;*
- (v) whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*
- (w) any relevant submissions received on the application, including those received from any authority or committee consulted under Clause 7.4; and*
- (x) any other planning considerations which Council considers relevant.*

The proposal is considered to be satisfactory in relation to all of these matters.

Consultation

(a) Design Advisory Consultants' comments

The proposed amendments to the design and built form of the proposal was considered acceptable by officers, hence the application was not referred again to the City's Design Advisory Consultants for their comments.

However the comments received from the Council's Design Advisory Consultants at the April 2008 meeting, which have since been incorporated into the current design, were as follows:

DAC Comments	Applicant's Response	Officer Response
The architects observed that the adjoining properties have car parking adjacent to the subject site and there may not be any overlooking of sensitive areas. Hence, the screens on the relevant sides of the rear balconies could be eliminated subject to a detailed assessment.	The design has been amended to accommodate this comment.	The comment is NOTED .
Due to the presence of car parking bays, windows could be incorporated into the east-facing bedrooms, which will provide views of Burswood Park and the hills beyond.	The design has been amended to accommodate this comment.	The comment is NOTED .
More information needs to be provided on the survey site plan relating to the building footprints, and ground and floor levels of the adjoining properties.	Further information has been provided in the drawings in relation to this comment.	The comment is NOTED .
The Advisory Architects stated that a plot ratio variation in this particular instance could be supported, noting that the building is quite narrow and when seen from the street will assist in minimising the perceived building bulk.	Due to the amended drawing, the plot ratio now complies	The comment is NOTED .

Design changes in relation to the DAC comments are discussed elsewhere in this report and are generally supported by City officers.

(b) Neighbour consultation

Neighbour consultation has been undertaken for this proposal to the extent and in the manner required by Policy P104 "Neighbour and Community Consultation in Town Planning Processes".

The development site is adjoined by two other properties; No. 152B Mill Point Road and "High-Tor" (No. 154 Mill Point Road) to the east and north. The development proposal was advertised to each of the adjoining property owners because the proposal incorporates a boundary wall to the side of the site. Twenty neighbour consultation letters were sent out.

Submissions were only received from adjoining property owners at 152 Mill Point Road as a result of the advertising. Below is a summary of comments received during the neighbour notification process dated 22 June 10:

Submitters' Comments	Applicant's Response	Officer Response
The proposed height of the building will affect views to the east which encompasses the hills area.	The proposed height of the building is less than the maximum of 28.0 metres which is permitted under TPS6.	In considering the development application, the City will in accordance with Policy P350.9 "Significant Views", having regard to the applicant's normal development entitlements with respect to residential density and building height, which in this application complies. The comment is NOT UPHELD.
Noise generated from the common area on top of the proposed building during normal use, social events and gatherings is a concern.	The Environmental Protection (Noise) Regulations 1997 shall apply to this building; in addition, a clause would be written into the strata management statement that restricts use of the top floor after 10:00pm at night.	The development will have to comply with the relevant Environmental Protection (Noise) Regulations 1997. The comment is NOT UPHELD.
Visual privacy (overlooking) and setbacks of the proposed building to 152 Mill Point Road is a concern due to the proposed height and setbacks proposed.	Opportunities for overlooking of 152 Mill Point Road have been limited through building design; there are no openings on that side of the building which provide an opportunity for overlooking.	Specific Condition (i)(A) is included as part of the officers recommendation to address the issue of visual privacy. The comment is NOTED
Concerns of dust and noise resulting from the demolition and during the construction process.	The builder will be responsible for controlling dust and noise in accordance with all relevant legislative requirements.	The builder will have to comply with the relevant Environmental Health Service Regulations and Building requirements. The comment is NOT UPHELD.

The applicant has provided a street montage, referred to as **Attachment 10.3.5(c)** indicating the existing multiple dwellings alongside the proposed development.

(c) **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. An appropriate condition of approval regarding stormwater drainage has been included in the recommendation to this report.

(d) **Environmental Health**

Comments have also been invited from the Building and Environmental Health areas of the City's administration. Environmental Health Services provided comments with respect to a suitable bin enclosure, sanitary conveniences, Environmental Protection (Noise) Regulations 1997 and noise generally. Advice notes concerning these matters are included in the recommendation of this report.

(d) **Building Services**

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

Policy and Legislative Implications

Comments in relation to various relevant provisions of Town Planning Scheme No. 6, 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 Strategic Direction 3 "Housing and Land Uses" identified within Council's Strategic Plan which is expressed in the following terms:

Accommodate the needs of a diverse and growing population with a planned mix of housing types and non-residential land uses.

Sustainability Implications

This proposed development has balconies facing north which will have access to northern sun, designed while keeping in mind the sustainable design principles in accordance with the R-Codes and Council's Sustainable Design Policy.

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 Six Multiple Dwellings on Lot 67 (No 152B) Mill Point Road **be approved**, subject to:

(a) Standard Conditions

615	Screening - Amended plans required	455	Dividing fence - Standards
616	Screening - Permanent	456	Dividing fence - Timing
377	Screening - Clothes drying	340	Parapet walls - Finish of surface
390	Crossover - Standards	509	Landscaping on private property
393	Verge and kerbing works	550	Plumbing hidden
625	Sightlines for drivers	427	Colours and materials - Details
470	Retaining walls - If required	565	Storerooms
471	Retaining walls - Timing	375	Clothes drying
445	Drainage and subsoil water seepage	357	Driveway - Gradient
351-353	Car parking and vehicle access -Appearance	660	Expiry of approval

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

(b) Specific Conditions

- (i) Revised drawings shall be submitted, and such drawings shall incorporate the following:
 - (A) Demonstrate compliance with the visual privacy provisions of the R-Codes in relation to the north-eastern balconies and the north-western communal balcony / barbeque or alternatively provide screening which satisfies the screening requirements of the R-Codes.
 - (B) The widths of car bays 4, 5, 6, 7, 8, and 9 shall be increased to 2.5 metres in order to comply with the requirements of Schedule 5 of Town Planning Scheme No. 6.
- (ii) The car parking bays shall be allocated to the respective dwellings as shown on the approved drawings.
- (iii) Perforations or openings in any of the visual privacy screening shall not comprise more than 20% of the surface area of the screen.

(c) Standard Important Footnotes

648	Building licence required	646	Landscaping - General standards
647	Revised drawings required	646A	Masonry fence requires BA
642	Strata note - Comply with that Act	649A	Minor variations - Seek approval
645	Landscaping - Plan required	651	Appeal rights - Council

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

(d) **Specific Advice Notes**

(i) The applicant / developer and the owners are to comply with the requirements set out in Council Policy P399 “Final Clearance Requirements for Completed Buildings”. Policy P399 requires the applicant to engage a licensed land surveyor, drawn from the City's panel, to undertake survey measurements on a floor-by-floor basis. The surveyor is to submit progressive reports to the City regarding compliance with the approved building licence documents. The City will not issue final clearance certificates until satisfied that the completed building is consistent with the building licence documents and the requirements of other relevant statutes.

(ii) Engineering Infrastructure

Stormwater drainage is to be designed in accordance with the requirements of Policy P415 “Stormwater Drainage Requirements for Proposed Buildings” and associated Management Practice for the Mill Point Precinct. A drainage design is to be submitted by a hydraulics engineer detailing the system, including on site storage. The ability to store stormwater run off from the design event on site for re-use is encouraged. The stormwater drainage system is to be designed for a 1:10 year Annual Recurrence Interval (ARI). Soak wells should only be used in the design for temporary detention purposes. The private drainage conditions indicate the quantity of water permitted to be discharged to the street system as that volume during the peak storm that would have been discharged had the lot remained in its natural state and without any development.

(iii) Environmental Health

(A) **Bin enclosure** - A suitable bin enclosure(s) will need to be provided.

The location of the refuse enclosure / area is to be to the satisfaction of Council's Co-ordinator, Environmental Health. The refuse receptacle area is to be provided with the following:

- (1) A tap connected to an adequate supply of water.
- (2) Suitably screened from view from the street by a wall / fence that is smooth and impervious and constructed of approved materials not less than 1.5 metres in height.
- (3) An access way of not less than 1.0 metre in width for 240 litre mobile garbage bin or 1.5 metre width for 1,100 litre mobile garbage bin, fitted with a self-closing gate.
- (4) Smooth, impervious floor of not less than 74mm thickness, evenly graded and adequately drained to a minimum 100mm diameter industrial graded floor waste.
- (5) Easy access to allow for the removal of containers.
- (6) Internal bin areas to be sealed from other internal rooms and be provided with mechanical ventilation capable of exhausting not less than 5 litres of air per second per 1.0 square metre of floor area, ducted to the outside air.
- (7) The minimum size of the bin enclosure is to the satisfaction of the City's Co-ordinator, Environmental Health at a general rate of 1.5 sq. metres per 240 litre bin or 2.5 sq. metres per 1,100 litre bin.

- (B) **Sanitary conveniences** - All sanitary conveniences must be constructed in accordance with the Sewerage (Lighting, Ventilation and Construction) Regulations, 1971. In particular Regulation 5, Section 5(b) "Construction Specification of Sanitary Conveniences" and Regulation 12 "Mechanical Ventilation".
- (C) **Environmental Protection (Noise) Regulations 1997** - Construction work on premises shall be carried out between 7:00am and 7:00pm from Monday to Saturday. No construction work is to be conducted at any other time including Sundays or public holidays unless in accordance with Regulation 7, 13 and unless otherwise approved by the City of South Perth Chief Executive Officer and subject to:
- (1) Construction work to be carried out in accordance with AS 2436 – 19981.
 - (2) The equipment used on the premises is the quietest reasonably available.
 - (3) The construction work is carried out in accordance with a noise management plan that:
 - is approved by the City's Chief Executive Officer, and
 - submitted no later than seven days prior to any construction work.
 - (4) Provide written notification to all premises likely to receive noise emissions that fail to comply with prescribed standards under Regulation 7 at least 24 hours prior to the commencement of any construction.
 - (5) That the construction work is reasonably necessary at that time.
- (D) **Noise generally** - All mechanical ventilation services, motors and pumps, eg air conditioners and 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.

10.3.6 Proposed Amendment No. 23 to Town Planning Scheme No. 6 – Child Day Care Centres and Consulting Rooms

Location: City of South Perth
Applicant: Council
File Ref: LP/209/23
Date: 4 August 2010
Author: Michael Willcock, Senior Strategic Planning Officer
Reporting Officer: Vicki Lummer, Director Development and Community Services

Summary

Council is requested to consider a proposal to initiate Scheme Amendment No. 23 (Amendment 23) to the City of South Perth Town Planning Scheme No. 6 (TPS6). The purpose of the amendment is to refine the development requirements in Table 4 of TPS6 that apply to 'Child Day Care Centre' and 'Consulting Room' land uses in the Residential zone. The amendment will introduce Schedule 9 into TPS6 which indicates the roads within the Residential zone on which these land uses may be considered appropriate.

The objective of the proposed Amendment 23 is to relax the provisions pertaining to the locations where a 'Child Day Care Centre' or 'Consulting Room' may be considered appropriate. Under Amendment 23 such land uses could be approved on any roads identified on the 'Functional Road Hierarchy' within the proposed Schedule 9, being all of the City's 'distributor' roads.

Council is requested to initiate the proposed Amendment 23 for the purposes of advertising.

Background

There is an increasing demand for child care services as the trend for parents to work more hours continues. Throughout Perth, child care centres are growing in size to cater for larger catchments. However, in the City of South Perth it is well known that demand significantly exceeds availability of child care placements.

The Western Australian Planning Commission (WAPC) and Department for Communities (DFC) acknowledge that there is an oversupply of child care services in outer suburbs, but not within established inner areas of Perth (WAPC 2009). Such services perform a necessary community function and form a valuable component of community infrastructure.

The pattern of development within the City of South Perth is characterised by interconnected streets that provide residents with ease of mobility throughout the district. This street pattern provides opportunities for non-residential uses to become established along busy roads in small activity corridors and at 'nodes' around important intersections.

It is against this background that City officers consider it appropriate to review the provisions of TPS6 that currently restrict 'Child Day Care Centres' and 'Consulting Rooms' to the specific roads listed in Table 4 of TPS6.

Comment

The Amendment 23 report at **Attachment 10.3.6(a)** discusses the rationale for the proposal. The amendment will modify three areas of TPS6:

- Revised definition of ‘Child Day Care Centre’;
- Modifications to Table 4 “Development Requirements for Non-Residential Uses in the Residential Zone” specifically Column 5 titled “Other Development Requirements”. The principal modification relates to the ‘location’ restrictions. In this respect, the lists nominating specific road names will be removed for both land uses and a new reference to Schedule 9 will be inserted regarding permissible locations for Child Day Care Centres and Consulting Rooms; and
- New map comprising Schedule 9, which identifies ‘distributor roads’ as referenced on the Main Roads WA Functional Road Hierarchy for the Perth metropolitan region. Child Day Care Centres and Consulting Rooms will be permissible on any of these roads, subject to compliance with other site requirements.

(a) Revised definition of ‘Child Day Care Centre’

Since gazettal of TPS6, the *Child Care Services Act 2007* and subsidiary regulations have been promulgated. Additionally, the WAPC, DFC and Department of Environment and Conservation have collaborated and prepared Planning Bulletin 72 Child Care Centres. Due to the changes in legislation and a definition of ‘Child Day Care Centre’ being provided in Planning Bulletin 72, the TPS6 definition should be updated. The proposed definition is:

‘**Child Day Care Centre**’: means premises used for the daily or occasional care of children in accordance with the regulations for child care under the *Child Care Services Act 2007*, but does not include a Family Day Care.

(b) Modifications to Table 4

The City’s TPS6 regulates how the ‘Child Day Care Centre’ and ‘Consulting Rooms’ land uses are assessed having regard to factors such as the scale of the business, car parking, landscaping, compatibility with adjacent land uses and with the streetscape. The Scheme provisions relating to all of these factors are open to the exercise of discretion by the Council when considering each development application. However it is important to note that Table 4 of TPS6 restricts these land uses to lots that abut the designated roads and, owing to restrictions on the extent to which discretion can be exercised under clause 7.8 of TPS6, no discretion is available to Council for proposals that are not on one of the designated roads.

The road lists in Table 4 are to be replaced by a map comprising Schedule 9. The map introduces a wider range of roads on which ‘Child Day Care Centre’ and ‘Consulting Rooms’ could be permitted. The roads to be deleted and comparison to the roads on the Schedule 9 map are listed for information purposes as **Attachment 10.3.6(b)**.

In addition to the 'locational' modifications, it is proposed to insert a new development requirement for 'Child Day Care Centre', being a minimum lot area of 1,000 sq. metres. This is supported in Planning Bulletin 72 which states that "as a general rule sites in a residential area should be of regular shape and greater than 1000 sq. metres". Council has the ability to exercise discretion on a case-by-case basis where sites for proposed proposed Child Day Care Centres do not comply with this minimum lot area.

Through the examination of the development requirements for both land uses, minor word changes have been proposed to ensure consistency. The provisions relating to minimum indoor and outdoor playing space for Child Day Care Centres have also been updated to refer to current legislation and regulations.

(c) New Schedule 9

In Table 4 of TPS6, in relation to the roads on which both land uses would be permissible, there will be a reference to the map comprising the new Schedule 9.

The roads in Schedule 9 have been selected due to their 'distributor road' classification within the Main Roads WA Functional Road Hierarchy classification system. The Road Hierarchy was developed to make roads easier to use, manage and plan for. The roads identified in Schedule 9 all come under the management of the City.

In relation to determination of development applications, referral processes under the Metropolitan Region Scheme will still apply to proposals abutting a 'Primary Regional Road' or 'Other Regional Road' reserve.

Consultation

Community consultation has not yet been undertaken in relation to the proposed Scheme Amendment. Neighbour and community consultation requirements are contained in the *Town Planning Regulations 1967* and in the City's Planning Policy P355 *Consultation for Planning Proposals*. Following Council's endorsement of the draft Scheme Amendment, community consultation will be undertaken as prescribed in Policy P355. 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

The statutory Scheme Amendment process is set out in the *Town Planning Regulations 1967*. The process as it relates to the proposed Amendment No. 23 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 P355	Not applicable
Council resolution to initiate Amendment No. 23 to TPS6	24 August 2010
Council adoption of draft Scheme Amendment No. 23 proposals for advertising purposes	24 August 2010
Referral of draft Amendment proposals to EPA for environmental assessment during a 28 day period, and copy to WAPC for information	Early September 2010
Public advertising period of not less than 42 days	Commencing late September / early October 2010
Council consideration of Report on Submissions	December 2010 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. 23; • Three signed and sealed copies of Amendment No. 23 documents for final approval 	Early January 2011
Minister's final determination of Amendment No. 23 to TPS6 and publication in <i>Government Gazette</i>	Unknown

Public advertising of Amendment 23 will commence upon receiving favourable assessment and advice from the Environmental Protection Authority.

Planning Policy P380 *Family Day Care and Child Day Care Centres* is an existing Council policy that provides further assessment criteria relating to noise attenuation measures, site planning and streetscape impacts. Policy P380 has been examined while preparing the proposed Amendment. The proposed Amendment 23 will not create inconsistencies between the policy and TPS6.

Financial Implications

Some financial costs will be incurred during the course of the statutory Scheme Amendment process. In the case of Scheme Amendments implemented at the request of an external applicant, the applicant is required to pay the Planning Fee, in accordance with the Council's adopted fee schedule. However, in this instance, since the City is the proponent, all costs are borne by the City. These include the cost of notices in newspapers and the *Southern Gazette*, and mailing of notices to neighbouring landowners.

Strategic Implications

This matter relates to Strategic Directions 3 "Housing and Land Uses" identified within the Council's Strategic Plan 2010-2015 which is expressed in the following terms: *Accommodate the needs of a diverse and growing population with a planned mix of housing types and non-residential land uses.*

Sustainability Implications

The proposed Amendment 23 provides an opportunity for more effective use of land along distributor roads. The amendment will increase the number of roads within the district where development proposals for 'Child Day Care Centre' and 'Consulting Room' land uses can be considered.

The relaxation of the TPS6 provisions in terms of expanding the number of permissible roads for such land uses will facilitate a broader mix of appropriate land uses along distributor roads within the Residential zone.

Conclusion

To a moderate extent, the proposed Amendment will relax the Scheme Text provisions for 'Child Day Care Centre' and 'Consulting Rooms' within the Residential zone, particularly in relation to the permissible location of these land uses. Further, the Amendment deletes references to repealed legislation and inserts references to current legislation.

It is requested that Council initiate the statutory Scheme Amendment process for the proposed Scheme Amendment 23 to enable the Amendment to be advertised to the public.

OFFICER RECOMMENDATION ITEM 10.3.6

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 10.3.6(a)**;
- (b) the Report on the Amendment containing the draft Amendment No. 23 to the City of South Perth Town Planning Scheme No. 6 at **Attachment 10.3.6(a)**, be adopted.
- (c) in accordance with section 81 of the *Planning and Development Act 2005*, Amendment No. 23 be forwarded to the Environmental Protection Authority for assessment under the *Environmental Protection Act 1986*;
- (d) Amendment No. 23 be forwarded to the Western Australian Planning Commission for information;
- (e) upon receiving clearance from the Environmental Protection Authority, advertising of Amendment 23 be implemented in accordance with the *Town Planning Regulations* and Council Policy P355 *Consultation for Planning Proposals*; and
- (f) the following footnote shall be included by way of explanation on any notice circulated concerning this Amendment No. 23:

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.

10.3.7 Proposed Amendment No. 24 to Town Planning Scheme No. 6: Additional Use ‘Office’. Lot 5 (No. 52) Manning Road, Como.

Location: Lot 5 (No. 52) Manning Road, Como.
 Applicant: Whelans Town Planning Consultants for the property owner, Mr J Winspear
 File Ref: LP/209/24
 Date: 2 August 2010
 Author: Rod Bercov, Strategic Urban Planning Adviser
 Reporting Officer: Vicki Lummer, Director, Development & Community Services

Summary

This report relates to an application for Council to initiate Amendment No. 24 to Town Planning Scheme No. 6 (TPS6) in order to include ‘Office’ as an Additional Use for Lot 5 (No.52) Manning Road, Como. The existing Residential R20/30 zoning and coding would remain unchanged. The recommendation is that the Council adopt the necessary formal resolution to initiate the Scheme Amendment process.

Background

The Amendment site details are as follows:

Current zoning	Residential (Current zoning will not change)
Current density coding	R20/30 (Current coding will not change)
Lot area	914 sq. m.
Building Height Limit	7.0 metres
Existing Development	Single House
Development potential	1 Single House <u>Note:</u> R20 coding prevails. It is not possible to meet the required minimum of 8 Performance Criteria in order to qualify for R30 density development.

This report includes the following attachments:

Attachment 10.3.7(a): Letter from Whelans, Town Planning Consultants acting for the property owner. This letter presents the rationale in support of the requested Scheme Amendment.

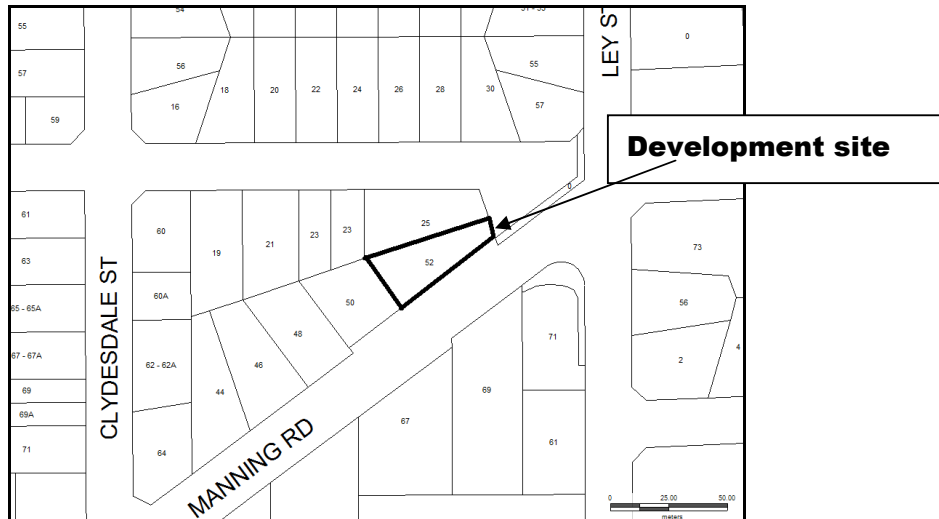
Attachment 10.3.7(b): Initial resolution to commence the Scheme Amendment process.

The Amendment site is situated on the north side of Manning Road immediately to the west of the Ley Street intersection. The cul-de-sac end of Wooltana Street is in close proximity to the subject property. The adjoining property to the north, with frontage to Wooltana Street is a vacant residential lot, suitable for two dwellings. The property at No. 50 Manning Road immediately to the west, is occupied by two Grouped Dwellings. The balance of the street block bounded by Manning Road, Clydesdale Street and Wooltana Street is occupied by a combination of Single Houses and Grouped Dwellings. The Manning Road properties are coded R20/30 while the Wooltana Street properties are coded R20.

Two lots on the south side of Manning Road opposite the subject lot are zoned Highway Commercial and are occupied by shops and other commercial land uses. On the east side of Ley Street are the vacant former Telstra site, a petrol station and music store.

The applicant’s letter at **Attachment 10.3.7(a)** describes the surrounding land uses in more detail.

The location of the subject site is shown below:



The proposal is for an amendment to TPS6 to include 'Office' as an Additional Use for Lot 5 (No.52) Manning Road, Como.

Comment

City officers support the rationale for the proposed Scheme Amendment as presented in the applicant's letter at **Attachment 10.3.7(a)**. It is considered that the subject lot is suitable for office use having regard to the following:

- close proximity to the cluster of existing commercial development at the intersection of Manning Road and Ley Street.
- the proposed use will be a suitable transition from commercial development to residential development (subject to appropriate plot ratio constraint).
- Scheme Amendment provisions will ensure that residential character is maintained.

The development requirements pertaining to the Additional Use (Office) will be inserted into the existing Schedule 2 of TPS6. To ensure that any redevelopment of the site for office purposes is compatible with the neighbouring residential land use, the permissible floor area needs to be constrained by way of plot ratio control. The prescribed plot ratio should allow the floor area of any office development to be slightly greater than the floor area of the existing house. The recommendation in this report has been framed accordingly.

If Council agrees to initiate the Scheme Amendment process, the planning consultant engaged by the landowner will be asked to prepare the formal Scheme Amendment text, report and related documents for submission to the Western Australian Planning Commission and the Minister.

(a) 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;*

(b) 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 proposed Scheme Amendment will have an effect on any future application for change of use of the existing dwelling, or for redevelopment of the site for office use. 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) City’s Engineering Infrastructure Department

The City’s Manager Engineering Infrastructure has been consulted with respect to vehicle traffic movement to and from the subject site off Manning Road.. Having regard to the proposed restriction to “Left In, Left Out” movements, with the right turning movements prevented by the existing raised median strip, it is considered that traffic movements generated by the proposed office will be manageable without disruption to “through” traffic.

(b) Neighbour and community consultation

Community consultation has not yet been undertaken in relation to the proposed Scheme Amendment. Neighbour and community consultation requirements are contained in the Town Planning Regulations and in the City’s Policy P355 “Consultation for Planning Proposals”. Following Council’s endorsement of the draft Scheme Amendment, community consultation will be undertaken as prescribed in Policy P355. 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, Amendment No. 24 will have the effect of modifying the Scheme Maps of the City’s operative Town Planning Scheme No. 6. While the zoning and density coding of the subject lot will remain unchanged, the letter “A” signifying the existence of an “Additional Use” will be applied to the Scheme Map.

The statutory Scheme Amendment process is set out in the *Town Planning Regulations*. The process as it relates to the proposed Amendment No. 24 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 P355	Not applicable
Council resolution to initiate Amendment No. 22 to TPS6	24 August 2010
Council adoption of draft Scheme Amendment No. 22 proposals for advertising purposes	28 September 2010
Referral of draft Amendment proposals to EPA for environmental assessment during a 28 day period, and copy to WAPC for information	End of September 2010
Public and Water Corporation advertising period of not less than 42 days	Commencing end of October 2010
Council consideration of Report on Submissions - Report on Submissions and related recommendations prepared by independent consultant as required by Council Policy P306	February 2011 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. 22; • Three signed and sealed copies of Amendment No. 22 documents for final approval 	Early March 2011
Minister’s final determination of Amendment No. 22 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 and other associated costs. The applicant will be invoiced following the Council's initial resolution deciding to amend the Scheme. An estimated fee of \$8,000 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 Strategic Directions 3 "Housing and Land Uses" identified within the Council's Strategic Plan which is expressed in the following terms:

Accommodate the needs of a diverse and growing population with a planned mix of housing types and non-residential land uses.

Sustainability Implications

Currently, there is an unfavourable ratio of employment to population within the City of South Perth. The Scheme Amendment will make a small contribution towards increasing employment opportunities in the City. To this extent, the proposed Scheme Amendment will have positive sustainability implications.

Conclusion

If Amendment No. 24 is ultimately approved by the Minister, it will make a positive sustainability contribution without adverse amenity impact on the neighbouring locality. This is a small scale proposal which is worthy of support for the reasons outlined above.

Following Council's resolution to initiate the Scheme Amendment process, the applicant's consultant will prepare the formal Scheme Amendment documents to be forwarded to the Western Australian Planning Commission and the Minister for final determination.

OFFICER RECOMMENDATION ITEM 10.3.7

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 10.3.7(b)**;
- (b) the applicant be invited to engage in discussions with the City's Strategic Planning Officers and then to submit the formal Scheme Amendment documents for adoption by Council prior to commencement of the advertising procedures.
- (c) following Council's adoption of the draft Scheme Amendment and subsequent receipt of clearance from the Environmental Protection Authority, community advertising of Amendment No. 24 be implemented in accordance with the Town Planning Regulations and Council Policy P355; and
- (d) the following footnote shall be included by way of explanation on any notice circulated concerning this Amendment No. 24:

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.

10.3.8 Proposed Family Day Care within a Single Storey Grouped Dwelling - Lot 30 (No. 46) Conochie Crescent, Manning

Location: Lot 30 (No. 46) Conochie Crescent, Manning
 Applicant: Hindi Gani Ismail
 Lodgement Date: 14 May 2010
 File Ref: 11.2010.255 CO5/46
 Date: 2 August 2010
 Author: Adrian Ortega, Statutory Planning Officer
 Reporting Officer: Vicki Lummer, Director Development and Community Services

Summary

To consider an application for planning approval for a Family Day Care on Lot 30 (No. 46) Conochie Crescent, Manning. The proposal does not conflict with the City’s Scheme, the 2008 R-Codes and City policies.

Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Family Day Care	TPS6 Table 4

It is recommended that the proposal be approved subject to a number of standard and specific conditions.

Background

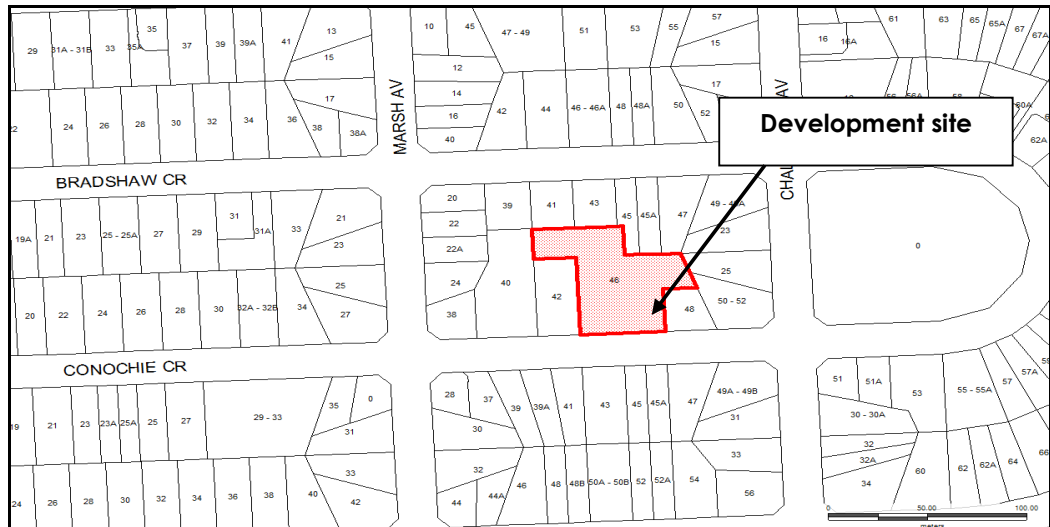
The development site details are as follows:

Zoning	Residential
Density coding	R20
Lot area	3,167 sq. metres (Eff. 361.0 sq. metres)
Building height limit	7.0 metres
Development potential	7 Dwellings

This report includes the following attachments:

Confidential Attachment 10.3.8(a) Plans of the proposal.
Attachment 10.3.8(b) Applicant and owner’s letters dated 13 May and 18 March 2010 respectively.

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

- (g) *Non-residential “DC” uses within the residential zone.*

Comment

(a) Description of the proposal

This application pertains to the additional land use of “Family Day Care” to a Grouped Dwelling, at Lot 30 (No.46) Conochie Crescent, Manning. (the site), depicted in the submitted plans at **Confidential Attachment 10.3.8(a)**.

(b) Land use

The proposed land use of Family Day Care is classified as a “DC” (Discretionary with Consultation) land use in a residential zone, under Table 1 (Zoning - Land Use) of TPS6.

A “DC” land use is defined by TPS6 as:

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

As part of the consultation process, neighbours have been notified of the proposed use and further comments are provided in the “Consultation” section of this report.

It is proposed that the Family Day Care will be staffed only by the applicant, who intends to care for no more than three children at any one time.

The applicant indicates that the proposed Family Day Care will operate during the hours; Monday to Friday - 7:00am to 4:00pm.

In view of all the information provided, referred to in **Attachment 10.3.8(b)**, it is considered that the proposed use complies with all of the requirements of Town Planning Scheme No.6 and relevant Council policies, and that this is therefore an appropriate use for the site.

(c) **External playing space**

TPS6 requires that a minimum of 40.0 sq. metres external playing space be provided, with a minimum dimension of 6.0 metres. In this instance, 86.0 sq. metres has been provided by the applicant. The playing area has been fenced so as to minimise noise penetration on neighbouring dwellings, in accordance with the City's Policy P380 "Family Day Care and Child Day Care Centres".

(d) **Internal playing space**

The City's Policy P380 requires that the applicant demonstrate that the internal layout of a Family Day Care is arranged to minimise noise penetration on neighbouring dwellings. The location of the proposed area that will be used for Family Day Care is located to the south-west corner of the dwelling. The subject dwelling is set back significantly from the south and the neighbouring dwelling on the west side is set back considerably from the boundary. Therefore it can be said that the proposal complies with Policy P380.

(e) **Landscaping**

TPS6 prescribes a minimum 40% of the site to be landscaped. Given the requirement of 50% open space for this property; it is considered that this proposal complies with this requirement.

(f) **Increased traffic**

The proposed use will generate a maximum of six vehicle trips per day (setting down in the morning and picking up in the evening). This is observed to have a negligible impact on the flow of the traffic in the local neighbourhood or upon the condition of the roads. The impact of the traffic should be no different to what currently exists around the neighbourhood due to its location near shops.

(g) **Parking**

TPS6 does not prescribe any extra car parking to be provided other than the normal residential requirement, which in this case is remaining unchanged.

(h) **Scheme Objectives - Clause 1.6 of No. 6 Town Planning Scheme**

The proposal has also been assessed under, and has been found to broadly 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;

Objective (g) Protect residential areas from the encroachment of inappropriate uses; and

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

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

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

- (f) *any planning policy, strategy or plan adopted by Council under the provisions of Clause 9.6 of this Scheme;*
- (i) *the preservation of the amenity of the locality;*
- (p) *any social issues that have an effect on the amenity of the locality; and*
- (x) *any other planning considerations which Council considers relevant.*

(j) **Conclusion**

The proposal meets the objectives of the Scheme. The matters relating to amenity have been adequately addressed in the development application. It is therefore recommended that the application be conditionally approved.

Consultation

(a) **Neighbour consultation**

Area 1 neighbour consultation has been undertaken for this proposal to the extent and in the manner required by Policy P355 “Neighbour and Community Consultation in Town Planning Processes”. The owners and occupiers of 27 surrounding properties were invited to inspect the application and to submit comments during a 14-day period. During this consultation period, no written comments were received.

(b) **Other City departments**

Comments have also been invited from the Environmental Health area of the City’s administration. The Environmental Health Services’ comments with respect to noise have been covered under the Specific Advice Notes.

Policy and Legislative Implications

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

Financial Implications

The determination has no financial implications.

Strategic Implications

This matter relates to Strategic Direction 1.3 “Community” identified within Council’s Strategic Plan which is expressed in the following terms:

Encourage the community to increase their social and economic activity in the local community.

Sustainability Implications

It is considered that this proposal satisfactorily contributes to the City’s sustainability by meeting the objectives of social sustainability while maximising the health, safety and comfort of the occupants of the building and wider community.

Conclusion

The proposal meets all of the relevant Scheme and R-Codes objectives and provisions. Provided that all conditions are applied as recommended, it is considered that the application should be conditionally approved.

OFFICER RECOMMENDATION ITEM 10.3.8

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 the land use of Family Day Care on Lot 30 (No. 7/46) Conochie Crescent, Manning **be approved**, subject to:

(a) Standard Conditions

661 Validity of the approval

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

(b) Specific Conditions:

- (i) Family Day Care be limited to three children and any additional children will be subject to an amendment to the original planning approval.
- (ii) The hours of operation are limited to Monday to Friday - 7:00am to 4:00pm.

(c) Standard Advice Notes

651 Appeal rights – SAT

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

(d) Specific Advice Notes

The applicant is advised to comply with Environmental Health Services requirements including the following:

- (i) any activities conducted will need to comply with any relevant requirements of the *Community Services (Child Care) Regulations 1988* and *Community Services (Outside School Hours Care) Regulations 2000* at all times;
- (ii) any activities conducted will need to comply with the *Environmental Protection (Noise) Regulations 1997* at all times;
- (iii) all fans and pumps comply with the *Environmental Protection Act 1986* and *Environmental Protection (Noise) Regulations 1997*, in regards to potential noise pollution; and
- (iv) consideration needs to be given to the design of all internal and external play areas to ensure that compliance with the *Environmental Protection (Noise) Regulations 1997* in relation to surrounding properties.

10.4 STRATEGIC DIRECTION 4: PLACES

10.4.1 South Perth Station Precinct Study Final Report July 2010

Location: City of South Perth
Applicant: Council
File Ref: TT/306/2
Date: 2 August 2010
Author and Reporting Officer: Vicki Lummer, Director Development & Community Services

Summary

The South Perth Station Precinct Study Final Report July 2010 and the Background Report dated May 2010 are the culmination of nearly 2 years work by consultants in conjunction with the City and the Department of Planning. The study and report develops a framework for the redevelopment of the precinct within approximately 800m from the proposed South Perth Station site.

The study has included an examination of the current characteristics of the precinct in terms of heritage, streetscapes, and demographics. The study has been informed by stakeholder engagement with government agencies, landowners and members of the public.

The final report recommends:

- mandatory non residential landuses on the ground floor;
- heights up to 12 storeys with ability for higher development subject to performance criteria;
- podium style development with development up to the boundaries on lower levels and setback further on upper levels to ensure view corridors and access to sunlight; and
- strengthening pedestrian movements around the precinct by the provision of high quality pedestrian environments.

The station design and feasibility study whilst discussed in this study are the subject of a separate study to be completed shortly by the same consultants.

The Background Report provides a review of previous studies, traffic analysis and station design concepts, in addition to an appendix report on the consultation that has been undertaken.

The final report at **Attachment 10.4.1** recommends implementation through amendments to the Town Planning Scheme.

This report to Council is seeking Council's endorsement of the Consultant's Final Report and agreement to move forward to the implementation phase through engagement of consultants to develop and process scheme amendments for this precinct.

Background

There have been a number of studies undertaken prior to the South Perth Station Precinct Study. The most notable and recent of these is the Community Engagement Report that was prepared for the City of South Perth in 2007 by Estill & Associates. The Estill report summarises the process and outcomes of the community engagement stage of the City of South Perth Strategy Plans for the Canning Bridge and South Perth Train Station Precincts. The community engagement sought to involve the South Perth community in determining the future direction of the precinct by gaining an appreciation of their vision for the precinct. For this study the South Perth Train Station precinct was defined as the area within the Mill Street precinct and the station was proposed to be located within the Kwinana Freeway reserve, in the area between Richardson Street and Bowman Street.

The community engagement process involved stakeholder interviews, meetings with government agencies, focus groups of residents, community forum (8/07/2006) and a community survey.

The 2007 Community Engagement Report concluded that there are concerns in regards to parking and traffic volumes but support for increased density in the area and a mix of uses in the immediate vicinity of the station. Mends Street should be the focal point of the precinct and Richardson Park should not be compromised.

The consultants for the current study were engaged in 2008. A brief chronological overview of the history of this study is provided in the table below:

DATE	ACTION OR EVENT
September 2008	Inception Meeting
September 2008	CoSP Concept Forum Briefing No.1
December 2008	Infrastructure Agencies workshop
2 & 3 February 2009	Landowner's Workshops
March 2009	Project Management Group (PMG) meeting
11 March 2009	CoSP Concept Forum Briefing No.2
6 April 2009	Public/Community Forum
28 July 2009	PMG meeting
July 2009	First Draft of Final Report received
16 February 2010	Comments back to consultant at PMG meeting
March 2010	Second Draft of Final Report received
30 March 2010	PMG meeting
April 2010	Comments back to Consultant
June 2010	Third Draft of Final Report received
28 June 2010 and 8 July 2010	PMG meetings
26 July 2010	CoSP Concept Forum Briefing No.3

This report includes the following attachment:

- **Attachment 10.4.1.** - South Perth Station Precinct Plan Final Report July 2010

The South Perth Station Precinct Background Report May 2010 is located in the Councillor's Lounge rather than attached to this report as it is approximately 150 pages long.

Comment

(a) **Precinct Plan Vision and Objectives**

The vision for the precinct as described in the report is :

“ A vibrant attractive business location featuring a rich choice of employment , public transport options, pedestrian friendly tree-lined streets and also including reminders of South Perth’s heritage.”

It is important to realise that the focus of the precinct is not on increasing residential density, although it is believed this will occur, but rather to increase the employment base of the precinct. This is required as the proposed South Perth Station is to be a “destination” station – that is a station where people go to rather than come from. Land use planning for this precinct must focus on optimising rail patronage through the provision of commercial floor space.

Development within the South Perth Station precinct should reflect the following key objectives of the Precinct Plan:

- Create a destination for transit by encouraging office and business development and additional visitor attractions.
- Provide a significant increase in the potential for development in the Precinct.
- Establish origin and destination land uses that maximise the benefit of the rail service, including a strong presence of offices and business/commercial service with supporting residential uses intermixed.
- Create lively street frontages and a dynamic public realm by locating shops, restaurants and other non-residential uses at ground floor levels.
- Extension of public transport network through the provision of the proposed South Perth Train Station.
- Encourage walking as the primary means of travel through the precinct by improving pedestrian amenity within the public street network.

The development controls contained in the final report, tables one and two, are designed to achieve the objectives listed above and the other objectives contained in the final report.

(b) Access and Parking

The location of the South Perth Station and the precinct in general is relatively well serviced by all modes of transport. The precinct is well served by public transport with bus services along Labouchere Road, Mill Point Road and Angelo Street. The ferry service operates from Mends Street jetty to Barrack Street jetty.

Actions proposed in the final report aim to reduce the existing dominance of the private motor vehicle. These include reduction of the speed limits within the precinct, improved road crossings, upgraded intersections and better street lighting, paving and street trees to encourage pedestrian use.

It is not intended that there be park and ride facilities associated with the South Perth Station. The Final Report recommends the implementation of the parking strategy which resulted from the studies that were conducted by Uloth and Associates in 2008 (the strategy was adopted at the Ordinary Council Meeting of 24 February 2009). The strategy will regulate the volume of public parking which in turn will assist in managing the number of private vehicles travelling to the precinct.

(c) Development Controls

Parts 3 and 4 of the Final Report, describe the guidelines and development controls that are recommended for the precinct.

The desired land use is non residential and this is reflected in the requirement for all ground floor development to be non residential and for the minimum plot ratio of 1 for non residential development. Significant office uses will be encouraged. Ground floors will have active street frontages and an enhanced public domain. Cafes, daily needs retail and residential uses will also be permitted.

Heights and development requirements are described in Table 1, Table 2 and the Height Plan at figure 12.

Permissible heights will range from 3 storeys around heritage buildings to 12 storeys along Melville Parade and Mill Point Road. Subject to meeting additional performance criteria set out in table 2, many of the sites in the precinct, those along what are termed “Special Design Areas” will be able to exceed the permissible height with no limit imposed. The Special Design Areas are located along the major routes in the precinct. The performance criteria in table 2 are designed to ensure that the development provides additional community benefit and does not adversely impact on the amenity of the precinct.

Buildings will be “podium” style with lower levels allowed to be built to the boundary to form a continuous street wall, and upper levels setback to allow view corridors and sunlight between buildings.

Buildings will comply with the 5 star green rating and the City’s sustainable design policy.

The parking requirements for development are reduced from the current scheme provisions because this is an urban area with excellent public bus service, planned rail station, within a highly walkable catchment. Developers will be able to provide more than the minimum number of carbays if they wish, however once the station is operating the minimum requirements may be altered to maximum requirements.

The development controls will be further refined during the formulation of the scheme amendments that are required in order to proceed with the implementation of the plan.

(d) Implementation

The implementation of the principles, development potential and infrastructure improvements will require the involvement of a number of different agencies as detailed in the Action Summary in the final report.

From the City’s point of view the following steps are necessary:

1. Engagement of Consultants to undertake the scheme amendment work. The Scheme Amendment will:
 - Add scheme provisions for the imposition of developer contributions
 - Add scheme provisions to include “Special Control” areas and dedicate the station precinct as a special control area
 - Finalise the development requirements for the “special control area”
2. Preparation of Landscape and Streetscape Strategy
3. Preparation of Development Contributions Plan
4. Traffic Planning Study
5. Finalise the Business Case for the Station

Consultation

Appendix A of South Perth Station Precinct Background Report May 2010 details the consultation that has been undertaken by the consultants and the City during the course of this study. In summary:

- Infrastructure Agencies Workshop with agencies involved in the delivery of infrastructure and the DA process.
- Community Forum Workshop – Landowners, community groups and government agencies
- Public Forum Workshop – landowners, community groups and members of the public in the study area.
- Meetings with Swan River Trust, Main Roads WA, SP Cricket Club, Royal Perth Golf Club, SP Lawn Bowls Club, Wesley SP Hockey Club.

The responses and feedback from the consultation is contained in the South Perth Station Precinct Background Report May 2010.

Policy and Legislative Implications

The adoption of the South Perth Station Precinct Plan Report alone has no statutory or legislative implications as it is a guidance document only. However the document sets the Council's broad vision for the future of this precinct.

Financial Implications

The "Civic Triangle" land which is owned by the City is within this precinct and its redevelopment relies on the adoption and implementation of the Final Report. The funds realised through the redevelopment of the "Civic Triangle" land are instrumental in the delivery of the forward financial plan, which was presented during the recent budget workshops. The delivery of a number of other projects in the City is dependant upon these funds.

Funds for the engagement of Consultants for the preparation of the required Town Planning Scheme Amendments are already included on the 2010/2011 Budget.

Strategic Implications

This matter relates to the following Strategic Directions:

- 1.3 "Community" *"Encourage the community to increase their social and economic activity in the local community"*
- 3.3 "Housing and Land Uses" *"Develop integrated local land use planning strategies to inform precinct plans, infrastructure, transport and service delivery"*
- 4.4 "Places": *"Facilitate optimal development of the Civic Triangle precinct."*
- 5.1 "Transport" *"Improve access and use of railway station precincts and surrounding landuses"*

Sustainability Implications

The Final Report recommends that all new buildings comply with the 5 star green rating and the City's sustainable design policy. Town Planning Scheme No.6 currently recommends finished ground and floor levels, however this can be reviewed in formulating the scheme amendments to ensure the latest information in regard to sea level rises is taken into consideration.

Intensification of development around the station, utilisation of public transport and the discouragement of the use of private vehicles all go towards ensuring that development in the City is sustainable for the long term.

OFFICER RECOMMENDATION ITEM 10.4.1

That....

- (a) Council endorse the South Perth Station Precinct Plan Final Report July 2010 as the guide for future implementation of the redevelopment of the precinct; and
- (b) Consultants are engaged to develop and progress the Town Planning Scheme Amendments required to facilitate the implementation of the South Perth Station Precinct Plan Final Report.

10.5 STRATEGIC DIRECTION 5: TRANSPORT

10.5.1 Annual Tender 6/2010 - Supply of Sweeping Services to Car Parks, Precincts, Special Commercial Zones and Unscheduled Sweeping

Location: City of South Perth
 Applicant: Council
 File Ref: 6/2010
 Date: 3 August 2010
 Author: Fraser James, Tenders and Contracts Officer
 Reporting Officer: Stephen Bell, Director Infrastructure Services

Summary

This report considers submissions received from the advertising of Tender 6/2010 for the ‘Supply of Sweeping Services to Car Parks, Precincts, Special Commercial Zones and Unscheduled Sweeping’.

This report will outline the assessment process used to evaluate the tenders received and recommend acceptance of the tender that provides the best value for money and level of service to the City.

Background

A Request for Tenders was recently called for the ‘Supply of Sweeping Services to Car Parks, Precincts, Special Commercial Zones and Unscheduled Sweeping’. Tender 6/2010 was advertised in the West Australian on Saturday 5 June 2010.

At the close of the Tender advertising period two (2) submissions from registered companies had been received which are tabled below. An Alternative Tender was submitted by CleanSweep, however this Tender was not considered as it was non-conforming.

Tenderer	Estimated Tender Price (GST Exclusive)
CleanSweep	\$261,109
Sweepcare	\$272,145

The supply of sweeping services to car parks, precincts, special commercial zones and unscheduled sweeping is essential to facilitate completion of the 2010/2011 maintenance program. This tender forms part of the City’s annual supply tenders and is for a period of supply of about 2 years, expiring on 30 June 2012. Subject to satisfactory performance, there is scope to renew the Contract for a further 12 months to 30 June 2013.

With regard to the current level of service, the following sweeping program is delivered annually:

- Ward Sweeps - Minimum 4 times per year;
- Precinct Sweeps - Daily at Mends Street, Angelo Street and Preston Street;
- Car Parks - Minimum 2 times per year;
- Special Commercial Zones - Weekly;
- Unscheduled Sweeps - As required i.e. following storm events.

Comment

Tenders were invited as a Schedule of Rates contract based on a series of fixed work schedules. The work schedules do not include the district (ward) sweep as this is undertaken each quarter by the Town of Victoria Park under a negotiated Memorandum of Understanding. The Town of Victoria Park does not have the capacity to undertake the additional sweeping program listed in Tender 6/2010.

The Tenders were reviewed by an evaluation panel that comprised a number of City Officers and assessed according to the qualitative criteria outlined in the Request for Tender. For ease however, the qualitative criteria is noted at Table A below.

TABLE A - Qualitative Criteria

Qualitative Criteria	Weighting %
1. Demonstrated ability to perform the service on time	20%
2. Referees	10%
3. Standard of sweeping	10%
4. Price	60%
Total	100%

The weighted score and estimated price of each tender received is noted at Table B below.

TABLE B - Weighted Score and Estimated Tender Price

Tenderer	Estimated Tender Price (GST Exclusive)	Weighted Score
CleanSweep	\$261,109	9.55
Sweepcare	\$272,145	9.3

The conforming tender submitted by CleanSweep contains all of the completed schedules and satisfies in all respects the qualitative and quantitative criteria listed in the Request for Tender.

The tender by CleanSweep was the lowest of all tenders received and recorded the highest score of 9.55 in the evaluation matrix. The recommended Tenderer has undertaken similar work for the Shire of Kwinana, Shire of Swan, City of Joondalup, City of Bayswater, City of Wanneroo, Town of Claremont, City of Perth and all of these local governments are very happy with the current level of service and quality of work undertaken by CleanSweep.

Based on the assessment of all tenders received for Tender 6/2010, this report recommends to the Council that the tender from CleanSweep be accepted for the period of supply up to 30 June 2012 in accordance with the tendered Schedule of Rates and Estimated Tender Price (GST Exclusive) as noted in Table B. Subject to satisfactory performance over the two year period of supply, there is scope to renew the Contract for a further 12 months to 30 June 2013.

Consultation

Tender 6/2010 for the supply of sweeping services to car parks, precincts, special commercial zones and unscheduled sweeping was advertised in the West Australian on Saturday 5 June 2010. In total two (2) conforming tenders and one (1) alternative tender was received.

Policy and Legislative Implications

Section 3.57 of the *Local Government Act* (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 following Council Policies also apply:

- Policy P605 - *Purchasing and Invoice Approval*
- Policy P607 - *Tenders and Expressions of Interest*

The Chief Executive Officer has delegated authority to accept annual tenders where the value is less than \$200,000 (GST Inclusive).

Financial Implications

The full cost of the works is reflected in the 2010/2011 capital works and maintenance budgets and will be taken into account during formulation of the 2011/2012 annual budget.

Strategic Implications

The provision of high quality and cost effective services underpins the City's Strategic Plan 2010-2015. By seeking tenders externally so as to engage a Contractor to deliver the annual street sweeping program, this enables Strategic Plan objectives detailed at Goal 1 Community - Strategy 1.1, Goal 2 Environment - Strategy 2.2, Goal 5 Transport - Strategy 5.2, and Goal 6 - Strategy 6.4 to be realised.

Sustainability Implications

This tender will ensure that the City is provided with the best available service to complete the works identified in the 2010/2011 and 2011/2012 annual budgets. By seeking the services externally the City is able to utilise best practice opportunities in the market and maximise the funds available to provide sound and sustainable maintenance of the City's road, carpark and foot path assets.

The service will strengthen the City's Infrastructure Services directorate by ensuring that it has access to a wide range of quality sweeping services at highly competitive rates.

OFFICER RECOMMENDATION ITEM 10.5.1

That....

- (a) Council accepts the Tender submitted by CleanSweep for the *Supply of Sweeping Services to Car Parks, Precincts, Special Commercial Zones and Unscheduled Sweeping* in accordance with Tender Number 6/2010 for the period of supply up to 30 June 2012; and
- (b) subject to satisfactory performance over the two year period of supply, there is an option to extend the Contract by a further 12 months up to 30 June 2013.

10.5.2 Annual Tender 5/2010 - Supply the Services of Plant with Skilled Operator to carry out Minor Works

Location: City of South Perth
 Applicant: Council
 File Ref: Tender 5/2010
 Date: 6 August 2010
 Author: Fraser James, Tenders and Contracts Officer
 Reporting Officer: Stephen Bell, Director Infrastructure Services

Summary

This report considers submissions received from the advertising of Tender 5/2010 to ‘Supply the Services of Plant with Skilled Operator to Carry Out Minor Works’.

This report will outline the assessment process used to evaluate the tenders received and recommend acceptance of the tender that provides the best value for money and level of service to the City.

Background

A Request for Tender was recently called to ‘Supply the Services of Plant with Skilled Operator to Carry Out Minor Works’. Tender 5/2010 was advertised in the West Australian on Saturday 5 June 2010.

At the close of the Tender advertising period two (2) submissions from registered companies had been received. The two compliant tenders are tabled below:

Tenderer	Estimated Tender Price (GST Exclusive)
MMM	\$407,125
Miniquip	\$416,965

The supply of Plant with Skilled Operator to carry out minor works is essential to facilitate the completion of the 2010/2011 capital works and maintenance program. This tender forms part of the City’s annual supply tenders and is for a period of supply of about two (2) years, expiring on 30 June 2012. Subject to satisfactory performance, there is scope to renew the Contract for a further twelve (12) months to 30 June 2013.

Finally, the Contract pricing is fixed for the first twelve (12) months period of supply, thereafter subject to “Rise and Fall” but not exceeding the changes in CPI (for Perth) as published by the Australian Bureau of statistics .

Comment

Tenders were invited as a Schedule of Rates contract. The estimated tender price has been based on a notional quantity of 5,000 hours of plant and operator usage required during the 2010/2011 and 2011/2012 financial years (the usage hours is an estimate only and the City does not guarantee that the number of hours will be required in any given financial year).

The Tenders were reviewed by an evaluation panel and assessed according to the qualitative criteria outlined in the Request for Tender. For ease however, the qualitative criteria is noted in Table A below.

TABLE A - Qualitative Criteria

Qualitative Criteria	Weighting %
1. Demonstrated ability to perform the tasks as set out in the specification	10%
2. Referees	10%
3. Price	80%
Total	100%

The weighted score and estimated price of each tender received is noted in Table B below.

TABLE B - Weighted Score and Estimated Tender Prices

Tenderer	Estimated Tender Price (GST Exclusive)	Weighted Score
MMM	\$407,125	9.5
Miniquip	\$416,965	8.7

The tender submitted by MMM (WA) Pty Ltd contains all of the completed schedules and satisfies in all respects the qualitative and quantitative criteria listed in the Request for Tender.

The tender submitted by MMM (WA) Pty Ltd was the lowest of all tenders received and recorded the highest score of 9.5 in the evaluation matrix. MMM has contracted to the City over a number of years and during this time has demonstrated an ability to undertake work of various size and complexity, and complete work to a high degree of quality and timeliness at a competitive price. The recommended Tenderer is the incumbent and therefore familiar with the City's requirements.

Based on the assessment of all tenders received for Tender 5/2010, this report recommends to the Council that the tender from MMM (WA) Pty Ltd be accepted for the period of supply up to 30 June 2012 inclusive in accordance with the Schedule of Rates and estimated contract value (GST Exclusive) as noted in Table B. Subject to satisfactory performance over the two year period of supply, there is scope to renew the Contract for a further 12 months to 30 June 2013.

Consultation

Tender 5/2010 to *Supply the Services of Plant with Skilled Operator to Carry Out Minor Works* was advertised in the West Australian on Saturday 5 June 2010. In total two (2) tenders were received and these complied with the Request for Tender.

Policy and Legislative Implications

Section 3.57 of the *Local Government Act* (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 following Council Policies also apply:

- Policy P605 - *Purchasing and Invoice Approval*
- Policy P607 - *Tenders and Expressions of Interest*

The Chief Executive Officer has delegated authority to accept annual tenders where the value is less than \$200,000 (GST Inclusive).

Financial Implications

The full cost of the works is reflected in the 2010/2011 capital works and maintenance budgets and will be taken into account during formulation of the 2011/2012 annual budget.

Strategic Implications

The provision of high quality and cost effective services underpins the City's Strategic Plan 2010-2015. By seeking tenders externally so as to engage a Contractor to supply plant for minor works, this enables Strategic Plan objectives detailed at Goal 1 'Community' - Strategy 1.1, Goal 5 Transport - Strategy 5.2, and Goal 6 'Governance' - Strategy 6.4 to be realised.

Sustainability Implications

This tender will ensure that the City is provided with the best available service to complete the works identified in the 2010/2011 and 2011/2012 annual budgets. By seeking the services externally the City is able to utilise best practice opportunities in the market and maximise the funds available to provide sound and sustainable maintenance of the City's capital works and maintenance programs.

The service will strengthen the City's Infrastructure Services directorate by ensuring that it has access to the supply of Contract plant with skilled operators at highly competitive rates.

OFFICER RECOMMENDATION ITEM 10.5.2

That....

- (a) Council accept the Tender submitted by MMM (WA) Pty Ltd for the *Supply of Plant with Skilled Operator to Carry Out Minor Works* in accordance with Tender Number 5/2010 for the period of supply up to 30 June 2012; and
- (b) subject to satisfactory performance over the two year period of supply, there is an option to extend the Contract by a further 12 months up to 30 June 2013.

10.6 STRATEGIC DIRECTION 6: GOVERNANCE

10.6.1 Monthly Financial Management Accounts - July 2010

Location: City of South Perth
Applicant: Council
File Ref: FM/301
Date: 11 August 2010
Author / Reporting Officer: Michael J Kent, Director Financial and Information Services

Summary

Monthly management account summaries comparing the City's actual performance against budget expectations are compiled according to the major functional classifications. These summaries are then 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 a comprehensive suite of reports that have been acknowledged by the Department of Local Government and the City's auditors as reflecting best practice in financial reporting.

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 September onwards. This schedule reflects a reconciliation of movements between the 2010/2011 Adopted Budget and the 2010/2011 Amended Budget including the introduction of the capital expenditure items carried forward from 2009/2010 (after August 2010).

A monthly Statement of Financial Position 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 this statement 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. It should be noted, however, that the July Statement of Financial Position includes the impact of 30 June 2010 balances - which are yet to be finalised. As a consequence, the figures presented represent a most informed professional estimate of the July balances - but they may be subject to further small changes as the year end accounts are finalised in August.

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 and Expenditure - Infrastructure Service **Attachment 10.6.1(3)**
- Summary of Capital Items - **Attachment 10.6.1(4)**
- Schedule of Significant Variances - **Attachment 10.6.1(5)**
- Reconciliation of Budget Movements - Attachments 10.6.1(6)(A) and 10.6.1(6)(B) **not presented as there have been no Budget adjustments to date**
- Rate Setting Statement - **Attachment 10.6.1(7)**

Operating Revenue to 31 July 2010 is \$24.25M which represents 101% of the \$24.20M year to date budget. Revenue performance is close to budget expectations overall - although there are some individual line item differences. Both meter parking and infringement revenue is comfortably ahead of budget expectations. Interest revenues are slightly under budget expectations - with Reserve interest ahead of budget but Municipal Fund interest under budget due to cash flowing in only very late in the month.

Planning and building revenues are right in line with revenue budget expectations. Collier Park Village revenue is slightly behind budget expectations due to several units being vacant whilst the Hostel revenue is now favourable due to an adjustment to commonwealth subsidies. Golf Course revenue is comfortably ahead of budget targets thanks to strong attendances during the unseasonably good weather conditions. Infrastructure Services revenue is largely on budget in most areas other than a couple of favourable timing differences noted in the variance schedule. Comment on the specific items contributing to the variances may be found in the Schedule of Significant Variances **Attachment 10.6.1(5)**.

Operating Expenditure to 31 July 2010 is \$2.65M which represents 96% of the year to date budget of \$2.75M. Operating Expenditure to date is 7% under budget in the Administration area, on budget in the Infrastructure Services area and 1% under budget for the golf course.

There currently are several budgeted (but vacant) staff positions that are being recruited for. As various administration programs are initiated, there are currently a number of small timing differences between anticipated budget phasing and actual billing activities.

The Infrastructure Services area reflects a few favourable timing variances as programs for various maintenance activities are developed and implemented. July therefore also reflects an under-recovery of overheads - as a lesser level of direct labour is used (direct labour drives the overhead recovery from jobs). Waste management costs are close to budget expectations with the exception of our contribution to the Rivers Regional Council which has come in as \$15,000 less than was expected. Golf Course expenditure is very close to budget at this time.

The salaries budget (*including temporary staff where they are being used to cover vacancies*) is currently around 7% under the budget allocation for the 223.2 FTE positions approved by Council in the budget process - after having allowed for agency staff invoices to month end.

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

Capital Revenue is disclosed as \$0.43M at 31 July against a year to date budget of \$0.40M. The major factor contributing to this significant favourable variance is a \$47,500 favourable timing difference on lease premiums and refurbishment levies attributable to a re-leased unit 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 31 July 2010 is \$1.98M representing 104% of the year to date budget and 12% of the full year budget (before the inclusion of carry forward works). At this stage the capital expenditure relates almost entirely to a \$1.75M progress claim on the Library and Community Facility project (which brings the project into line with budgeted cash flow expectations).

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.

TABLE 1 - CAPITAL EXPENDITURE BY DIRECTORATE

Directorate	YTD Budget	YTD Actual	% YTD Budget	Total Budget
CEO Office	0	0	0%	105,000
Library & Community Facility	1,700,000	1,750,000	103%	4,200,000
Financial & Information Services *	90,000	92,933	103%	1,100,000
Planning & Community Services	46,460	24,803	53%	1,343,000
Infrastructure Services	70,000	108,306	155%	8,310,785
Golf Course	0	1,050	%	537,000
Total	1,906,460	1,977,092	104%	18,168,040

* Financial and Information Services is also responsible for the Library and Community Facility building project.

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 sustainable financial management which directly relate to the key result area of Governance identified in the City's Strategic Plan - *'To ensure that the City's governance enables it to respond to the community's vision and deliver on its promises in a sustainable manner'*.

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 Statement of Financial Position 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 Rate Setting Statement provided as **Attachment 10.6.1(7)** be received.

10.6.2 Monthly Statement of Funds, Investments and Debtors at 31 July 2010

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	7 August 2010
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 funds held in 'cash backed' Reserves. As 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 these 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 same 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 \$33.737M compare favourably to \$31.44M at the equivalent stage of last year. Reserve funds are \$0.70M higher than the level they were at for the equivalent stage last year - reflecting higher holdings of cash backed reserves to support refundable monies at the CPV & CPH (\$2.2M higher) but \$3.0M less holdings in the Future Building Works Reserve as monies are applied to the new Library & Community Facility project. The UGP Reserve is \$1.0M higher whilst the Waste Management and Plant Replacement Reserves are \$0.2M higher respectively and several other Reserve balances are modestly changed when compared to last year.

Municipal funds are \$1.7M higher although this relates primarily to a favourable timing of cash outflows for the major building projects (which reversed in August). Collections from rates at this very early stage are on par with last year's performance.

Our convenient and customer friendly payment methods, supplemented by the Rates Early Payment Incentive Prizes (with all prizes donated by local businesses), are expected to have a positive effect on our cash inflows.

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 \$6.61M (compared to \$6.82M last month) It was \$4.95M at the equivalent time in 2009/2010. **Attachment 10.6.2(1).**

(b) Investments

Total investment in money market instruments at month end was \$33.51M compared to \$30.22M at the same time last year. This is due to the higher holdings of Municipal and Reserve Funds as investments as described above.

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 97.0% 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 one 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 is regularly monitored and the portfolio re-balanced as required depending on market conditions. The counter-party mix across the portfolio is shown in **Attachment 10.6.2(2).**

Total interest revenues (received and accrued) for the year to date total \$0.15M - well up from \$0.10M at the same time last year. This result is attributable to the slightly higher interest rates available early in the year and higher levels of Reserve cash holding.

Investment performance continues to be monitored in the light of current modest interest rates to ensure that we pro-actively identify secure, but higher yielding, investment opportunities as well as recognising any potential adverse impact on the budget closing position. Throughout the year, we re-balance the portfolio 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 weighted average rate of return on financial instruments for the year to date is 5.68% with the anticipated weighted average yield on investments yet to mature now sitting at 5.60% (compared with 5.64% last month). Investment results to date reflect prudent selection of investments to meet our immediate cash needs. At-call cash deposits used to balance daily operational cash needs continue to provide a modest return of only 4.25%.

(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 debtor's category classifications (rates, general debtors & underground power) are provided below.

(i) Rates

The level of outstanding local government rates relative to the same time last year is shown in **Attachment 10.6.2(3)**. Rates collections to the end of July 2010 (before the due date for the first instalment) represent 8.8% of total rates levied compared to 9.3% at the equivalent stage of the previous year. Rates notices have only been issued for 2 weeks at this time - and the first instalment due date is not until 25 August.

Early feedback from the community suggests a good acceptance of the rating strategy and communication approach used by the City in developing the 2010/2011 Annual Budget. 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) should provide strong encouragement for ratepayers - and will be supported administratively 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 \$1.75M at month end (\$1.22M last year) excluding UGP debtors - and compared to \$2.72M last month. Major changes in the composition of the outstanding debtors balances (since 30 June) are a \$0.60M decrease in the Sundry Debtors which relates to the collection of \$0.30M from LotteryWest for the building grant and a \$0.30M Main Roads grant received. Sundry Debtors collected include the CPH subsidy, ground hire charges, contributions to City Environment projects plus vehicle trade in proceeds. The majority of the outstanding amounts are government & semi government grants or rebates - and as such, they are considered collectible and represent a timing issue rather than any risk of default. Offsetting this is the Pension Rebate recoverable amount which can not be collected until eligible pensioners qualify for their entitlement by making a payment of the non rebated amount.

(iii) Underground Power

Of the \$6.77M billed for UGP (allowing for adjustments), some \$5.78M was collected by 31 July with approximately 76.5% of those in the affected area electing to pay in full and a further 22.7% opting to pay by instalments. The remaining 0.8% has yet to make a payment. However, most of these remaining properties are disputed billing amounts and are now the subject of collection actions by the City as they have not been satisfactorily addressed in a timely manner. Collections in full continue to be better than expected as UGP accounts are being settled in full ahead of changes of ownership or as an alternative to the instalment payment plan.

Residents opting to pay the UGP Service Charge by instalments continue to be subject to interest charges which accrue 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 UGP service charge - 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 sustainable financial management which directly relate to the key result area of Governance identified in the City's Strategic Plan - *'To ensure that the City's governance enables it to respond to the community's vision and deliver on its promises in a sustainable manner'*.

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 31 July 2010 Monthly Statement of Funds, Investment and Debtors comprising:

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

10.6.3 Listing of Payments

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	6 August 2010
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 July 2010 and 31 July 2010 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 (regular supplier) or Non Creditor (once only supply) 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 report format now reflects 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 included a payment to Creditor number 76357 (Australian Taxation Office).

- **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 are no longer 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 sustainable financial management which directly relate to the key result area of Governance identified in the City's Strategic Plan - *'To ensure that the City's governance enables it to respond to the community's vision and deliver on its promises in a sustainable manner'*.

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 July as detailed in the report of the Director of Financial and Information Services at **Attachment 10.6.3** be received.

10.6.4 Planning Approvals Determined Under Delegated Authority

Location: City of South Perth
Applicant: Council
File Ref: GO/106
Date: 2 August 2010
Author: Rajiv Kapur, Manager Development Services
Reporting Officer: Vicki Lummer, Director Development and Community Services

Summary

The purpose of this report is to advise Council of applications for planning approval determined under Delegated Authority during the month of July 2010.

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 July 2010, sixty-two (62) development applications were determined under delegated authority at **Attachment 10.6.4**.

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 Strategic Direction 6 “Governance” within the Council’s Strategic Plan. Strategic Direction 6 is expressed in the following terms: *Ensure that the City’s governance enables it to both respond to the community’s vision and deliver on its service promises in a sustainable manner.*

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 10.6.4

That the report and **Attachment 10.6.4** relating to delegated determination of applications for planning approval during the month of July 2010, be received.

10.6.5 Use of the Common Seal

Location: City of South Perth
 Applicant: Council
 File Ref: GO/106
 Date: 5 August 2010
 Author: Kay Russell, Executive Support Officer
 Reporting Officer: Phil McQue, Governance and Administration Manager

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 on the use of the Common Seal.....”

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.

July 2010

Nature of Document	Parties	Date Seal Affixed
Deed of Variation	CoSP and Olive Beryl Lois Zwart – Collier Park Village	1 July 2010
Deed	CoSP and Ruth Lecreda Meates – Collier Park Village	2 July 2010
Deed	CoSP and Phyllis Semini – Collier Park Village	6 July 2010
Deed of Agreement to Lease	CoSP and Elaine June Clarke – Collier Park Village	7 July 2010
Lease	CoSP and Elaine June Clarke – Collier Park Village	7 July 2010
Deed	CoSP and Evelyn Betty Harding – Collier Park Village	28 July 2010

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 Strategic Direction 6 of the Strategic Plan - *Governance – Ensure that the City’s governance enables it to both respond to the community’s vision and deliver on its service promises in a sustainable manner.*

Sustainability Implications

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

OFFICER RECOMMENDATION ITEM 10.6.5

That the report on the use of the Common Seal for the month of July 2010 be received.

10.6.6 Financial Interest Returns 2009-2010

Location: City of South Perth
Applicant: Council
File Ref: GO/107
Date: 6 August 2010
Author: Jelette Jumayao, Research and Administration Officer
Reporting Officer: Phil McQue, Manager Governance and Administration

Summary

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

Background

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

Comment

Returns from Councillors and designated employees were lodged in accordance with the Act.

Consultation

Nil.

Policy and Legislative Implications

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

Financial Implications

Nil.

Strategic Implications

The proposal is consistent with Strategic Goal 6: Governance "Ensure that the City's governance enables it to respond to the community's vision and deliver its service promises in a sustainable manner.

Sustainability Implications

Reporting on the lodging of Financial Interest Returns contributes to the City's sustainability by promoting effective communication.

OFFICER RECOMMENDATION ITEM 10.6.6

That report Item 10.6.6 of the August 2010 Council Agenda on the lodging of Financial Interest Returns for 2009-2010 be received.

10.6.7 Proposed Dog Local Law 2010

Location: City of South Perth
Applicant: Council
File Ref: LE/102
Date: 3 August 2010
Author: Jelette Jumayao, Research and Administration Officer
Reporting Officer: Phil McQue, Manager Governance and Administration

Summary

This report provides an overview of the proposed review of the City's Dog Local Law. The *Local Government Act* (the Act) sets out the procedural requirements for the making of a local law. The process is initiated by Council resolving to give State-wide public notice of the proposed local law; and subsequently, by Council considering any submissions received before proceeding to make the local law.

Background

The City of South Perth Dog Local Law was published in the Government Gazette on 9 December 1997.

In general, the keeping of dogs is extensively regulated by the *Dog Act 1976* and its associated Regulations. There are only limited matters that the City is able to deal with by local law, which are set out in s51 of the *Dog Act*:

'51. Local law making powers

A local government may so make local laws —

- (a) providing for the registration of dogs;
- (b) specifying places where dogs are prohibited absolutely;
- (bb) specifying any public place or class of public place, being a place that is under the care, control and management of the local government, as a dog exercise area for the purposes of sections 31 and 32;
- (c) specifying areas within which it shall be an offence (unless the excreta are removed) for any person liable for the control of a dog to permit that dog to excrete on any street or public place or on any land without the consent of the occupier;
- (d) requiring that in specified areas a portion of the premises on which a dog is kept must be fenced in a manner capable of confining the dog;
- (e) providing for the establishment and maintenance of pounds and other services and facilities necessary or expedient for the purposes of this Act;
- (f) providing for the detention, maintenance, care and release or disposal of dogs seized;
- (g) as to the destruction of dogs pursuant to the powers hereinbefore conferred;
- (h) as to the number of dogs that may be kept pursuant to section 26 or section 27; and
- (i) providing for the licensing, regulating, construction, use, and inspection of approved kennel establishments.'

While the Act limits the extent to which local governments can make local laws about dogs, there are a number of improvements that can be made to South Perth's provisions. In particular, the current local law needs amendment to deal with:

- A current conflict between reserve users participating in active sport and dogs being exercised off lead;
- Allowing the City to set fees under s6.19 of the *Local Government Act 1995* rather than via the local law; and
- Linking the Dog Local Law to the City's "Penalty Units Local Law" which was introduced in 2003.

In addition, the WA Local Government Association (WALGA) produces 'model' local laws that cover a significant portion of areas requiring regulation by local governments. These model local laws have been recently updated and the City should take the opportunity to use them as the basis for its own, customized wherever required to suits its individual needs.

As many of the models are used by a large number of local governments across the State, this will also assist in developing greater public understanding of their provisions, as well as improving the prospects of staff being familiar with them if recruited from another local government in WA.

Comment

Procedural Requirements - Purpose and effect

The Act requires the person presiding at a Council meeting 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.

Dog Local Law - Purpose and effect

The purpose of the Dog Local Law 2010 is to make provisions about the impounding of dogs, to control the number of dogs that can be kept on the premises and the manner of keeping of those dogs, and to prescribe areas in which dogs are prohibited and dog exercise areas.

The effect of the Dog Local Law 2010 is to extend the controls over dogs which exist under the *Dog Act 1976* and Regulations.

The proposed Dog Local Law 2010 at **Attachment 10.6.7** is based on the WALGA model which deals with existing local law provisions, and makes a number of suggested additions. The main features of the proposed local law are summarised below. Note that while they do not form part of the proposed local law, relevant extracts from Acts and Regulations that affect the subject area have been included as notes and text boxes to assist with gaining a full understanding.

In particular:

Clause 2.1 provides for the City to set fees and charges associated with the operation of its pound by way of the annual budgetary process (as is the case for all other fees and charges) rather than via the local law.

Clause 3.1 sets out the requirements for a property where a dog or dogs are to be kept to be adequately fenced. This is not part of the current local law and while most dog owners do maintain adequate fencing, the new provisions will make it easier to deal with cases where a dog may be continually wandering.

Section 26(2) of the Act allows a local government to limit the number of dogs that may be kept, by using a local law. A local government may set by local law a limit on the maximum number of dogs (up to 6) that may be kept without a kennel license. The current provisions of the City's local laws have been retained in that persons may keep up to 2 dogs.

Current provisions relating to places where dogs are prohibited absolutely are detailed in Clause 4.1 of the proposed local law.

Section 32 (5) of the *Dog Act* requires a local government to specify what it believes are a sufficient number of suitable dog exercise areas. Clause 4.2 of the proposed local law sets these out.

Most local governments in the Perth metropolitan area limit the areas where dogs can be exercised off lead to smaller parks or reserves, and typically those not used for active or organised sport. In contrast, virtually every reserve in South Perth (with the exception of the foreshore, environmentally sensitive areas or golf courses) has been made an exercise areas.

Places where dogs are prohibited absolutely include the City's environmentally sensitive areas, including the City's foreshore, including South Perth Esplanade, Sir James Mitchell Park, Melville Waters, Waterford Foreshore Reserve, Clydesdale Park, Neil McDougall Park, and Sandon Park.

As such, the proposed local law provides for all reserves under the City's care, control and management to be an exercise area, (except those noted above) and reads as follows:

4.2 Places which are dog exercise areas

- (1) Subject to clause 4.1 and subclause (2) of this clause, for the purposes of sections 31 and 32 of the Act, all parks and reserves under the care, control and management of the City are dog exercise areas except for the following
 - Reserve 38794 known as Collier Park Golf Course
 - Reserve 10250 known as Royal Perth Golf Course

- (1) Subclause (1) does not apply to –
 - (a) an area within 5 metres of land which has been set apart as a children's playground;
 - (b) any area being used for sporting or other organised activities, as permitted by the local government, during the times of such use; or
 - (c) a car park.

If adopted, the effect of this provision is that while the reserves can still be used as exercise areas, dogs may not be exercised off lead on those parts where and when organised sporting activities are being held or played, where there is a playground, or in a car park that might be on the reserve.

This proposal has come about as a result of complaints from reserve users about uncontrolled dogs such as:

- Interruptions to sport activity by groups of and individual dogs that have crossed paths with players and umpires, potentially injuring participants;
- Concerned spectators and parents of young children where dogs have come into contact; and
- Where players and associated sports people have threatened dog owners to control and or remove pets.

The proposed change is seen as a reasonable compromise between the needs of dogs for exercise, but also the need for organised sport to be played without interference from dogs. If adopted, the proposed provisions will also need to be publicised and enforced by the City's rangers.

Part 5 of the proposed local law makes it an offence if a person in charge of a dog does not immediately remove its excreta from any thoroughfare or public place, or any land without the consent of the occupier. This is the same provision as in the current local law.

Part 6 sets out proposed enforcement provisions such as infringement notices. The City adopted a Penalty Units Local Law in 2003, and the proposed new Dogs local law is linked to it. The purpose of the 'Penalty Units' local law is to allow the City to amend modified penalties from time to time by changing just one local law instead of a number and the link will therefore make future administration of the Dogs Local Law easier.

Note that the process to amend or make a local law requires public consultation. In particular, the *Local Government Act* requires State wide advertising and local public notice of the proposed local laws for a period of 42 clear days.

The results are to be brought back to Council for consideration, after which it may then decide to make the local law. If as a result of public comments, there are significant amendments to the proposed local law, then the advertising process must re-commence.

Consultation

Public consultation

Section 3.12(3) of the Act requires the local government to give State-wide public notice stating that the local government proposed to make a local law the purpose and effect of which is summarized in the notice. Depending on precisely when the notice appears, submissions are invited until 20 October 2010, and the City will also advertise the proposal on its website inviting comment.

Policy and Legislative Implications

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

Financial Implications

The proposed new local law will require advertising for public submissions, as well as publishing in the Government Gazette if eventually adopted.

Strategic Implications

The proposal is consistent with Strategic Goal 6: Governance "Ensure that the City's governance enables it to respond to the community's vision and deliver its service promises in a sustainable manner"

Sustainability Implications

This report is aligned to the City's sustainability strategy and policies.

OFFICER RECOMMENDATION ITEM 10.6.7

That...

- (a) in accordance with s3.12(3)(a)(b) and s.3.12(3a) of the *Local Government Act 1995*, Council gives Statewide and local public notice stating that:
- it proposes to make a Dogs Local Law and a summary of its purpose and effect;
 - copies of the proposed Local Law may be inspected at the City's offices; and
 - submissions about the proposed Local Law may be made to the City within a period of not less than 6 weeks after the Notice is given.
- (b) in accordance with s3.12(4), as soon as the Notice is given, a copy be supplied to the Minister for Local Government;
- (c) in accordance with s3.12(3)(c) of the Act, a copy of the proposed local law be supplied to any person requesting it; and
- (d) the results be presented to Council for consideration of any submissions received.

11. APPLICATIONS FOR LEAVE OF ABSENCE

11.1 Request for Leave of Absence - Cr Skinner

I hereby apply for Leave of Absence from all Council Meetings for the period 11 to 15 October 2010 inclusive.

11.2 Request for Leave of Absence - Cr K Trent

I hereby apply for Leave of Absence from all Council Meetings for the period 16 to 24 August 2010 inclusive.

11.3 Request for Leave of Absence - Mayor Best

I hereby apply for Leave of Absence from all Council Meetings for the period 27 September to 3 October 2010 inclusive.

11.4 Request for Leave of Absence - Cr L Ozsdolay

I hereby apply for Leave of Absence from all Council Meetings for the period

- 12 September to 15 September inclusive; and
- 23 September to 1 October 2010 inclusive.

- 12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

- 13. QUESTIONS FROM MEMBERS**
 - 13.1. Response to Previous Questions from Members Taken on Notice**
 - 13.2. Questions from Members**

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

- 15. MEETING CLOSED TO PUBLIC**
 - 15.1. Matters for which the Meeting May be Closed.**
 - 15.2. Public Reading of Resolutions that may be made Public.**

- 16. CLOSURE**

- 17. RECORD OF VOTING**



Mayors Activity Report - July 2010

Date	Activity
Friday, 30 July	<p>Attend Australia Day Council event with Senior Australian of the Year Maggie Beer'</p> <p>Meeting re: Comer St, Como site with Architect & Director Development & Community Services</p> <p>Chair discussion with WALGA + Community Newspaper Group: re Swan Canning Rivers 'discover your rivers' Campaign</p> <p>Meeting with Martin Albrecht chair of the www.riverfoundation.org.au re: International Rivers Symposium</p>
Thursday, 29 July	<p>Chair Neighbourhood Watch Committee meeting + Deputy Mayor, Cr Sue Doherty, Cr Kevin Trent + Manager Community Culture and Recreation + Community Development Support Officer</p> <p>Meeting with Senator Chris Back + CEO re: swan canning rivers, old mill restoration, & Knowledge Arc light Rail</p> <p>Attend Kyana/ Dumblebung gallery --with Deputy Premier & Minister for Indigenous Affairs, Dr Kim Hames & Robert Eggington</p> <p>Meeting with Evan Nicholas - Director of External Relations, Curtin University re 'Knowledge City' opportunities</p>
Wednesday, 28 July	<p>Attend SE Metro zone meeting at City of Armadale + CEO</p> <p>Open Fairtrade Tasting Event with Hon Lynn MacLaren + CEO, Deputy Mayor, Cr Sue Doherty + City Sustainability Officer & staff</p> <p>Attend Local Government Natural Resource Management Meeting @ City of Armadale + Cr Pete Best</p>
Tuesday, 27 July	<p>Chair Council meeting</p> <p>Mayor/CEO weekly meeting</p> <p>Attend WALGA Better Local Government Taskforce meeting</p> <p>Attend CEDA/Committee for Perth luncheon "Enriching our Communities through Creative art and Inventing the Future – Shaping WA from 2010 to 2050".</p>
Monday, 26 July	<p>Chair briefing workshop -- South Perth Railway Study Precinct study and Curtin University Master plan</p> <p>Attend Knowledge Arc light Rail meeting with Committee for Perth + CEO</p>

AGENDA : ORDINARY COUNCIL MEETING : 24 AUGUST 2010

Sunday, 25 July	Present certificate at Jack & Elsie Davies' 70th wedding anniversary
Friday, 23 July	Chair WALGA Swan Canning Rivers Policy Forum.
Thursday, 22 July	Present prizes at CoSP Young Writers Award + Crs Rob Grayden & Kevin Trent
Wednesday, 21 July	Chair briefing workshop - Results of customer Survey + review of P519 Legal Representation Policy Host trip to Whiteman Park to inspect South Perth's first tram restoration + CEO, - Deputy Mayor, Cr Sue Doherty, Crs Kevin Trent, Betty Skinner, Manager Libraries and Heritage + President South Perth Historical Society. Lyn O'Hara
Tuesday, 20 July	Chair Council briefing - Agenda items Chair Meeting 'Where to from Here'- Access Ambassadors Mayor/CEO weekly meeting Meeting on RPGC Golf Day with Wilf Sonntag + Peter Currall
Friday, 16 July	Chair WALGA Swan Canning Rivers Policy communication subcommittee.
Thursday, 15 July	Meeting with WALGA regarding local government reform. Discussion re management of Skyworks with Department of Premier & Cabinet, Lord Mayor Lisa Scafidi, Police Commissioner Karl O'Callaghan and CEO
Wednesday, 14 July	Attend Waterford Triangle Study: Community Forum 2 Attend Swan River Trust River Protection Strategy Advisory Committee Meeting
Tuesday, 13 July	Chair Special meeting to adopt budget Chair Council Briefing re Climate Change Risk Assessment Mayor/CEO weekly meeting Attend Committee for Perth presentation "Changing Face of the City" by Melbourne laneway town planner Craig Allchin
Monday, 12 July	Attend Design Advisory Committee meeting: discussion Transit Oriented Development in South Perth + CEO
Thursday, 8 July	Presentation of Visioning process of South Perth @ City of Subiaco + Deputy Mayor, Cr Sue Doherty
Wednesday, 7 July	Chair Briefing workshop: Canning Bridge Precinct Vision Mayor/CEO weekly meeting Guest speaker at NAIDOC at Curtin University (National Aboriginal and Islander Day Observance Committee)
Tuesday, 6 July	Meeting with Tim Hammond, Labor candidate for Swan + CEO Discussion on Community Visioning with Ann Bontempo of Bontempo Investments Group Key note speaker at NAIDOC @ Clontarf Aboriginal College + Manager, Community Culture and Recreation

AGENDA : ORDINARY COUNCIL MEETING : 24 AUGUST 2010

Monday, 5 July Attend Hearing Perth Magistrates Court + Governance Officer & acting CEO.
Thursday, 1 July Attend John Curtin Leadership Academy graduation
Cygnet Theatre heritage preservation -- meeting with Bill Hames of Hames Sharley

**Council Representatives' Activity Report -
July 2010**

July 2010	Activity
Tuesday, 27 July	Attend Gowrie Family and Community Centre - Lotterywest cheque presentation for upgrade and refurbishment - - Deputy Mayor, Cr Sue Doherty
Sunday, 25 July	Attend Como YouthCARE Council - Chaplaincy celebration - Deputy Mayor, Cr Sue Doherty
Thursday, 22 July	Open exhibition Willit the Wombat paintings - - Deputy Mayor, Cr Sue Doherty
Wednesday, 14 July	Host Waterford Triangle Study: Community Forum 2 - Deputy Mayor, Cr Sue Doherty
Monday, 5 July	Conduct Citizenship ceremony - Deputy Mayor, Cr Sue Doherty + Crs Kevin Trent, Pete Best & Veronica Lawrance
Friday, 2 July	Attend Como Rotary Club changeover - Deputy Mayor, Cr Sue Doherty + Kim Doherty